

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.676 OF 2016**

The State of Maharashtra	]	...	Applicant
vs.			
Arun Munappa Saliyan	]	...	Respondent

Ms.P.P. Shinde, APP for Applicant/State.
None for Respondent.

CORAM : N.R.BORKAR, J.

DATE : 9th APRIL, 2021.

P.C.:

1] This Revision Application at the instance of State takes an exception to the order dated 1st September, 2016 passed by the learned Additional Sessions Judge, Greater Mumbai, below Exhibit 9 in ACB Special case No.89/2015.

2] By the impugned order the Respondent/Original accused came to be discharged for the offence punishable under Section 8 of the Prevention of Corruption Act.

3] It is the case of prosecution that at the relevant time the respondent/accused was running Pan shop in front of the main gate of

Mumbai University at Kalina Mumbai. It is alleged that respondent/accused had demanded Rs.60,000/- from the complainant Zakirhussain to pay the said amount to University officials on the premise that he approached the University officials on the instructions of the complainant, who then awarded passing marks to the daughter of the complainant in Psychology subject of T.Y. BA. The trap was laid and respondent/accused was caught accepting the bribe amount.

4] I have heard the learned APP for the Applicant/State. Admittedly, no public servant is an accused in the present case. The Hon'ble Supreme Court in the Judgment reported in **AIR 2018 SC 3831 in the case of Babji vs. State of Andhra Pradesh** has observed thus :

“5. In order to establish the offence under [Section 8 of the Prevention of Corruption Act it must be proved:](#)

(i) That the accused accepted or obtained, or agreed to accept, or attempted to obtain, from someone;

(ii) For himself or for some other person;

(ii) Any gratification whatever;

(iv) As a motive or reward for inducing by corrupt or illegal means any ‘public servant’ to do or forbear to do any official act or to show favour or render any service to any of the persons specified in the section.

6. *In order to constitute an offence under Section 8 of the Act, three things are essential. In the first place there must have been the solicitation or receipt of the gratification. Secondly, such gratification must have been asked for or paid as a motive or reward for inducing a public servant to do an act or do a favour or render some service as stated under Section 8 of the Act. In the present case, the evidence adduced by the prosecution is vague for whom the appellant had demanded the money and whether the person for whom the appellant demanded and received the money is a public servant. Though the receiver of the money, like in the present case may not be a public servant, the prosecution has to establish by convincing evidence that the amount must have been received for inducing a public servant for doing something by that public servant in his official capacity. So far as confirmation of the seat in the Indian Airlines, there may be persons in the middle who may be a public servant or a travel agency or others. In the absence of convincing evidence to show that the appellant had received the money from PW-4, to induce a public servant to get the confirmation of the ticket, the conviction of the appellant under Section 8 of the PC Act cannot be sustained. In the result the appeal is allowed and the appellant is acquitted. “*

5] In the present case also there is no material in the charge-sheet as to for whom the respondent/accused had demanded the bribe amount and whether the person for whom the respondent/accused demanded and accepted the bribe amount is a public servant. In absence of such material the trial Court was justified in discharging the respondent/accused. Hence, the Revision Application is dismissed.

[N.R.BORKAR,J]