

(2015) 06 BOM CK 0157
In the Bombay High Court
Case No : Criminal Appeal No. 110 of 2002

State of Maharashtra

APPELLANT

Vs

Gorakh Pandurang Jedhe

RESPONDENT

Date of Decision : 29-06-2015

Acts Referred:

Prevention of Corruption Act, 1988 — Section 13(1)(d), 13(2), 7

Citation : (2016) 1 BomCR(Cri) 792

Hon'ble Judges : A.M. Thipsay, J

Bench : Single Bench

Advocate : Deepak Thakre, APP, for the Appellant; Nagesh Y. Chavan, Advocates for the Respondent

Judgement

A.M. Thipsay, J.

1. The respondent who was, at the material time, working as a clerk in the office of Irrigation Department, State of Maharashtra, was prosecuted on the allegation of having committed offences punishable under section 7 and section 13(2) read with section 13(1)(d) of the Prevention of Corruption Act, 1988. The learned Special Judge, Pune, after holding a trial, found the respondent not guilty and passed an order of acquittal. The State of Maharashtra is aggrieved by the said order of acquittal and therefore, after obtaining the leave of this Court, has filed the present Appeal challenging the same.

2. I have heard Mr. Deepak Thakre, learned APP for the appellant State. I have heard Mr. Nagesh Chavan, learned counsel for the respondent.

3. I have gone through the impugned judgment, and the evidence adduced during the trial.

4. For the sake of convenience and clarity, the respondent shall hereinafter be referred to as "the accused".

5. The case against the accused came to be registered on the basis of a

complaint lodged by one Suresh Pandit. It was to the effect that on 5th September 1994 at about 10.30 a.m, Suresh Pandit met the accused in his office situate at Swargate. Pandit wanted permission to install a "pan shop" in the open site belonging to Irrigation Department. That, as per the instructions of the accused, Pandit made an application to the Executive Engineer, Khadakvasla, Irrigation Division Sinchan Bhavan for a permission to install pan shop on the open site on Prabhat Road on the bank of Mutha river. The accused asked Pandit (hereinafter referred to as "the complainant") to submit a proper application with a map through Swargate office which was done by the complainant with the assistance of the accused. That, when the complainant asked the accused as to when his work would be done, the accused said that the complainant would have to spend Rs.14,000/-for getting the work done. The complainant said that this amount was exorbitant, and requested the accused to reduce the same. It was then decided that the complainant should pay an amount of Rs.11,000/-. According to the complainant, as told to him by the accused, an amount of Rs.7,000/-was for the superior Officer, and Rs.4,000/-was to be for the accused himself. That, accused also suggested to the complainant to meet his superior Officer, Section Officer Mr.Mate. Accordingly, the complainant met Mate. Mate gave a letter to the complainant, fixing an appointment on 11th September 1994. On that day, the complainant and Mate went together and saw the proposed site. Mate also suggested to the complainant to draw map of the site and then meet the accused. That, on 14th January 1994, the complainant met the accused in his office. The accused asked the complainant to bring the map of the site on the next day and also to bring the bribe amount. The complainant, thereafter, lodged a complaint in the office of the Anti Corruption Bureau. Panchas were called and a trap was laid. Anthracene powder was applied on the currency notes of Rs.4,000/- brought by the complainant. Necessary instructions were given to the complainant and to the panchas.

When the complainant went to the office of the accused along with the panch, the accused asked him whether the complainant had brought the corrected map. The complainant replied in affirmative and showed the map to the accused. Accused saw the map and returned the same to the complainant. When the accused questioned, some explanation about the presence of the panch was given. The accused and complainant, it appears, thereafter spoke about the work and the accused gave some directions about bringing copies of the original map, etc. The accused then suggested to the complainant that they would go out, and asked the complainant and the panch to wait outside the office. The complainant and panch waited outside the office for some time. While they were waiting there, Mate approached the complainant. The complainant had discussion about his work with Mate. Mate gave certain suggestions to the complainant and went away. Till this time, the accused had not come out. The complainant and panch then again went to the office of the accused. The accused, at that time, was talking with some other persons. The complainant and the panch, therefore, again waited outside the office. At about 2.45 p.m, the accused said to the

complainant that they should go to Hotel Triveni. It appears that the complainant, panch and accused went to Hotel Triveni and had some food, the bill of which was paid by the complainant. It is thereafter that the accused allegedly demanded the amount and then the complainant paid the same to him. After the complainant gave the pre-planned signal, the accused was apprehended.

6. The prosecution examined three witnesses during the trial. The first witness is the complainant himself. The second is the panch and the third is the Investigating Officer.

7. The learned Special Judge did not believe the case of the prosecution for a number of reasons.

8. The learned Special Judge observed that it was revealed in the cross-examination that the complainant knew Section Officer Mate very well. The learned Judge also referred to the cross-examination of the complainant wherein it was revealed that the complainant was aware that the job of the accused was only to receive applications and map. It was also revealed in the cross-examination of the complainant that he was aware that further action about recommendation of such application was to be done by Section Officer Mate.

9. The learned Special Judge also observed that the complainant's application had actually been forwarded to Section Officer Mate at the relevant time, and that the complainant was aware of that.

10. The learned Judge also observed that the accused had no power to recommend any site for the complainant, and that, the complainant was aware of the fact that accused had no authority to make any recommendation.

11. It was also revealed in the cross-examination of the complainant that the complainant was the "best friend" of one Ravindra Jagtap who was working in the same office with the accused, and who was admittedly, on inimical terms with the accused. The learned Judge referred to the cross-examination of the complainant in which an admission to that effect was elicited. It was also observed that the complainant admitted that Ravindra Jagtap used to accompany him in the Court when the trial of the accused was going on.

12. The learned Judge also observed that the complainant knew several Officers and employees from Irrigation Department. It was revealed that the complainant had done catering work for the Union of Employees for Irrigation office.

13. The learned Judge came to the conclusion that when the complainant knew Ravindra Jagtap who was working in the same office, and when he also knew Section Officer Mate from the same office, and when he also knew that the authority to recommend the application lied with Mate, it was highly unlikely that he would approach the appellant for getting his work done. This view of the learned Special Judge is correct. As a matter of fact, it has been revealed in the cross-examination that even the accused was aware that the complainant was a

friend of Ravindra Jagtap, and that he knew Mate and several other Officers in the Irrigation Department. It was therefore, highly unlikely that the appellant would demand any money from the complainant.

14. The learned Judge also observed that the complainant was a big contractor/caterer. He did not require any pan stall. After the appellant was got trapped, the complainant did not pursue the matter further.

15. The appreciation of evidence, as done by the learned Special Judge and his reasoning is absolutely proper and correct. The conclusions arrived at by him, were the only conclusions that could be arrived at. Not only that the case against the appellant was not satisfactorily proved, but the conclusion that, it was a false one, could be safely drawn from the evidence.

16. It is unfortunate that in a case like this where there was a clear and obvious possibility of the appellant having been falsely implicated, the State of Maharashtra should challenge the order of acquittal. This has been done without trying to show how the conclusions arrived by the learned Special Judge, are erroneous.

17. There is no merit in the Appeal.

18. Appeal is dismissed.