

संलग्नक-20/11

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Case Crime No. 176 of 2008,
under Section 7 and 13 (1) (d)
read with Section 13 (2) of
Prevention of Corruption Act,
Police Station Dataganj, District
Badaun, Special Sessions Trial
No. 27 of 2008 (State of U.P.
Versus Ramesh Pal)

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPELLATE JURISDICTION

GOVERNMENT APPEAL NO. 4255 OF 2016
(Under Section 378 of Criminal Procedure Code)

(DISTRICT : BAREILLY)

On behalf of:

State of U.P.

----- Appellant

Versus

Ramesh Pal son of Sri Kanhai Lal, resident of
Village Katinna, Police Station Kadar Chowk,
District Badaun. Registrar Kanoongo, Tehsil
Dataganj, District Badaun.

----- Accused-Respondent

Till the time of drafting of the present government appeal
the complainant has filed/not filed criminal appeal (under
section 372 Cr.P.C.) against the judgment and order of acquittal
dated 11.04.2016 in Special Special Sessions Trial No. 27 of 2008
(State of U.P. Versus Ramesh Pal).

Under Section : 7 and 13 (1) (d) read with Section 13 (2) of
Prevention of Corruption Act.

Appeal on behalf of the State of U.P. is being preferred
against the impugned judgment and order of acquittal of the
accused-respondents dated 11.04.2016 passed Sri Shiv Kumar
Singh, learned Additional Sessions Judge/ Special Judge, (Anti
Corruption), Court No.2, Bareilly passed in Special Sessions Trial

16/12/16

MINIMAL APPLICATION FOR LEAVE TO APPEAL

Case 1- GOVERNMENT APPEAL No. - 4255 of 2016

Appellant :- State Of U.P.
Respondent :- Ramesh Pal
Counsel for Appellant :- Akhilesh Singh

Hon'ble Karuna Nand Bajpayee, J.

This Government Appeal filed against the judgement and order dated 11.04.2016 passed by Additional Sessions Judge/Special Judge (Anti Corruption), Court No. 2, Bareilly.

Heard learned AGA on the point of granting leave.

Perused the record.

Perusal of the judgement indicates judicial application of mind. The facts and circumstances of the case and the testimonies produced in the court have been discussed and analyzed in a very elaborated manner. It was duly considered by the court below that prosecution witnesses 4, 5 and 9 have turned hostile and have not supported the prosecution case. It was also taken into account that no serious attempt to make independent witnesses available were made and the higher authorities were also not duly informed before arranging the alleged trap. It was also taken into account that the accused was not having charge with regard to files-in-question at the relevant point of time and in the opinion of the court, accused was not competent enough to help or do any action on such files at the relevant point of time. It was also considered by the court that much before the date of incident, the files had already been disposed off. The alleged enmity of the accused with the brother of the complainant was also ^{held} in view. The requisite proof of the dockets, was also not found satisfactory with regard to sending the materials to the Forensic Laboratory in the opinion of the trial court. The charges levelled against the accused were not ^{found} proved beyond reasonable doubt and, therefore, he was acquitted.

The law on the point of entertaining appeal against acquittal is ^{too} well settled to be elaborated upon. It is only in the situation where the acquittal by the trial court appears to be resulting in miscarriage of justice or in the cases where judgements reflect perversity of approach, then the higher court entertain appeals against acquittal. Even in those cases where High Court prefers to take a different view of the matter this by itself is not ^{considered} a good ground to set aside the order of acquittal. There are many cases in which two views are possible and in that situation the view going in the favour of the accused is preferred by judicial convention.

In the case at hand, it cannot be said that relevant admissible material has not been considered by the court or that the judgement is based on inadmissible or irrelevant materials. The facts have been appreciated in right perspective and, therefore, in the light of law on the point of admitting the appeal against acquittal, this Court does not feel persuaded

to grant leave in the matter.

The leave to grant appeal is, hereby, refused.

Order Date :- 16.11.2016
shailesh

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Sd/- Karuna Nand Bajpayee, J.

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[Signature]
16-12-16

Section Officer
Copying 'E' Department
High Court, Allahabad

Court No. - 43

Case :- GOVERNMENT APPEAL No. - 4255 of 2016

Appellant :- State Of U.P.

Respondent :- Ramesh Pal

Counsel for Appellant :- Akhilesh Singh

Hon'ble Karuna Nand Bajpayee, J.

As the leave to file appeal has already been refused, the instant appeal also stands dismissed as such in that background. *Slf Karuna Nand Bajpayee*

Order Date :- 16.11.2016

shailesh

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[Signature]

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Section Officer

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