



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPLN. FOR LEAVE TO APPEAL BY STATE NO. 13 OF 2023

The State Of Maharashtra

VERSUS

Sanjay Nagorao Sonawane

.....

Mr. D.J. Patil, APP for appellant-State

Mr. P.M. Nagargoje, Advocate for the respondent

.....

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 19th SEPTEMBER 2024

ORDER :

1. This application filed by State under Section 378(1) (b) of Code of Criminal Procedure challenges judgment and order of acquittal dated 20.08.2022 passed by learned Special Judge (ACB), Aurangabad in Spl. Case (ACB) No. 44/2016.

2. Prosecution case is that, on 05.07.2016 complaint is lodged by Sachin Jaiswal- PW2 at Anti Corruption Bureau, Aurangabad alleging that he is working as a Manager at Country Liquor Shop of Smt. A.J. Jaiswal, N-4 CIDCO, Aurangabad. On 03.07.2016 at about 10.30 to 11.00 am, police official of Mukundwadi Police Station arrived at the shop and informed his name as Sanjay Sonawane i.e. accused. He inquired about the

Bhagyawant Punde

place from which stock is purchased and asked complainant to produce the T.P. for the period from 04.06.2016 to 16.06.2016 and to remain present after 4.00 pm at N-4 CIDCO Police Chowki. Accordingly, complainant went to said police station by carrying T.P. During the meeting, accused asked complainant that Crime No. 561 of 2006 for the offence Under Section 65(kh) of the Bombay Prohibition Act is registered at Mukundwadi Police Station. Accused asked complainant that accused in the said crime had purchased stock from the complainant's shop and therefore complainant also will be added as accused in the said crime. For not adding complainant as accused, an amount of Rs. 10,000/- will be required to be paid to the accused. Accused then asked complainant to produce photocopies of T.P. and to bring amount of Rs. 10,000/- on 05.07.2016 at Pundliknagar Police Chowki, failing which complainant will be added as accused in the said crime. Complainant, therefore, lodged complaint with Mukundwadi Police Station which is registered at C.R. No. 638 of 2016 under Sections 7, 13(1)(d) r/w Section 13(2) of Prevention of Corruption Act. Accordingly, trap was laid and accused was caught red handed. On completion of investigation charge sheet was filed. In support of case, prosecution has examined five witnesses.

Bhagyawant Punde

3. The defence of the accused was that he has never demanded any bribe and he is falsely implicated by the complainant in the present crime. Trial Court after recording evidence, acquitted the accused. Hence, the present application for leave to file appeal.

4. Heard learned APP for appellant-State and learned advocate for the respondent. Perused the impugned judgment and documents placed on record.

5. It appears that the prosecution has failed to prove the demand on the part of the accused person. In view of the admission given by the shadow panch, there is no corroboration available to the evidence of the complainant. Though, it was the case of complainant that an amount of Rs. 10,000/- was asked as bribe, in the alleged trap Rs. 8,000/- was recovered. It is pertinent to note that no anthracene powder was seen on the hands of accused at the time of trap. Considering the evidence led by the prosecution on record, it is clear that prosecution has failed to prove the charge beyond reasonable doubt.

6. Trial court has properly appreciated the evidence and has passed a well reasoned order of acquittal. View taken by the

Trial Court is possible view, which is not liable to be interfered with in the facts of the present case. Application being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI, J.]