



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.337/2020

Shri Rajesh S/o Zibalrao Hadke,  
aged about 54 Yrs., Occ. Service,  
R/o Plot No.50, Milind Nagar,  
Khamla, Nagpur 440 025.

... Applicant

- Versus -

1. State of Maharashtra,  
through Anti-Corruption Bureau,  
Civil Lines, Nagpur.
2. Shri Namdeo @ Bandu S/o  
Vishwanathrao Kadu,  
aged about 58 Yrs., Occ. Civil  
Contractor, R/o Shubham Apartment,  
Plot Nos.1 to 7, Ujjwal Society, Near  
Hanuman Temple, Narendra Nagar,  
Nagpur 440 015.

... Non-applicants

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Mr. A. S. Mardikar, Senior Advocate with Mr. Amit Khare,  
Advocate for the applicant.

Ms. S.S. Jachak, A.P.P. for non-applicant No.1.

Mr. V.G. Bhamburkar, Advocate for non-applicant No.2.

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CORAM: VINAY JOSHI & MRS.VRUSHALI V. JOSHI, JJ.

DATED: 22.8.2024.

ORAL JUDGMENT (Per Vinay Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. This is an application seeking to quash chargesheet arising out of Crime No.0262/2020 registered by non-applicant No.1 for the offence punishable under Section 7 of the Prevention of Corruption Act.

3. At the instance report lodged by a Contractor namely Namdeo Kadu dated 20.5.2020 crime has been registered. It is the complainant's case that in the month of June 2019 he was working as a Contractor indulging into the contract work of Maharashtra Jeevan Pradhikaran. The applicant was serving as Divisional Accountant in the office of Pradhikaran and assigned the job of scrutinizing the bills submitted by the Contractors. It is the complainant's case that he has performed the contract work for two projects namely Nagpur Peri Urban Project and Ranbodi Project for which the bills for the month of August 2019 and October 2019 were due. The complainant has approached to the applicant on 25.10.2019 with regard to passing of bills for the work done under the Peri Urban Project for August 2019 and

Ranbodi Water Distribution Project in the month of October 2019. According to the complainant, the applicant has demanded bribe of 3% of the amount accruable in favour of the complainant. It is complainant's case that 3% amount has been demanded as an illegal gratification for passing of the bills i.e. for doing official duty.

4. Since the complainant was unwilling to pay the bribe amount he has approached to the office of Anti-Corruption Bureau on which time to time the officers have arranged trap for verification of demand. For one or other reason the verification was not materialized on few dates. Finally on 4.11.2019 around 1.30 p.m. the complainant along with Panch No.1 had a talk with the applicant pertaining to the work. Said exercise was preplanned to verify the demand. Voice recorder was used for recording the conversation to establish the demand.

5. The transcript of the voice recording has been produced (page 92) on record which is not in dispute. Learned Senior Advocate appearing for the applicant took us through the relevant portion of the transcript to impress that there is no

utterance about demand at the end of applicant. Moreover, we have been taken to both pending bills to show that the bills about Peri Urban Project was already sanctioned on 18.10.2019 while Ranbodi bill was sanctioned on 19.10.2019 by Executive Engineer. It is tried to impress that since the work was already done there was no question of raising demand. Moreover, it is submitted that alleged demand is not acceptable since it was not for the purpose of public duty as work was already done.

6. Learned A.P.P. as well as learned Advocate appearing for the complainant have resisted the application by contending that reading of the conversion discloses that there was a demand of Rs.1,000/- under pretext of contribution and thus in absence of any provision it amounts to a demand for performance of public duty. Moreover, it is submitted that at this preliminary stage we cannot decide the said issue since it is a matter of trial.

6. So far as the material aspects of demand is concerned, we have meticulously gone through the entire conversion which took place on 4.11.2023 in the office of applicant around 3.15 p.m. It conveys that the applicant has enquired with the

complainant about bills on which there was a long conversation in between them. It reveals that the applicant stated that if there is a proper compliance then the bills will be cleared. There is reference that the informant stated whether he shall give something on which the applicant replied that said money would be towards contingency which would be utilized for everyone. The conversation bears reference that the complainant uttered to offer Rs.1,000/- on which the applicant gave answer that Rs.1,000/- would be towards contribution.

7. In earlier portion of the conversation there is a reference of figure "3". Learned A.P.P. has attracted our attention to the particular portion wherein the complainant stated "दोन महिन्यांचे पेमेंट थांबले पोराने कारण हे अर्धी माझे तिन". It appears that in that relation there is a further conversation. We have gone through the entire conversation but unable to find out that applicant at his own raised demand in particular with reference to the allegation of asking 3% of the bill amount for clearing the bills. It reveals that there was a talk of some contribution to the contingency fund.

However, it requires to be noted that such demand towards contingency fund could not find place within the scope of illegal demand for doing official work. On re-examination it conveys that there was no initiation on the part of the applicant but the complainant himself opened the subject to pay Rs.1,000/-. Taking overall view of the matter, it appears that the conversion does not convey about demand for doing an official work.

8. Besides that undisputedly the documents disclose that the bills were already processed much prior to the alleged demand dated 25.10.2019. The applicant has already put an endorsement and bills were sanctioned by Executive Engineer on 18.10.2019 and 19.10.2019. True in some cases the reason that work is already completed cannot be criteria but it has to be appreciated coupled with the entire material on record. There is no material to convey that the applicant has specifically demanded 3% of the bills amount. Needless to say that the demand is *sine qua non* for establishing the offence under the Prevention of Corruption Act. In the above peculiar facts, chances of securing conviction are remote. The entire material discloses that no *prima facie* case is

made out to constitute the offence, even if the material is accepted as it is.

9. In view of the above, the applicant has made out a case to exercise inherent powers of this Court. The application is allowed. We hereby quash and set aside chargesheet arising out of Crime No.0262/2020 registered by non-applicant No.1 for the offence punishable under Section 7 of the Prevention of Corruption Act.

(MRS.VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)