

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**APPLICATION FOR LEAVE TO APPEAL BY STATE
NO.75 OF 2020**

The State of Maharashtra

Applicant

Versus

Bhagwan Ramchandra Shewale

Respondent

Mr. P. G. Gujrathi, A. P. P. for the applicant

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 01st October, 2021.

PC :

1. Heard the learned A. P. P. for the applicant.
2. Acquittal of respondent-accused of the offence punishable under Sections 7, 13 (1) (d) read with Section 13(2) of the Prevention of Corruption Act, 1988, is questioned in the instant application/appeal.
3. In short, it is the case of the prosecution that the Informant was Police Inspector attached to Anti Corruption Bureau, Jalna. The complainant is a farmer and contractor.

Respondent-accused is the Sub Divisional Engineer (Class-I), in the Building and Construction Sub Division, Partur, District Jalna and is a public servant. The defacto complainant has contended that, he took a contract of construction of internal cement concrete road and construction of drainage in village Wahegaon (Shreshti), Taluka Partur, District Jalna, under the scheme Dalit Vasti Sudhar Yojana, through the Gram Panchayat. The cost of the work was Rs.5,00,000/- and he completed the work and received bill for Rs.3,87,666/- and bill for Rs.97,334/- was pending. Respondent-accused demanded bribe of Rs.5000/- for signing the measurement book in respect of the contract. Pursuant to the complaint, a trap was laid and the accused was caught red handed while accepting the bribe. Accordingly, he was charged for the offence punishable under Section 13(1) (d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

4. The trial Court recorded acquittal by observing that there is no evidence produced on record to show that the complainant is a registered contractor and he was allotted the work in question by the Gram Panchayat, Wahegaon (Shreshti). No agreement in respect of the work, allegedly completed by the complainant, is brought on record. Three different theories are put

forth about the recovery of the bribe amount from the Respondent-accused at the time of raid. There is no consistency in the version of the complainant and shadow *panch* witness-Jadhav and PI Chinchole that *panch* Hiwale took out the bribe amount from the pant pocket of the accused. *Panch* Hiwale is not examined. The trial Court found that the evidence of the prosecution witnesses in respect of seizure of bribe amount from the accused is not reliable. The admissions given by the prosecution witnesses show that the complainant was not the registered contractor and the Panchayat Samiti or Gram Panchayat did not allot work of construction of internal cement concrete road and drainage in village Wahegaon under the Scheme Dalit Vasti Sudhar Yojana to the complainant. The prosecution failed to produce evidence to show that there is agreement between the complainant and Gram Panchayat Wahegaon (Shreshti) in respect of the said work. No documentary evidence is brought on record to prove that the complainant had received an amount of Rs.3,87,666/- after completion of the said work. The concerned Engineer, who was the material witness, was not examined by the prosecution. Therefore, the trial Court held that it is doubtful that the construction of internal cement concrete road and drainage at village Wahegaon (Shreshti) under the scheme - Dalit Sudhar Vasti Yojana was allotted to the

complainant and after completion of the said work, he received first bill of Rs.3,87,666/-.

5. Considering the evidence on record and the findings recorded by the trial Court, I am of the considered view that the trial Court was justified in recording acquittal in view of the serious omissions in the prosecution evidence. No case is made out by the prosecution to interfere in the impugned judgment and order of acquittal.

6. Application seeking leave to file appeal is dismissed.

(NITIN B. SURYAWANSHI)

JUDGE

adb