

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 307 OF 2012

State of Maharashtra
(Through Pimpri Police Station, Pune)

... Appellant

Vs.

Narayan Atmaram Dhore
Age : 48 years,
Occ. Government Service,
R/at : 341, Old Sangavi, Pune – 27

... Respondent

Mr. Amit Palkar, A.P.P. for Appellant-State.
None for the respondent.

CORAM : A.S. GADKARI, J.
DATE : 9th October 2020.

ORAL JUDGMENT :

1. This is an Appeal preferred by the State against the impugned Judgment and Order dated 22nd November 2011 passed by the learned Special Judge (Under the P.C. Act), Pune in Special Case No.12 of 2006, thereby acquitting the respondent from the offence punishable under Section 7, 13(1) (d) read with Section 13(2) of the Prevention of Corruption Act, 1988 (for short, 'the P.C. Act').

2. Heard Mr. Palkar, learned A.P.P. for Appellant-State. Respondent is absent, though duly served. Perused entire record.

3. The record indicates that, the first informant namely Mr. Sanjay Soni had lodged a complaint with the Anti-Corruption Bureau alleging that, the respondent who was working as a clerk in Bhumi and Jindagi Department of Pimpri Chinchwad Municipal Corporation, had demanded bribe for extending time limit for making payment of balance amount of the purchase price for allotment of Gala in commercial complex constructed by the said P.C.M.C. in Chaphekar Chowk, Chinchwad.

The record clearly reveals that, complainant/informant did not appear before the Court and as per the prosecution he was not traceable at the time of trial. Therefore the basic ingredient in a case of bribery i.e. demand has not been proved by the prosecution beyond reasonable doubt. Though, PW-2, a panch witness, has narrated the facts of demand of Rs.5000/- by the respondent and the trap by the Anti-Corruption Bureau, his evidence is totally uncorroborated. For want of basic corroboration to the same by the complainant/informant the version of the panch witness PW-2 of the prosecuting agency can not be accepted as a gospel truth.

4. It is the settled position of law that, demand is *sine qua non* in the case of bribery. Unless there is proof of demand of illegal gratification, proof of acceptance will not follow. Reliance is placed on the decisions of the Hon'ble Supreme Court namely, (i) *N. Sunkanna Vs. State of Andhra Pradesh*, reported in (2016) 1 SCC 713, (ii) *T. K. Ramesh Kumar Vs. State*, reported in

(2015) 15 SCC 629 and (iii) *Khaleel Ahmed Vs. State of Karnataka*, reported in (2015) 16 SCC 350.

5. As noted earlier, in the present case the prosecution has failed to prove the basic ingredient of demand of bribe by the respondent from the complainant/informant. The Trial Court after taking into consideration various necessary and relevant aspects of the matter has acquitted the respondent by its impugned Judgment and Order.

After perusing the entire record and impugned Judgment and Order, this Court is of the view that, the Trial Court has not committed any error either in law or on facts while acquitting the respondent. The view adopted by the Trial Court is a legally probable view in the facts and circumstances of the present case.

6. There are no merits in the Appeal.

Appeal is accordingly dismissed.

7. This Judgment will be digitally signed by the Personal Assistant of this Court. All the concerned will act on production by fax or e-mail of a digitally signed copy of this Judgment.

(A.S. GADKARI, J.)