

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 44 OF 2019

The State of Maharashtra ...Applicant

Versus

Ramrao Janardhan Wadje ...Respondent

Mrs. G. L. Deshpande, APP for Applicant – State.

Mr. R. K. Ashtekar, Advocate for Respondent.

CORAM : R.M. JOSHI, J.

DATE : JULY 21, 2023

ORDER

1. The State has preferred this Appeal against impugned judgment and order dated 10th November, 2017 passed by Special Judge, Osmanabad in Special (ACB) Case No. 21/2015 acquitting the accused of the offences punishable under Sections 7, 8, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

2. Learned APP submitted that trial Court has not appreciated the evidence on record and has erroneously acquitted the accused by ignoring the other evidence than the evidence of complainant and shadow witness.

3. Learned Counsel for the Respondent supported the judgment of acquittal.

4. Respondent is a public servant and record keeper in the Government Civil Hospital, Osmanabad. It was alleged against him that he demanded bribe of Rs. 1,000/- for allowing medical reimbursement bill to the complainant. It is alleged that the amount asked by the Respondent was other than the legal remuneration. It is further alleged that he accepted a sum of Rs. 500 from complainant. Charge came to be framed against Respondent at Exh. 8. As he denied the charge, he was tried. Prosecution examined in all five witnesses including complainant (PW 1) and Shadow panch witness (PW 2) amongst others.

5. Perusal of the evidence indicates that the complainant as well as panch witness turned hostile and did not support the case of prosecution. The complainant in his evidence has candidly admitted that when he went to the Respondent with a sum of Rs. 2,000/- towards fees, a receipt was issued to Rs. 1724 and Respondent returned the remaining amount to him.

Thereafter, the said file was sent to outward section. There is no evidence that at the time of trap the Respondent demanded any bribe or accepted the same from the complainant. It is admitted by the complainant that officer of ACB told him to give amount to Respondent and if he does not accept it, put the same in his pocket. He further states that he went to the Respondent and offered money to him but Respondent refused to accept it. It is also stated that when he told Respondent that Deshmukh had asked him to give money, the Respondent in reply told him that even though Deshmukh had told him to give money, he does not want it. He further admits that since officer of ACB told him to give money, therefore, he had put money into his pocket.

6. As far as pach witness who accompanied the complainant at the time of raid is concerned, he also failed to support to story of prosecution. In the cross examination conducted by learned APP, it has come on record that accused demanded money and accepted the same by his right hand. However, in the cross-examination conducted on behalf of defence, he clearly

admitted that officer of ACB told complainant to give Rs. 1,000/- to Respondent though his work is completed as she wanted to file a case. He further accepted that he was told by the officer of ACB to depose as written in the documents. He was also told that if he does not depose in that manner, a case would be file against him.

7. Vijaykumar (PW 3) is another panch witness who had deposed about the procedure being adopted for the purpose of laying of trap against Respondent. In his further evidence he accepted that the complainant told him about the Respondent receiving government fees of Rs. 1724 and returning him Rs. 276. In the cross-examination, he admits that the complaint was prepared in presence of complainant, however, in the presence of panch witness complainant did not state anything. He further accepts that he was not present at the time of actual trap as the complainant went inside while witness was waiting for him.

8. The aforesaid evidence has been rightly considered by the learned trial Court while acquitting Respondent.

9. Having regard to the scope of interference in the judgments of acquittal and as it is not the case wherein any material evidence on record has been ignored by the trial Court or that there is misconstruction of the evidence before it, it is not the fit case to cause any interference in the impugned judgment and order of acquittal of Respondent.

10. In the result, the Application for leave to appeal filed by State is dismissed.

(R.M. JOSHI, J.)

Malani