

S.B. Criminal Leave to Appeal No.44/2006

Date of Order : 28th February, 2006.

HON'BLE MR. JUSTICE SATYA PRAKASH PATHAK

Mr. Narendra Moolchandani, Public Prosecutor.

This criminal leave to appeal has been filed by the State against the judgment and order dated 30.09.2005 passed by the learned Special Judge-Sessions Court (Prevention of Corruption Act), Udaipur in Special Case No.16/02, whereby the accused respondent has been acquitted of the charge under Sections 7 & 13(1)(D) read with Section 13(2) of the Prevention of Corruption Act.

Learned Public Prosecutor submits that in the presence of gazetted officers trap was conducted and bribe amount was recovered from ASI Balu Ram. He submits that ASI Balu Ram kept the bribe amount in the pocket of his shirt and when his hands were got washed and fingers were entered into plain water, it turned pink and in the same manner when shirt's pocket was soaked in water, colour of water turned pink, which is suggestive of the fact that the accused kept the amount in

the pocket of his shirt and currency notes were recovered from possession of the accused. Numbers of currency notes were tallied with the numbers recorded in the 'Fird' before conducting the trap. Learned Public Prosecutor submits that though decoy turned hostile but other witnesses including Mukhbir have supported the prosecution version. He further submits that conversation which took place in relation to demand of bribe was also produced in the court. His submission is that in this case the learned trial court has not properly appreciated the evidence led by the prosecution and in a cursory manner acquitted the accused, therefore, leave to appeal is required to be granted.

After hearing learned Public Prosecutor at length and taking into consideration overall facts and circumstances of the case as well as after going through the impugned judgment of acquittal recorded by the learned trial court, I find it to be a fit case to grant leave to appeal.

Accordingly, the leave to appeal is granted. The memo of leave to appeal be treated

as memo of appeal. Bailable warrants in the sum of Rs.5,000/- be issued against the accused respondent Balu Ram son Nathulal for his appearance before this court on 3rd April, 2006 and as & when called upon to do so.

Call for the record.

(SATYA PRAKASH PATHAK) , J.