

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**940 APPLN. FOR LEAVE TO APPEAL BY STATE NO.118 OF
2019**

**THE STATE OF MAHARASHTRA
VERSUS
BHIMRAJ SONAJI SONKAMBLE**

Mr. R. B. Bagul, APP for the respondent/State
Mr. M. M. Parghane, Advocate for the respondent

CORAM : N. R. BORKAR, J.

DATE : 26-11-2021

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. The present appeal under Section 378 of Code of Criminal Procedure is filed against the judgment and order dated 28-02-2019 passed by the learned Special Court (ACB) and Additional Sessions Judge, Ahmednagar in Special Case (ACB) No. 19 of 2016.

2. By the impugned judgment and order the respondent who was accused in the aforesaid special case came to be acquitted for the offences punishable under Sections, 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act.

3. It is the case of the prosecution that on 28-06-2016 PW-2 Dattatraya had applied to Sub-Registrar Co-operative Society, Rahuri for no objection certificate required for availing loan for cross breed cow. On 30-06-2016, he went to office of the Sub-Registrar and met the present respondent/accused. According to PW-2, the respondent/ accused demanded Rs. 2,500/- for giving no objection certificate to him. As he was not interested to pay the bribe amount, he lodged the report with Anti-Corruption Bureau. It is alleged that the trap was laid. According to the prosecution during trap respondent/accused accepted the bribe amount from PW-2.

4. I have heard the learned APP for the appellant/State and the learned counsel for the respondent/accused.

5. PW-2 has admitted in the cross-examination that after making application he met one Khanderai, who asked him to meet Pathade. He alongwith Pathade met to one Nagare. Then he alongwith Nagare and Pathade met the accused. PW-2 admitted that accused said to him why he directly brought application to

him and why it was not given to inward clerk. He further admitted that accused forwarded his application through Peon to Nangare on the same day. He further admitted that Pathade told him that Nangare will not do his work unless an amount of Rs. 2,500/- is paid to Nagare.

6. PW-2 has further admitted that when he went to the office of the accused on 30-06-2016 at that time accused told him that he has already sent his no objection certificate to the dispatch clerk and he should go and collect it from him. He further admitted that dispatch clerk told him that he should meet Nangare. However, on that day Nangare was not available in the office. PW-2 further admitted in his cross examination that he asked the accused as to how much money he is required to pay upon which accused told him that he is not require to pay any amount. He further admitted that he did not talk about amount of Rs. 2,500/- with the accused. He has further admitted that ACB officer told him that if Nagare is not found in the office, he should give the bribe amount to the accused. He has further admitted that he told to the accused that he should accept money for Nangare and then he forcibly handed

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over the bribe amount to the accused. At that time accused got up from his chair and followed him but, he came out to give signal to the raiding party.

7. There are similar admissions in the evidence of panch witness PW-3 Mahesh Chawla, who according to the prosecution was with PW-2 at the time of verification of demand so also at the time of trap. PW-3 admitted in his cross-examination that the complainant had asked the accused as to how much amount he need to pay to pay Nagare and the accused said to him that he cannot tell about it. PW-3 has further admitted that PW-2 said to him that Nagare is not present in the office and they should give bribe amount to the accused. The evidence of PW-3 with regard to alleged demand during verification appears to be improvement.

8. Considering these admissions in the evidence of PW-2 and PW-3, no interference is called for in the impugned judgment and order. The appeal is dismissed.

[N. R. BORKAR, J.]

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