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

**APPLICATION FOR LEAVE TO APPEAL BY STATE NO.135 OF 2022**

The State of Maharashtra,
Through Police Inspector,
Office of Anti Corruption Bureau,
Jalna, District : Jalna ... **APPLICANT**
(Ori. Complainant)

**VERSUS**

1. Smt. Savita Manoj Choudhar,
Age ; 46 years, Occu.: Service,
as Sub Divisional Officer (Revenue)
Ambad, R/o.: Sahyadri Hills,
1/4 Garkheda, Aurangabad
Taluka & District : Aurangabad

2. Shriram Babasaheb Nagare,
Age : 28 years, Occu.: Private service/
Xerox business,
R/o.: Village Wakhalked, Tq. Ambad,
District : Jalna ... **RESPONDENTS**
(Ori. Accused)

....
A.P.P. for Appellant-State : Mr. R. D. Sanap
Advocate for Respondents : Mr. Joydeep Chatterji a/w
Mr. Pratik A. Bhosle
....

**CORAM : SANDIPKUMAR C. MORE, J.**

**DATED : 20/10/2023.**

*P. C. :*

1. The applicant - State through Police Inspector, Anti Corruption Bureau, Jalna, is seeking leave to challenge the

judgment and order in Special Case (PCA) No.25 of 2017, dated 23/07/2019 acquitting the respondents / accused from the offence under provisions of Prevention of Corruption Act, 1988, passed by the learned Judge, Special Court, Jalna (hereinafter referred to as 'the learned trial court').

2. The learned APP pointed out that respondent No.1 / original accused No.1 was concerned Sub-Divisional Officer at the relevant time and for release of 8 vehicles, she demanded bribe of Rs.8 lakhs, which according to her was to be paid to a private person i.e. respondent No.2 / accused No.2, who was having a xerox business. According to the learned APP, the trap was successful and the acceptance of the bribe amount of Rs.3 lakhs has been established by the prosecution.

3. On the contrary, the learned counsel for the respondents / accused vehemently argued that though the alleged bribe amount was found with respondent No.2 / accused No.2, but in the light of vital admissions given by the complainant himself as well as panch No.1 in their cross-examinations, it transpired that the prosecution failed to establish the charge against the respondents / accused beyond all reasonable doubts. According to him, the complainant

himself had admitted that the amount of bribe was to be given to respondent No.2 / accused No.2 for depositing in Tahsil Office as a royalty amount. As such, he prayed for rejection of the application.

4. Heard rival submissions. Also perused entire documents on record including copies of deposition and the impugned judgment and order.

5. It is the case of the prosecution that respondent No.1 / accused No.1 while acting as a Sub-Divisional Officer at the relevant time, demanded bribe amount of Rs.8 lakhs for releasing the vehicles of the complainant, which were seized and thereafter settled the bribe amount to Rs.6 lakhs, which was to be paid to respondent No.2 / accused No.2 on the direction of respondent No.1 / accused No.1. However, the record shows that the witnesses of the prosecution have given vital admissions, which have rendered the prosecution case entirely doubtful. Record shows that at the first time when the complainant and respondent No.1/ accused No.1 met, there was no demand of bribe by respondent No.1. Further, when the complainant and panch No.1 went to respondent No.1 / accused No.1 for second time to verify the demand of bribe, panch No.1 was asked to wait out side and at the

time of alleged demand he was not there. Further, though it was contended by the prosecution that on the second time conversations between the informant Sitaram and respondent No.1 / accused No.1 was recorded, but there is no cogent evidence on record to show that proper procedure was adopted to obtain the script of the said conversation or recording. Moreover, the verification demand script was also not duly identified by the competent witness.

6. Further, though it was contended by the prosecution that respondent No.1 / accused No.1 had told the informant Sitaram to give the alleged bribe amount to respondent No.2 / accused No.2 by making phone calls, but CDR to that effect is not brought on record by the prosecution. As such, it is highly doubtful whether respondent No.1 / accused No.1 had asked the informant to pay the alleged amount of bribe to respondent No.2 / accused No.2. It is extremely important to note that though the alleged bribe amount was given to respondent No.2 / accused No.2 in a car, but the informant himself has admitted in the cross-examination that when respondent No.2 / accused No.2 came to Malhar Chinese Hotel for receiving the alleged bribe amount, he told him to deposit the said amount as royalty in Tahsil Office. Thus, it appears that

whatever amount respondent No.2 / accused No.2 had accepted from the informant being the alleged bribe amount was in fact to be deposited in the Tahsil Office through challan towards the amount of royalty. Thus, considering all these aspects, it appears that the prosecution has miserably failed in proving the vital ingredients of offence under the provisions of Prevention of Corruption Act namely demand and acceptance.

7. Apart from that, the sanction also appears as an empty formality from the evidence itself since the Investigating Officer i.e. PW-6 Ajinath Kashid could not state as to which documents were sent by him to sanctioning authority. Moreover, in the sanction order itself it is nowhere stated that which particular documents were referred for grant of the same. Therefore, considering all these circumstances, I find no perversity in the judgment and order of the learned trial court in acquitting the respondents / accused from the charges under the provisions of Prevention of Corruption Act. Thus, the application for grant of leave to file appeal challenging the impugned judgment and order, stands rejected. The application is accordingly disposed of.

**( SANDIPKUMAR C. MORE, J. )**

VS Maind/-