

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

41 APPLN. FOR LEAVE TO APPEAL BY STATE NO.233 OF 2019

THE STATE OF MAHARASHTRA
VERSUS
SAMBHAJI HARI PEDGE

...
APP for Applicant – State : Mr. G.O. Wattamwar
Advocate for Respondent : Mr. H.I. Pathan
...

CORAM : R. M. JOSHI, J.
DATE : AUGUST 7, 2023

PER COURT :

. Heard.

2. This application is for leave to file appeal against the judgment and order dated 31.07.2019 passed by Special Judge (Add. S.J.), Hingoli in Special Case (ACB) No.07/2014 whereby the respondent - accused has been acquitted for the offences under Sections 7 and 13 (1)(d) r.w. 13 (2) of the Prevention of Corruption Act. Perusal of the evidence indicates that as far as the panchanama of verification of demand is concerned, PW-2 has candidly admitted that he had been to the office of Anti Corruption Bureau for the first time at around 01:30 to 02:00 p.m. In such circumstances, the learned Trial Court is fully justified in disbelieving the case of the

prosecution that in the morning on the same way the verification of demand was done in presence of this witness.

3. Apart from this, perusal of the evidence of the panch witness further indicates that it is the case of the accused that complainant had grievance against him for not mutating the record in the name of his wife as the said property was under encumbrances. He further claims that the complainant has thrustured the tainted money in his pocket.

4. Learned APP submits that if the money was thrustured into his pocket, the question of finding traces of anthracene powder on his both the hands does not arise. In this regard, it is material to note that PW-2 has admitted during the cross-examination that the panch no.2 removed the tainted notes from the pocket of the accused and kept them in the hands of accused. This admission of the witness explains as to reason for which the traces of anthracene powder were found on both the hands of the accused.

5. Learned APP further submits that this witness has turned

hostile and therefore this particular evidence need not be considered. It is, however, pertinent to note that further cross-examination of this witness was not conducted by the prosecution. Now, it is not open for the prosecution to claim that the witness has turned hostile and disown him.

6. Having regard to the fact that panchanama of the verification of the demand is doubtful and also in view of the admission of the witness which explains the traces of anthracene powder on both hands of the accused, this is not the fit case to grant leave to appeal against the order of acquittal. Hence, application is dismissed.

[R. M. JOSHI]
JUDGE

GGP