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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO.107 OF
2024

The State of Maharashtra

APPLICANT

VERSUS

Sahebrao Bajirao Sontakke

RESPONDENT

.....
Mr. R. B. Dhaware, APP for the applicant - State
Mr. Sudarshan J. Salunke, Advocate for the respondent
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 24th SEPTEMBER, 2024

ORDER :

1. This application for leave to appeal is filed by the State under section 378 (1) (b) of the Criminal Procedure Code, for challenging judgment of acquittal dated 2nd August, 2019 passed by learned Special Judge / Additional Sessions Judge, Jalna, in Special Case (ACB) No. 3 of 2013.

2. Prosecution case, in short, is that respondent - accused was working as Co-operative Officer in the office of Assistant Registrar, Co-operative Societies at Badnapur. He called the informant and asked him to meet him along with his sister. Accordingly, the informant and his sister went to meet him, at that time, accused told them that Mukund Sonune and Baburao

Sonune had lodged report against informant's sister alleging that she is illegally doing money lending business and has grabbed their lands in money lending transactions. He recorded their statements on that day. Thereafter, a notice was received from the accused to informant's sister, asking her to appear before accused on 12th August, 2012. Accordingly, the informant visited office of the accused on two to three occasions. Thereafter, informant was again called by the accused on 21st August, 2012. When the informant went to the office of the accused, he demanded Rs.1,50,000/- as bribe to dispose of case against sister of the informant. After negotiations, bribe amount was settled at Rs.1,00,000/- to be paid in four installments of Rs.25,000/- each. Accused demanded first installment of Rs.25,000/- on the same day, however, since the informant had only Rs.5,000/- with him, he paid it to the accused and agreed to pay remaining Rs.20,000/- in Friday.

Thereafter, on 23rd August, 2012, informant lodged report (Exhibit-22). On 24th August, 2012, demand verification and pre-trap Panchanama (Exhibit-26) was conducted in the presence of Pancha witnesses. Thereafter, Panchanama (Exhibit-27) was prepared and trap was laid. Investigating Officer then lodged report (Exhibit-43) and offence was registered with Badnapur Police Station. Accused was caught with the bribe amount of

Rs.20,000/-, he was arrested. After completion of investigation chargesheet was filed and accused was charged with offence punishable under section 7, 13 (i) (d) and 13 (2) of the Prevention of Corruption Act. In support of its case, prosecution examined 4 witnesses. Trial Court has acquitted the accused, hence this application.

3. Heard learned APP for the applicant - State and learned advocate for respondent - accused. Perused the application, grounds raised therein and the impugned judgment of acquittal.

4. It appears from the record that the demand verification Panchanama is not proved on record through Pancha. In support of its case, the prosecution has only relied on the testimony of the informant. Admittedly, Pancha witness was not taken for verification of demand. It appears that bribe amount was kept on the table of the accused, during the trap. It is the defence of the accused that taking advantage of the fact that the accused was busy in his work, informant surreptitiously kept the money on his table and the accused had no idea about it. In the light of the material placed on record by the prosecution, the defence appears to be probable. The defence has also brought on record, during the cross - examination of the informant that he is facing prosecution for abetment to commit suicide, he had made similar

allegations against another public servant, who happened to be Sub Divisional Officer of Aurangabad. Defence contended that informant is in habit of pressurizing public servants, by making false allegations of corruption against them.

5. The testimony of material witnesses, examined by the prosecution, does not inspire confidence and it is clear that the prosecution has utterly failed to prove charge against the accused.

6. Trial Court has passed a well reasoned judgment and has taken a possible view, which is not liable to be interfered with in the facts of the present case. The application being devoid of merit, is dismissed.

**[NITIN B. SURYAWANSHI]
JUDGE**