

संलग्नक-२०/१३

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Special S.T. No. 10 of 2010  
(State.Vs. Jagdish Chandra  
Kandpal connected with Special  
S.T. No.12 of 2011 (State. VS.  
Shahab Anjum)  
Arising out of  
Case Crime No. 607 of 2006  
Under Sections 7/13(1)(D) r/w  
Section 13(2) and Section 12  
Prevention of Corruption Act and  
Section 353 IPC  
Police Station Bhagwatpur  
District Moradabad

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

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CRIMINAL APPELLATE JURISDICTION

GOVERNMENT APPEAL NO. 4270 /OF 2016  
(Under Section 378 of the Criminal Procedure Code)

**DISTRICT : BAREILLY**

On behalf of:

State of U.P.

Appellant

VERSUS

1. Jagdish Chandra Kandpal Son of Sri Vidyadhar, Resident of Bhatkot Patti, Tahsil Rani Khet, district Almora. Posted as (Forester) Social Forestry Forest Department, Maradabad.
2. Shahab Anjum Son of Sri Irtza Hussain, Resident of Sabbu Ka Nala. Police Station Nagfani, district Moradabad. Posted as Forest Guard, Social Forestry Forest Department, Maradabad

-----Accused-Respondents

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Till the time of drafting of the present Government Appeal the complainant has filed/not filed the Criminal Appeal (Under Section 372 Cr.P.C.) before the Hon'ble Court, against the judgment and order of acquittal of the accused respondents dated 18.04.2016 passed by Shiv Kumar Singh, the learned Additional Session Judge / Special Judge (Anti Corruption) Court No.2, Bareilly, in Special S.T. No. 10 of 2010

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**Court No. - 43**

**Case :- GOVERNMENT APPEAL No. - 4270 of 2016**

**Appellant :- State Of U.P.**

**Respondent :- Jagdish Chandra Kandpal & Another**

**Counsel for Appellant :- G.A.**

**Hon'ble Karuna Nand Bajpayee, J.**

As the leave to file appeal has already been refused, this appeal stands dismissed as such. *Sd. Karuna Nand Bajpayee, J.*

**Order Date :- 25.11.2016**

CPP/-

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Assistant Registrar  
Copying Misc. 'E' Section  
High Court, Allahabad





Court No. - 43

Criminal Misc. Application for Leave to Appeal No..... of 2016

IN

Case :- GOVERNMENT APPEAL No. - 4270 of 2016

Appellant :- State Of U.P.

Respondent :- Jagdish Chandra Kandpal & Another

Counsel for Appellant :- G.A.

Hon'ble Karuna Nand Bajpayee, J.

This application for Leave to file Appeal has been preferred challenging the judgement and order of acquittal dated 18.4.2016 passed by the Additional Sessions Judge/Special Judge (Prevention of Corruption), Court No.2, District Bareilly in Special S.T.No. 10 of 2010, State of U.P. versus Jagdish Chandra Kandpal and Special S.T. No. 12 of 2011, State of U.P. versus Shahab Anjum, arising out of case crime no. 607 of 2006, under Section 7/13 (1) (D) read with Section 13(2) of the Prevention of Corruption Act, 1988 and under Section 12 of the Prevention of Corruption Act and Section 353 IPC, P.S. Bhagatpur, District Moradabad.

Heard learned AGA for the State on the point of granting leave and perused the record including the impugned judgement.

The impugned judgement of acquittal reflects judicial application of mind. It has been taken into account by the trial Court that the prosecution witness, driver, namely, Jitendra, who could have been very significant witness alleged to have given the bribe of amount of Rs.100/-, has turned hostile and has not supported the prosecution case. Another witness, namely, Mohd. Qamil, who also could have lent corroboration significantly to the prosecution story as he himself was a driver of another truck, has also not supported the prosecution case. The other interse incompatibilities and inconsistencies between the testimonies of the witnesses have also been considered by the trial Court and the charge was not found proved beyond reasonable doubt and, therefore, the accused-respondents were acquitted. In the considered opinion of the Court, it cannot be said that the judgement of the trial Court was either perverse or wholly against the weight of evidence or that the view taken by the trial Court could not have been taken by any reasonable Court.

Law on the point of admitting the appeal against judgement of acquittal is well settled. Unless it is shown that the judgement of acquittal is based on some irrelevant or inadmissible material which could not have been considered or if it can be shown that the judgement is against the weight of evidence available on record or if the judgement reveals some perversity of approach which has resulted in miscarriage of justice, this Court is loath to interfere in appeals against the acquittal. In fact, even in the case where two views are possible, the High Court does not tend to substitute the view of the trial Court by its own unless any such perversity as indicated above is reflected in the impugned order. This Court does not perceive any such features in the impugned judgement on the basis of which it may feel persuaded to grant leave to file appeal as there is hardly any justifiable ground to up-set the impugned judgement and order of the trial Court,

which is based on sound reasonings.

The leave to grant appeal is, hereby, refused.

Order Date :- 25.11.2016

CPP/-

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