

SUPREME COURT OF INDIA

B. A. Rasam

Vs.

State of Maharashtra

Crl.A.Nos.128, 129, 162, 211 of 1972

(S. Murtaza Fazl Ali and A. D. Koshal, JJ.)

21.02.1979

JUDGEMENT

FAZAL ALI, J.:-

1. These appeals by special leave are directed against a common judgment of the Bombay High Court dated 23rd/24th February, 1972, convicting the appellants under various sections of the Indian Penal Code and also under Section 5 (1) (c) and Section 5 (2) of the Prevention of Corruption Act. The main charge against the appellants was that of conspiracy between all the appellants by virtue of which they tried to deprive the government by acquiring lands at a paltry amount of Rs. 850 when the real valuation was over Rs. 50,000. The High court has fully considered all aspects of the evidence and the arguments addressed before it. Before us the counsel for the parties covered the same grounds which they had raised before the High Court. After having perused the judgment of the High Court and having gone through the evidence we find ourselves in complete agreement with the view taken by the High Court so far as all the accused excepting accused No. 5 are concerned. As regards accused No. 5 we do not find any legal evidence to connect him with the charge of conspiracy. Accused No. 5 appeared on the scene for the first time on 23rd January, 1960 only a few months before grant was made to accused Nos. 1 to. 3 He had a very technical role to play and that was merely the preparation of the Panchnama in relation to the value of the land where he had

valued the land at Rs. 40 per acre which will take the valuation of land to Rs. 40,000 apart from the value of the trees. The Land Acquisition Officer had fixed the compensation at Rupees 55,000. The case of this appellant is in no way different from the case of the Land Acquisition Officer who has already been acquitted. In these circumstances we do not think that the appellant played any part in the conspiracy in order to deprive the government of huge sum of money alleged against him. We are, therefore, of the opinion that he is entitled to an acquittal.

2. As regard A-1 Sitaram Rajaram Sawant we find that he is a very old man of 87 years and has already undergone a few months rigorous imprisonment and having regard to the facts and circumstances and on humanitarian grounds we feel that it will not be fair and just to send him back to jail. We, therefore, while upholding his conviction, reduce his sentences to the period already served under all the sections. With this modification in Appeal No. 162 of 1972, all the other appeals are dismissed except Criminal Appeal No. 211 which is allowed and the appellant, namely accused No. 5 is acquitted of the charges framed against him.

Order accordingly.