

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1446 OF 2022

Yuvraj Jaywant Padwal
Versus
State of Maharashtra

...Applicant
...Respondent

....

Mr. Aniket Nikam i/by Mr. Amit Icham, Advocate for the Applicant.

Mr. Y. Y. Dabake, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 6th FEBRUARY 2024

P.C.:-

1. The Applicant has invoked inherent powers under Section 482 of Cr.P.C. challenging the order dated 20th August 2022 passed by learned Additional Sessions Judge, Kalyan rejecting the application under Section 227 of the Code of Criminal Procedure, 1973.

2. The applicant is arraigned as accused in Special Case No.17 of 2015 pending before the learned Additional Sessions Judge, Kalyan.

3. The case of the prosecution is that, the applicant is Government servant. He is the Talathi of Shahad. The complainant went to the office of accused for mutation in respect of his land. The accused told the

complainant that for taking mutation, the complainant will have to be done for himself and circle officer and to meet respondent No.2, private person who is his assistant. The accused demanded 10,000/- from the complainant as bribe for mutation. Since the complainant was not willing to fulfill illegal demand made by accused persons, he lodged the complaint with Anti Corruption Thane. The FIR was registered.

4. The applicant preferred an application for discharge before the Court of Sessions. The application was rejected vide order dated 20th August 2022.

5. Learned Advocate for the applicant submitted that, there is no evidence to frame charge against the applicant. There was no demand of bribe by the applicant. The co-accused Ujjwal Vitthal Deshmukh has been discharged. There is no direct or indirect evidence against the applicant. The applicant has not received any money from the first informant. To attract under section 7, 12, 13(1)(d), 13(2) of Prevention of Corruption Act. There has to be clear demand and acceptance. The applicant had entered the mutation entry No. 3209 on 25th August 2014 and sent it to the circle for certifying it much before the date of complaint. The conversation relied upon by the prosecution does not refer to demand of bribe by the applicant. There has to be evidence against the accused to frame charge against the accused.

6. Learned APP submitted that at this stage of framing charge, the court is required to see whether prima facie case is made out against the accused. The Court is required to see on the basis of material the conclusion can be reached about commission of offence is probable consequence, case for framing of charge exists.

7. On careful examination of police records it emerges that it is sufficient to proceed against the applicant. Prima facie case is made out against the applicant. Case of the co-accused, who has been discharged can be distinguished. The complaint was lodged with ACB on 16th September 2014 alleging that, the applicant had informed the complainant that he should do something for him and Circle Officer and without that the mutation will not be done. He was advised to meet Sharad, who provides the details to him. The complainant meet Sharad Padwal. Sharad Padwal told him that, the work of another person namely Borkar is done. Sharad Podwal demanded Rs.15,000/- and told him that amount has to be given to Circle Officer Deshmukh and he would get the work done. Work should be done through Talathi and Circle Officer. The verification was conducted on 17th September 2014. There are strong circumstances, emanating through conversation between the parties involved to indicate that co-accused had demanded money at the instance of the applicant. Money was accepted by Sharad Padwal. This is not the stage to evaluate the evidence. No case is

made out to discharge the applicant.

ORDER

- (i) Criminal Application No. 1446 of 2022 is rejected;
- (ii) It is clarified that, the observation made in this order are only for adjudicating this application and the trial Court shall not be influenced by it during trial.

(PRAKASH D. NAIK, J.)