



drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.1049 OF 2023

The State of Maharashtra

APPELLANT

VERSUS

1. Satyajeet Shantaram Pawar
2. Amol Shantaram Pawar

RESPONDENTS

.....
Mr. R. B. Dhaware, APP for applicant - State

Mr. S. N. Lale Yelwatkar, Advocate for respondents No.1 & 2

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 9th OCTOBER, 2024

ORDER :

1. This appeal, filed under section 378 (1) (b) of the Criminal Procedure Code, challenges judgment of acquittal dated 23rd October, 2019 passed by learned Special Judge (ACB) Aurangabad in Special (ACB) Case No. 22 of 2009.

2. It is prosecution case that Complainant (PW-1) and his brother were arrested on the basis of complaint lodged by mother of Syed Imran. They were released on bail on 25th April, 2009. Thereafter, Chapter Case was registered against them and they were produced before the Assistant Commissioner of Police, for hearing. They were remanded to Magisterial Custody and were sent to jail. On furnishing bail, Complainant was released on

27th April, 2009. Thereafter, he went to the office Assistant Commissioner of Police, to know the next date of hearing in the Chapter Case. There he met Accused No.1 - Satyajeet Pawar, who informed him that next date in the matter is 6th May, 2009 and that the police are likely to register Chapter case against Syed Imran. Accused No.1 also told him that if the Complainant wants Syed Imran to be sent to jail like him, he will have to spent money for that. He called him on the next date, as Syed Imran was to be brought on the next date i.e. 1st May 2009. Complainant went to office of Assistant Commissioner of Police and met Accused No.1, who demanded bribe of Rs.5,000/- from Complainant. It was also told to the Complainant that if the amount is not paid, he will talk to ACP to release Syed Imran, on bail.

3. Complainant, since was not willing to pay bribe amount, approached the office of Anti Corruption Bureau. Demand verification was done. Thereafter, trap was laid on 1st May, 2009. Accused No.1 accepted bribe amount at Smile Juice and Ice Cream Center and handed it over to Accused No.2. At that time, both the accused were apprehended by the raiding party. On completion of investigation, charge sheet was filed and accused were charged for commission of offence punishable under section 7 and 13 (1) (d) read with 13 (2) and 12 of the Prevention

of Corruption Act. After recording evidence, Trial Court acquitted the accused. Hence, the appeal by the State.

4. Heard learned APP for the Appellant – State and learned advocate for the Respondents – Accused. Perused the Record.

5. The record reveals that Accused No.1, a Police Constable, was appointed by the Commissioner of Police, however, sanction for his prosecution in the present case, was accorded by the Deputy Commissioner of Police, who was not the appointing authority of Accused No.1. Therefore, the sanction is invalid.

6. PW-2 Panch, has not corroborated evidence of PW-1 Sarfaraj Khan (Complainant), on the point of demand of bribe amount of Rs.5,000/- in his presence, he has admitted that he has acted as Panch in many cases. Perusal of demand verification Panchanama (Exhibit-33) shows that there is no specific demand of bribe by Accused No.1. Prior to the trap, Accused No.1 never called PW-1 Sarfaraj Khan, in spite of the fact that Syed Imran was sent to jail, as per the orders of the ACP. It is a matter of record that the Investigating Officer in the present case, asked PW-1 to call Accused No.1. There does not appear any corroboration to the evidence of Complainant Sarfaraj Khan (PW-1), on the point of demand of bribe by accused No.1. Accused No.2 has given plausible explanation immediately after

the trap about the bribe money found with him. The prosecution, therefore, has failed to prove its case beyond reasonable doubt.

7. The Trial Court has passed a well reasoned judgment recording acquittal of the Accused. View taken by the Trial Court is a possible view which is not liable to be interfered with. Criminal Appeal being devoid of merit, is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE

drp/criapel1049-23.doc