



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.106 OF 2016

The State of Maharashtra
Through the Dy.S.P.
Anti Corruption Bureau,
Ahmednagar

..Appellant

Versus

Chandrakant Tukaram Ghodke
Age: Years, Occu.: Service,
Section Engineer, Industry,
Energy and Labour Department,
Ahmednagar,
R/o. Ishwarkrupa, Shivsagar Nagar,
Plot No.3, Kedgaon, Ahmednagar

..Respondent

.....

Shri V.S. Badakh, APP for the Appellant/State.
Shri Rajendrraa S. Deshmukh, Senior Counsel, a/w Ms. Rakshanda
Jaiswal i/b Shri Devang R. Deshmukh, Advocate for Respondent.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 02-09-2026
Pronounced on : 03-09-2026

JUDGMENT :

1. State challenges Judgment and order of acquittal dated 29-04-2015 passed by Special Judge, Ahmednagar in Special Case (ACB) No.1 of 2012, acquitting respondent herein (original accused) from charges under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act (PC Act).

FACTS OF CASE IN BRIEF

2. Before trial Court, case of prosecution was that, accused

demanded bribe of Rs.3,000/- for issuing positive inspection report with regard to electric supply to factory of complainant. On report of PW2 complainant, Anti Corruption Bureau (ACB) authorities planned trap, arranged shadow pancha, gave them necessary instructions and demonstrations. Accused demanded bribe from complainant while he was in company of shadow pancha and they accordingly gave statements. Accused was chargesheeted and tried for above charge, but he came to be acquitted. Hence, instant appeal.

SUBMISSIONS

On behalf of appellant State :

3. Learned APP would submit that, there is no dispute that accused was working as Electrical Engineer. That, he had visited Unit of complainant on 15-07-2010 and had carried out inspection of factory premises and for issuing positive and favourable report, there was demand of bribe of Rs.3,000/-. That, on receipt of complaint to that extent, ACB authorities planned and successfully executed the trap.

4. It is further submitted that, both complainant as well as shadow pancha, in their evidence, have deposed about the events that took place at the time of main trap. That, both are lending support to each

other on material count of demand as well as acceptance. However, learned trial Court has failed to consider and appreciate the same and took into account minor variances to doubt the prosecution story.

5. He next submitted that, even authority, who was competent to appoint and remove accused, was examined by prosecution. That, he had applied his mind to all the investigation papers and thereafter, on getting satisfied, sanction to prosecute was granted, but even the same has not been considered. According to learned APP, there is incorrect appreciation of oral and documentary evidence and so he seeks indulgence at the hands of this Court.

On behalf of respondent/accused :

6. Shri Deshmukh, learned Senior Counsel for respondent would justify the acquittal. According to him, prosecution failed to cogently prove demand as well as acceptance. According to him, complainant and shadow pancha are not consistent and they are at variance. He pointed out that, specific defence of accused is that, the legal charges were demanded and while handing it over, deliberately tainted currency was planted and it was also accepted by accused believing it to be legal charges. That, defence to that extent has been probabilized. Thus, according to him, learned trial Court committed

no error in accepting the case of accused.

7. He further submitted that, sanction is not by competent authority and on this count, he took this Court through cross-examination of PW1 Sanctioning Authority and would point out that the same was correctly appreciated by learned trial Court and according to him, once sanction is held as invalid, entire case of prosecution gets knocked off at the bottom.

ANALYSIS AND CONCLUSION

8. Re-appreciated the entire evidence. Trial court has acquitted accused primarily on the grounds that, **PW2** complainant and **PW3** shadow pancha are at variance and secondly, there is invalid sanction.

9. It is fairly settled position that, if sanction to prosecute is invalid, entire case of prosecution collapses. Consequently, evidence of **PW1** Dhananjay Vitthal Dhavad, Sanctioning Authority is visited. Said witness is examined at exh.12 and in examination-in-chief, he deposed that, he was working as Secretary to Public Works Department (P.W.D.) whereas accused was working as Class-II Officer in Electricity Department of P.W.D. and he received papers from ACB, went through the same and came to conclusion that it was a fit case

to grant sanction.

While under **cross-examination**, he admitted that in view of G.R. dated 03-04-2000, sanction is to be accorded by Chief Minister for employee whose basic salary is 12,500/- and above, and below it, there has to be sanction by Dy. Chief Minister. He also admitted that, for removing an employee, permission of concerned Minister is necessary.

Thus, in view of above evidence, there is question about competence of this witness to accord sanction. Moreover, as pointed out, he has volunteered in cross-examination that, he had dictated the contents of sanction order exh.16, which were written on the basis of summary forwarded to him. Therefore, his such answer renders the aspect of application of independent mind doubtful. In the judgment of trial Court, there is discussion on the point of sanction in paragraph Nos.6 to 8.

For above reasons, sanction cannot be said to be valid and learned trial Court has rightly considered the same.

10. Now, it is to be seen whether there is demand and acceptance. Testimony of complainant **PW2** Darshan Brijlal Soni is at exh.20 and that of shadow pancha **PW3** Subhash Maruti Gadade, is at exh.26.

On going through **PW2** complainant's evidence, it is apparently

emerging that regarding initial demand, there was said to be telephonic conversation between accused and complainant as complainant was not available during visit of accused to the Factory premises. Conversation was conducted on mobile phone of an employee of complainant and even it appears that, during main trap of which events are narrated in paragraph 3, there were repeated telephonic conversations between complainant and accused till they met at a hotel, but unfortunately CDR is not placed on record to substantiate the same.

11. Another feature of this case is that, according to complainant's deposition in paragraph No.3 of examination-in-chief, when he, accused and shadow pancha met in a hotel to take tea, accused initially told him that, charges per unit is Rs.800/- and towards three units, it comes to Rs.2,400/- and therefore, complainant handed over Rs.2,400/-, which accused accepted, after which accused took out receipt book and handed over 3 receipts to complainant. Then he states that, there was discussion and after paying tip to the waiter, accused asked him to handover the amount as was agreed with him and complainant counter questioned him what was the amount and then he again corrected himself and stated that, accused has said that, he received the amount towards receipt but what about him and he

again asked him what was the amount to be paid and accused told him to pay Rs.3,000/-.

However, **PW3** Subhash Maruti Gadade, shadow pancha deposed in paragraph 2 of his examination-in-chief regarding the events at the main trap that, while complainant and accused took coffee, there was discussion about rains and after complainant paid tip to the waiter, according to him, accused said to complainant that he has received fees but what about his amount. Therefore, his narrative is not like that of PW2 complainant.

12. Here, specific defence of accused is that he had accepted the amount towards the fees leviable per unit and under the garb of paying it, tainted currency was also planted amongst the said fees which he unknowingly accepted.

On this count, testimony of PW2 complainant is seen and he, in paragraph 7 of cross-examination, has admitted that, amount of Rs.2,400/- plus Rs.3,000/- were found in the right hand side of the pant pocket of accused. PW3 shadow pancha also in cross-examination has admitted that Rs.2,400/- as well as bribe amount was kept in the same compartment of the wallet. None of the witnesses speak about accused counting currency after complainant paid the legal fees of Rs.2,400/- towards three units of factory of

complainant of which receipts were admittedly issued by accused. Therefore, there is every possibility of inserting tainted currency in the legally payable amount.

13. For above reasons, here, prosecution story fails on three counts; firstly, for want of sanction by competent authority, secondly, initial demand was said to be on phone, however, there is no CDR to substantiate the same, and thirdly, complainant and shadow pancha being not consistent on material count. Therefore, learned trial Court committed no error in acquitting the accused. In view of above discussion, there being no good ground to interfere, appeal fails. Accordingly, following order is passed :

ORDER

The Criminal Appeal stands dismissed.

[ABHAY S. WAGHWASE, J.]