



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO.120 OF 2022

State of Maharashtra,
Through : Police Station, Chakur,
Tq. Chakur, Dist. Latur

... Applicant
(Ori. Prosecution)

Versus

Mallikarjun Shamrao Killarikar,
Age 57 yrs., Occu. Pensioner,
R/o. L.I.C. Colony, Latur,
Tq. & Dist. Latur.

... Respondent
(Ori. Accused)

...
Mr. D. J. Patil, APP for Applicant – State.
Mr. Rajiv B. Deshmukh, Advocate for Respondent.

...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 22nd MARCH, 2024

PRONOUNCED ON : 3rd APRIL, 2024

ORDER :

1. State is hereby seeking leave to question the judgment and order of acquittal passed by learned Additional Sessions Judge-3, Latur, District Latur for offence punishable under sections 7, 13(1)(b) and 13(2) of the Prevention of Corruption Act, 1988, dated 05.04.2022 in Sessions Case No. 31 of 2014.

2. In support of relief, learned APP submitted that, respondent accused was working in revenue department. He had

demanded illegal gratification to the tune of Rs.5,000/- for entering the names of all brothers in the land record. Prompt complaint was lodged, trap was planned and laid. Demand and acceptance was proved, but still learned trial court refused to accept the case of prosecution. There is a good case on merits and fair chances of success in appeal as there is improper appreciation. Therefore, State is seeking leave.

3. In answer to above, learned counsel for respondent accused submitted that prosecution failed to prove its charges beyond reasonable doubt. Complainant himself has not supported prosecution and hence he prays to refuse leave.

4. On going through the papers, it seems that, prosecution was launched for above offences, alleging illegal gratification of Rs.5,000/- for entering names in the land record. On lodgment of complaint, ACB authorities planned and laid trap and after investigation, accused were charge-sheeted. It seems that, in support of its case, prosecution has adduced evidence of PW1 Raghunath - Complainant, PW2 Ramesh - shadow panch, PW3 Sandip Gosavi - Sanctioning Authority and finally PW4 P.I. Pankaj Bhalerao - Investigating Officer.

5. Evidence of complainant and panch is crucial in such cases. They are examined at Exhs. 33 and 36. According to complainant, here his brothers decided to get land partition, but Consolidation Scheme being enforce and to get the record corrected, therefore, he came in contact with accused, but accused put up demand of Rs.5,000/- and as he was not willing to comply, he lodged report (Exh.34). However, demand verification was done, complainant has not deposed about PW2 Ramesh accompanying him. He also does not speak about PW2 Ramesh to be present at the time of pre-trap panchanama. Complainant's evidence seems to be silent on the very aspect of demand on 26.08.2014 as well as acceptance of bribe. Here, PW2 Ramesh does not seem to be supported PW1 complainant. Therefore, both crucial witnesses are not consistent and moreover complainant himself has not fully supported prosecution, case of prosecution has come under shadow of doubt.

Consequently, no good ground is made out for grant of leave. Hence, I proceed to pass the following order :-

ORDER

The application is hereby rejected.

(ABHAY S. WAGHWASE, J.)