

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 291 OF 2013

The State of Maharashtra

Applicant

Versus

Arun Namdeo Khare

Respondent

Mr. S. P. Sonpawale, APP for the applicant/State.

Ms. K. S. Bhole, Advocate for the respondent.

CORAM : R. M. JOSHI, J.

DATE : 2nd AUGUST, 2023.

PER COURT :

1. This application is for seeking leave to file appeal against the judgment of acquittal dated 10th October, 2012 passed in Special Case No. 281/2009 by Special Judge (ACB), Shrirampur, Dist. Ahmednagar.

2. Respondent is charged for offence punishable under Section 7, 13(1)(d) read with Section 13(2) of Prevention of Corruption Act. It is the case of prosecution that the complainant decided to obtain loan for poultry farm and accordingly he approached the District Industry Center, Ahmednagar for loan proposal. He met

respondent for initial enquiry. He disclosed him about the documents required for proposal of loan to him. Respondent is Class III employee serving as Industry Inspector at District Industry Center, Ahmednagar. It is further allegation of the complainant that respondent asked him to pay Rs. 5,000/- for quick sending of the proposal. It is further stated that in the month of February, 2009, complainant complied documents required and handed over those documents to him along with Rs. 3,000/-. Further, respondent told him to bring balance amount of Rs. 2,000/-.

3. Perusal of the evidence on record shows that the complainant in his cross examination has admitted that respondent informed him about requirement of protect report which is to be obtained from one Mr. Gore. He further admits about having no acquaintance with Mr. Gore. Moreover, he admitted in cross examination that he was knowing the fact that for the purpose of project report he was to pay money to Mr. Gore. In the light of these facts, the evidence of complainant at the time of actual trap assumes importance.

4. It is settled position of law that in order to prove offence punishable under Section 13(1)(d) of Prevention of Corruption Act, the prosecution is required to prove that at the time of acceptance of money accused demanded bribe. The said fact has not been proved with reliable evidence. In his testimony before the Special Court, complainant claims that he along with respondent and panch witness went to the canteen and at that time, respondent made gesture by this thumb and ring finger indicating demand of money. In the cross-examination however, he candidly admits that he never stated in his statement that respondent asked him by gesture about money. Learned APP was unable to show anything in this regard from the statement of complainant recorded by ACB Officer. As against claim of complainant, PW 3, panch witness, does not state anything about any gesture being made by respondent demanding bribe amount. He, on the contrary, admits in cross-examination that he is not aware of the discussion which has taken place between the complainant and respondent. It is thus clear that evidence led by prosecution is not sufficient to prove the guilt of the accused beyond shadow of reasonable doubt. Hence, no case is made out by prosecution to grant leave to appeal against judgment of acquittal.

5. In view of above, application is dismissed.

(R. M. JOSHI)
Judge

dyb