



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO.234 OF 2019

The State of Maharashtra,
Through : Police Station Officer,
Nandurbar City Police Station,
Dist. Nandurbar.

... Applicant
(Orig. Prosecution)

Versus

1. Smt. Yashoda Devaji Vasave, }
Age : 49 years, Occu. : Service }
(Junior Clerk Tahasil Office, Nandurbar) }
R/o. Government Quarters No.2, }
Opp. Tahasil Office, Nandurbar, }
Tq. & Dist. Nandurbar. }

... Abated

2. Bhimrao Barku Marathe,
Age : 27 years, Occu. : Private Service,
R/o. Navjivan Chowk, Baherpura,
Tq. & Dist. Nandurbar.

... Respondents.
(Orig. Accused)

...
Mr. N. D. Batule, APP for Appellant.
Mr. Pranit P. Patni, Advocate for Respondent No.2.
...

CORAM : ABHAY S. WAGHWASE, J.

DATED : 23rd FEBRUARY 2024

ORDER :

1. State is hereby seeking leave to question the judgment and order dated 26.07.2019 passed by Additional Sessions Judge (Special Judge), Nandurbar in Special ACB Case No. 11 of 2014, acquitting respondents from offence punishable under sections 7

and 13(1)(d) read with section 13(2) and section 12 read with section 7 of the Prevention of Corruption Act, 1988 (P.C. Act).

2. Learned APP submitted that, present respondent and main accused Yashoda were charge-sheeted for above offence. That, original accused no.1 was working as a Clerk in Record Department at Tahsil Office and she had demanded illegal gratification from complainant for issuing record in respect of agricultural land. There was demand of Rs.2,000/-. Complainant was not ready to pay bribe, and therefore, he had lodged complaint with ACB authorities. On her behalf, present respondent no.2 accepted the amount. Both accused were apprehended. After investigation they were tried. Prosecution adduced evidence of in all 4 witnesses. That, all required formalities were completed and a full proof case was made out, but, the learned trial Judge acquitted the accused. That, there is improper appreciation and therefore, State intends to file appeal. Hence, leave is sought.

3. On the other hand, learned counsel for respondent pointed out that, present respondent is a private person and not a public person. He had no concern with said work of complainant nor he had knowledge that the amount was towards bribe. There was weak evidence, and therefore, learned trial Court rightly

acquitted the accused. There is no merit in the leave application and hence he prays to dismiss the same.

4. In the light of above submission, if record and papers are scrutinized it seems that, one Yashoda Vasave, who working as a Clerk in the record Department at Tahsil office, was approached by complainant for issuing some record and for the same main accused Yashoda had allegedly put up a demand of Rs.2,000/-. That, accused no.2 Bhimrao was a private person, but said to be working as an Assistant. It seems that, on 10.03.2014, accused no.1 demanded Rs.2,000/-, but through accused no.2. It seems that, four witnesses were examined by prosecution. There seem to be no corroboration to the alleged version of complainant, shadow panch seems to have admitted that he has unaware about the nature of conversation. There was some tape recording evidence, but prosecution in trial did not examine the CFSL witness to prove Exh.64. Even otherwise it seems that, main accused no.1, who was a public servant is now reported to be no more. Present respondent seems to be a private person. Prosecution in trial court seems to have failed to prove that accused no.2 demanded any amount from him. Therefore, case being not proved beyond reasonable doubt, learned trial court seems to have acquitted both accused.

5. Here also before this court no good ground is made out nor any patent illegality is brought to the notice of this court so as to grant leave as prayed. Hence, I proceed to pass the following order :-

ORDER

The application stands rejected.

(ABHAY S. WAGHWASE, J.)