

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 32 OF 2018
(For leave to file Appeal)**

The State of Maharashtra	..Applicant
Versus	
Navnath Piraji Dhanawate	..Respondent

Mr. V. M. Nakhwa, APP for Applicant.
None for Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 1st APRIL 2022.**

PC :

1. Heard Shri. Nakhwa, learned APP for the Applicant.
2. Nobody appears for the Respondent.
3. The State has filed this application for leave to file an appeal against the acquittal. The impugned Judgment and order was passed by the learned Special Judge, (Appointed under the Prevention of Corruption Act), Greater Mumbai, on 19/12/2017 in ACB Special Case No.37 of 2016.
4. I have heard learned APP and with his assistance I have

read the Judgment, as well as, notes of evidence annexed to this application.

5. The prosecution has examined 8 witnesses in this case. The important witnesses are the complainant-PW-1 and pancha PW-2. PW-1 Rajaram Jadhav was working as Purchase Manager with Fludine company, having its office at Chembur. It is his case that, on 18/09/2015 the Respondent and one Shette visited his office. They were officers of B.M.C. The respondent told the complainant that though they had shown four employees in the license, but more than four employees were working in his company. He told that their establishment was in breach of the rules. It is the case of the complainant that the Respondent demanded Rs.40000/-. The respondent prepared some report. PW-1 expressed his unwillingness to make that payment without discussing it with his boss K. Sampat. PW-1 then informed his superior K. Sampat about the demand.

6. On 17/10/2015, PW-1 went to the office of BMC and met the respondent. It is his case that, at that time the respondent

demanded Rs.15000/-. The complainant again informed this fact to Mr. K. Sampat, but he was not available in Mumbai. He came back on 19/10/2015. He advised PW-1 to give his complaint to ACB. On 20/10/2015, complainant's colleague Mr. Kotya informed the ACB about this demand. ACB officers visited the complainant's office. The complainant gave his complaint. It was decided that, the demand should be verified. Therefore, the complainant went to the office of the respondent. The digital voice recorder was attached to the complainant. It is his case that the respondent showed him a figure on the calculator which was Rs.10000/-. PW-1 confirmed whether the respondent wanted Rs.10000/-. According to him, the respondent replied in the affirmative. PW-1 and 2 came back to ACB's office. Thereafter preparations were made to lay trap. Rs.10000/- in the form of 10 notes of the denomination of Rs.1000/- each were kept ready and then the anthracene powder was applied on those currency notes.

7. PW-1 and 2 again went to the office of the respondent. It is their case that the respondent accepted that amount. PW-1 gave predetermined signal to the raiding party. The ACB officers who

were in the vicinity, went to the office and apprehended the respondent. Traces of anthracene powder were found on the base of thumb of the Respondent. On this basis the F.I.R. was lodged.

8. Learned Judge while acquitting the respondent has given his reasons from paragraph No.8 onwards. As far as, earlier demands before 20/10/2015 are concerned, there was no corroboration. The important feature in this case is the events which had taken place on 20/10/2015. Learned Judge, in para 14 of Judgment has observed that the transcript of panchanama (Exh.19) shows that the conversation was nothing but an attempt of inducement by the complainant to the accused to speak something in respect of the alleged bribe. On the contrary, from this conversation it is seen that the accused was discussing in respect of his visit report. According to PW-1, the accused typed 15000/- on a calculator and not 10000/- This is an important contradiction in his evidence. More importantly, the evidence in respect of actual acceptance of amount is contradictory as stated by PW-1 and 2. In paragraph 19, learned Judge has discussed this issue. According to PW-2, he was told by PW-1 to wait outside and

the complainant PW-1 alone went inside where money was handedover. Whereas, as per PW-1, he and PW-2 both had gone inside when the money was given to the accused. PW-2's version destroys PW-1's version on this crucial aspect. This is properly appreciated by the learned Judge. The very fact that the anthracene powder was not found on any of the fingers of the respondent but was found only on the base of his right thumb, also takes the story closer to the defence that the money was planted by the complainant on the table and the respondent had not accepted it.

9. Learned Judge has properly appreciated these aspects. The view taken by the learned Judge is reasonable. Considering the parameters for deciding the appeal against acquittal, the impugned Judgment and order of the trial Judge needs no interference.

10. Therefore, the application for leave to file appeal against acquittal is rejected.

(SARANG V. KOTWAL, J.)