

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

APPLN. FOR LEAVE TO APPEAL BY STATE NO.24 OF 2020

**THE STATE OF MAHARASHTRA
VERSUS
ANIL VASANTRAO LONDHE**

....
Mr. P.G. Borade, APP for the Applicant/State
Mr. V.R. Dhorde, Advocate for Respondent
....

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 26 JULY, 2022

PER COURT:-

. The State by taking aid of Section 378(3) of the Code of Criminal Procedure is seeking leave of this Court to prefer an appeal against the impugned judgment and order of acquittal rendered by the Judge, Special Court (ACB) and Additional Sessions Judge, Ahmednagar in Special Case No. 208 of 2017.

2. Hard Mr. Borade, learned APP for the applicant/State and Mr. V.R. Dhorde, learned counsel for the respondent.

3. Mr. Borade, learned APP for the applicant/State took me through the relevant part of the judgment, more particularly, para Nos. 13, 14 and 15. He submitted that the

respondent/original accused came to be acquitted by giving him benefit of doubt. He submitted that there is sufficient evidence on record to prove that there was demand from the respondent/original accused and acceptance as well. The learned Special Judge has committed an error in acquitting the respondent/accused by giving him benefit of doubt. He, therefore, urged to grant the leave.

4. Per contra, Mr. Dhorde, learned counsel for the respondent/original accused supported the impugned judgment and order passed by the learned Special Judge (ACB), Ahmednagar.

5. Having regard the submissions of both the sides, I have carefully studied the findings and the reasons recorded by the Special Judge (ACB), Ahmednagar. The learned Special Judge has recorded the finding that the prosecution is able to prove that sanction accorded in this case is legal and proper. However, while recording the findings against point Nos. 2 and 3, it is held by the learned Special Judge that the prosecution could not prove the demand and acceptance of Rs.24,000/- as a bribe from the complainant/PW-1 and ultimately acquitted the

respondent/original accused by giving him benefit of doubt. The learned Special Judge (ACB) has also referred various citations in support of his reasons, which are found to be in tune with the evidence produced by the prosecution machinery. It is observed by the learned Special Judge that the accused has given a statement soon after the post trap about Rs.24,000/- received from the complainant towards the charges for converting his both the plots into N.A. That explanation offered by the respondent/accused is found probable. It is observed by the learned Special Judge that there is no demand of bribe in view of the legal position made clear in the case of *Panjabrao Vs. State of Maharashtra* reported in *2001 (3) Crimes 309 (SC)*.

6. On careful study of para Nos. 14 and 15 of the impugned judgment and order, it would reveal that the learned Special Judge has given cogent reasons while acquitting the accused by relying upon two citations in case of *Avinash Sitaram Garware Vs. State of Maharashtra* reported in *2008 ALL MR (Cri.) 5* and *Nivrutti Ganpati Sadekar Vs. State of Maharashtra* reported in *2019(1) Mh.L.J. 335*.

7. Having regard to the above reasons and discussion, no case is made out by the applicant/State to grant leave to file an appeal. Hence, the following order.

ORDER

- (i) Leave is refused.
- (ii) The application for leave to appeal stands dismissed.

[SHRIKANT D. KULKARNI]
JUDGE

S.P Rane