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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO.91 OF
2021

The State of Maharashtra

APPELLANT

VERSUS

Deepak Suresh Sonawane

RESPONDENT

.....
Mr. R. B. Dhaware, APP for the Applicant – State
Mr. D. B. Thoke, Advocate for the respondent
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 14th OCTOBER, 2024

ORDER :

1. By this application, filed under section 378 (1) (b) of the Criminal Procedure Code, the applicant - State seeks leave to file appeal against the judgment and order of acquittal dated 6th October, 2021 passed by learned Additional Sessions Judge, Dhule in Special Case (ACB) No. 32 of 2013.

2. The respondent – accused was charged under section 7, 13 (1) (d) read with 13 (2) of the Prevention of Corruption Act, for accepting bribe amount of Rs.5,000/- from the complainant.

3. It is the case of the prosecution that complainant Vijay Dhoble, teacher of Smt. Shantabai Pingle Prathmik Vidhya Mandir, Moglai, Sakri Road, Dhule lodged a report with Anti

Corruption Bureau that the accused, being Deputy Education Officer, was demanding bribe of Rs.10,000/- at the time of verification of record of the school. Demand verification was carried out and accused was caught while accepting bribe amount of Rs.5,000/-. On completion of investigation, charge sheet was filed. In support of its case, prosecution examined 4 witnesses. Trial Court has acquitted the accused. Hence, this application.

4. Heard learned APP for the applicant - State and learned advocate for respondent - accused. Perused the documents placed on record.

5. It appears from the record that the prosecution has failed to prove the demand and acceptance. Though memory card of the alleged voice recording was available with the Investigating Officer, the same is not produced and only CD of recorded conversation is placed on record. Investigation is carried out by the person of Police Inspector Rank. All the relevant papers were not forwarded to the sanctioning authority. There appears non application of mind on the part of the sanctioning authority, while according sanction. There are major discrepancies in the testimonies of shadow punch, complainant and the Investigating Officer. Presence of Pancha at the time of actual trap is doubtful.

There is discrepancy in the prosecution evidence about where the actual trap was laid and accused was nabbed. In spite of the fact that there was no specific demand of bribe at the time of demand verification, the Investigating Officer has failed to carry out second demand verification.

6. Complainant has admitted that there were complaints by the Education Department against him that he used to interfere in the official work and used to threaten and abuse employees of the Education Department. He has further admitted that he was Union Leader and used to go to the office of Education Department, with reference to the work of the union.

7. Trial Court has properly appreciated the evidence and by recording flaws in the prosecution case, by a well reasoned judgment, acquitted the accused. The view taken by the Trial Court is 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