

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REVISION APPLICATION No. 82 OF 2019

Vandana w/o. Ganesh Kirde
..VS..
The State of Maharashtra, Through A.C.B. Akola

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri. S. V. Sirpurkar, Advocate for the applicant.
Shri. Maldhure, APP for the non-applicant.

CORAM : Manish Pitale J

DATED : 06.08.2019

Heard learned counsel for the applicant.

2. By this application the applicant has challenged order dated 11.01.2019 passed by the District Judge – 1 Akola, whereby application for discharge (Exh.2) filed on behalf of the applicant was rejected.

3. In the present case, the offence under Section 7 of the Prevention of Corruption Act, 1988 has been registered against the applicant and the ground taken for seeking discharge is that, the material on record does not even prima facie show any demand of illegal gratification made by the applicant and since one of the main ingredients for the aforesaid offence was absent in the present case, the applicant deserved to be discharged.

4. The aforesaid Court took into consideration the material placed on record, including the panchnamas recording the manner in which the trap was executed and made the following observations, while dismissing the discharge application filed by the applicant.

“7] I have gone through the record and considered the submissions. De-facto complainant has lodged the complaint on 25.03.2015 with Deputy Superintendent, Anti-Corruption Bureau, Akola. Said complaint discloses that the accused had demanded bribe of Rs.2000/- for issuance of cheque of home loan to him. This is the initial demand dated 25.03.2015. The statement of the complainant is also corroborating to the complaint. There is conversation between the accused and the complainant in presence of panch witness Dnyaneshwar Pandurang Bhairam, in verification panchnama No.2, which is at page No.27 to 35 of charge-sheet. The conversation in the said panchnama at page No.28 to 33 discloses that the accused had demanded bribe of Rs.2000/- to the complainant. Certain statements in the said conversation i.e. some amount be taken by her and Rs.2000/- are required to be given clearly discloses that there was demand of bribe by the accused from the complainant. Thus, the conversation in the verification panchnama No.2 dated 26.03.2015 clearly discloses previous demand of

bribe. This material is sufficient to frame charge against the accused. Even though, the statements of other employees may not be corroborated to the theory of prosecution, but corroboration is rule of appreciation of evidence. Hence, said statements cannot be considered ignoring the evidence in the form of complaint and the statement of de-facto complainant as well as the verification panchnama No.2. Hence, on the basis of said statements, accused cannot be discharged.

8] *I have gone through both the cited rulings. In Lalitakumari's case (supra), guidelines are laid down in respect of registration of First Information Report. In the Corruption cases, preliminary inquiry is permissible before registration of First Information Report. Therefore, submission of the learned Advocate for the accused in that regard, is not acceptable. Hence, I do not find any reason to discharge the accused from alleged offence. There is sufficient material to frame charge against the accused. The application deserves to be rejected. In the result, following order is passed."*

5. Considering the reasoning given by the Court below noted in the above quoted paragraphs, this Court is of the opinion that no error has been committed therein and the applicant has failed to make out a case

for grant of discharge. The applicant may well succeed in proving his defence in the full fledged trial, but the material presently on record certainly does not warrant grant of discharge to the applicant.

6. Since an advance copy of the present application was served on the office of the Government Pleader and learned APP has appeared, this Court has taken up the present application for consideration and disposal.

7. In view of the above, present application is dismissed.

JUDGE

KOLHE