

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

Criminal Revision No. 108 of 2019

Jayaji Bhagde

Vs.

State of Maharashtra Through Anti Corruption Bureau, Akola & Anr.

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

Court's or Judge's orders

Mr. Suyash Agrawal h/f Mr. S.V. Sirpurkar, Advocate for applicant.
Mr. J.Y. Ghurde, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : AUGUST 08, 2019

The present application has been filed by the applicant (original accused), challenging order dated 21/01/2019, passed by the Court of the Assistant Sessions Judge, Akola, whereby the application for discharge (Exh.5) has been rejected.

2. Since an advance copy of the application was already served on the Government Pleader and the learned APP has appeared, the present application is taken up for consideration on merits.

3. The learned counsel for the applicant submits that the impugned order is erroneous in as much as material on record was not sufficient to raise suspicion, leave alone grave suspicion against the applicant and, therefore, the application for discharge

filed by the applicant ought to have been allowed. In the present case, offences against the applicant have been registered under Sections 7 and 13(1)(d) R/w 13(2) of the Prevention of Corruption Act, 1988. The present case is a trap case where the applicant was allegedly caught red handed while accepting the amount towards illegal gratification.

4. The contention of the applicant is that the material on record pursuant to investigation is not sufficient to show that ingredients of the said offences are even *prima facie* made out.

5. While considering the application and contentions raised on behalf of the applicant, the Trial Court has observed as follows :

“6. I have gone through the record and considered the submissions. It appears from the complaint that, audit of Section of de-facto complainant was going on and accused demanded bribe of Rs.25,000/- for giving said amount to the party of audit so as to avoid defects in the audit. The complaint also discloses that the accused demanded Rs.25,000/-, out of which the complainant paid Rs.5000/- through Clerk Nitin Polkat and again, accused demanded Rs.15,000/- as Rs.20,000/- instead of Rs.25,000/- was agreed to be accepted by accused. Statement of the complainant corroborates to the contents of the complaint lodged by him.

7. Panchanama of demand verification dated 6-5-2016 is having transcript of conversation. It is at Page Nos.24 and 25 of the charge-sheet. It clearly discloses

that, in the said conversation, accused demanded bribe asking the complainant to give Rs.15,000/-. This panchanama is also material corroborating to the complaint. Trap panchanama discloses that on 6-5-2016, accused accepted bribe of Rs.15,000/-. Said amount was seized from him. Report of Spectrography Test discloses that the questioned voice recorded on voice recorder is matching with specimen voice of the speaker i.e. the accused. Hence, this material is sufficient to raise grave suspicion against the accused for commission of offence and to frame charge against him.

8] I have gone through both the cited rulings. In **Lalikkumar'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.

Order

The application [Ex.5] is hereby rejected.”

6. The reasoning given by the Trial Court, which is quoted above, cannot be said to be erroneous because in the present case apart from being a trap case where the applicant was said to have been caught red handed, it has come on record that voice sample of the applicant was also taken and report of spectrography test discloses that the voice sample was

matching. Such material clearly gives rise to grave suspicion and a case for discharge was certainly not made out by the applicant.

7. Hence, the present application is dismissed.

JUDGE