



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.1752 OF 2024

APPLICANT : Ku Prachi Ashokrao Kale,
Age : 30 yrs. Occ- Service,
R/O- Yenapur, Tah : Chamorshi, Dist :
Gadchiroli.

..VERSUS..

NON-APPLICANT : State of Maharashtra,
Through its Police Station Officer,
Police Station, Aheri, Tah : Aheri,
Dist : Gadchiroli.

Mr. A.Y. Humne, Advocate for applicant
Ms Soniya Thakur, APP for the non-applicant/State

CORAM : ANIL S. KILOR, J.

DATE : 3rd MARCH, 2025

ORAL JUDGMENT

1. Heard.

2. **Rule.** Rule is made returnable forthwith. Heard finally by consent of learned counsel for the parties.

3. In the present application, a challenge is raised to the order below Exh.30 dated 08.05.2024 passed by the learned Additional Sessions Judge, Aheri in Special ACB Case No.12 of 2023, rejecting the application filed by the applicant for

discharge, under Section 227 of the CrPC.

4. The brief facts of the present case which give rise to the present matter, are as follows:

The applicant is working as a 'Forest Guard'. On the complaint made by the informant one Shri Gorle with Anti-Corruption Bureau at Gadchiroli, a crime No.3012 of 2016 was registered against the applicant for the offence punishable under Section 7, 13 (1) (d) read with Section 13 (2) of Prevention of Corruption Act.

5. It is alleged that the accused, while on duty, received an information and thereupon, she inspected a house of the informant and found seven teak wood plankets in the house. The informant gave explanation to her that he brought those plankets from his field but due to poverty he could not prepare bed. It is alleged that the applicant demanded Rs.9,000/- for not initiating any action against the informant.

6. It is further alleged that on 23.05.2016, she demanded Rs.3,000/-, whereupon, the complaint was made to the Anti-corruption Bureau. Then, a trap was arranged and the accused

was caught hold with bribe amount of Rs.2,500/-. Thus, the offence was registered and after the investigation, charge-sheet was filed.

7. Thereafter, the application for discharge was moved by the applicant, which came to be dismissed and hence, this application.

8. The learned counsel for the applicant, by relying upon the judgment of the Hon'ble Supreme Court of India, in the case of *Ashoo Surendranath Tewari Vs. The Deputy Superintendent of Police, EOW, and anr.*¹, submits that since the applicant has been exonerated from a departmental inquiry, which was conducted on similar charges for which the criminal complaint was made, the criminal proceedings cannot be continued against the applicant.

9. The learned APP is not disputing the fact that the applicant has been exonerated from the departmental inquiry, however, she supports the impugned order.

10. In the above referred backdrop, it would be beneficial to refer to the judgment of the Hon'ble Supreme court in the

¹ 2020 (9) SCC 636

case of ***Ashoo Surendranath Tewari*** (supra), wherein it is held thus:

“12. After referring to various judgments, this Court then culled out the ratio of those decisions in paragraph 38 as follows: (Radheshyam Kejriwal Case, SCC p.598)

“38. The ratio which can be culled out from these decisions can broadly be stated as follows:

(i) Adjudication proceedings and criminal prosecution can be launched simultaneously;

(ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;

(iii) Adjudication proceedings and criminal proceedings are independent in nature to each other;

(iv) The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;

(v) Adjudication proceedings by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure;

(vi) The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical

ground and not on merit, prosecution may continue; and

(vii) In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases.”

11. Considering the above referred observations and the fact that on the similar charges, the inquiry was conducted against the applicant, and after considering the evidence available on record, the applicant was exonerated from the said charges on merit and not on technical ground, in the departmental inquiry.

12. As such, it can be said that when no evidence is found to establish any charge in the departmental inquiry, wherein the standard of proof is based on preponderance probability i.e. somewhat lower than the standard of proof in criminal proceeding where the case has to be proved beyond doubt, allowing the trial to continue would result in futility.

13. In that view of the matter, as held in the case of

Ashoo Surendranath Tewari (supra), the trial cannot be permitted to continue in the matter at hands. Accordingly, I pass following order:

- (i) The application is **allowed**.
- (ii) The order below Exh.30 dated 08.05.2024, passed by the learned Additional Sessions Judge, Aheri in Special ACB Case No.12 of 2023, is hereby quashed and set aside and consequently, the application Exh.30 filed under Section 227 of the CrPC for discharge, is hereby allowed.

Rule accordingly.

(ANIL S. KILOR, J.)