



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

**CRIMINAL APPEAL NO. 458 OF 2006**

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

....Appellant

**Versus**

Ashok s/o Ganpat Labade  
Age : 35 years, Occu.: Service in  
Tahsil Office, Mantha, R/o.Partur,  
Tq.Partur, District Jalna.

.....Respondent

.....  
Mr.G.O.Wattamwar, APP for Appellant.  
Ms.Harsha R.Lomte h/f. Mr.Mayur Salunke, Advocate for  
Respondent.

.....

**CORAM : ABHAY S. WAGHWASE, J.**

**RESERVED ON : 07 SEPTEMBER, 2026**

**PRONOUNCED ON : 08 SEPTEMBER, 2026**

**JUDGMENT :**

1. State challenges Judgment and order dated 21-01-2006 passed by learned Judge, Special Court, Jalna in Special Case No.9 of 2003 [PCA], acquitting accused from charges under Sections 7, 13(1)(d), read with Section 13(2) of the Prevention of Corruption Act.

**BRIEF FACTS OF THE CASE**

2. Before trial Court, case of prosecution was that, complainant and some villagers in village Pangra had formed a housing society. That, they want to make registration of society in the office of the Assistant Registrar of Co-operative Societies at Partur. That, for the said purpose, he was in need of caste certificate in the name of his wife. Therefore, he went to the office of Tahsildar at Mantha and filed application alongwith necessary documents for sending the proposal to Sub-Divisional Office (Revenue) at Partur. That, for doing the said work, accused, a Clerk working in Tahsil office Mantha, demanded bribe of Rs.200/-. On receipt of complaint to that extent from PW4 complainant, Anti Corruption Bureau (ACB) authorities planned and executed trap by engaging shadow pancha PW1 and giving necessary instructions to PW4 complainant and PW1 shadow pancha. Accused was apprehended resulting into registration of crime by ACB Officer, which was subsequently investigated and accused was chargesheeted and tried by the above Court and the trial ended up in acquittal. Hence, the appeal.

## SUBMISSIONS

### On behalf of appellant State :

3. Learned APP apprised about prosecution case in trial court. He took this Court through testimony of complainant and shadow pancha and would submit that, both demand and acceptance is duly proved. He pointed out that, though complainant did not completely support prosecution in trial Court, his entire evidence ought not to have been discarded. According to him, so much part of the testimony, which deserves consideration and was in consonance with the story of prosecution, ought to have been applied by the learned trial Court, but according to him, it failed to do so. On this count, he seeks reliance on the decision of the Hon'ble Supreme Court in the case of *Gura Singh v. State of Rajasthan, AIR 2001 SC 330*.

He also took this Court through testimony of shadow pancha and would submit that, on the point of demand and acceptance, both complainant and shadow pancha are consistent, but due to incorrect appreciation, such points are answered in negative by the learned trial Court.

At the end, he would submit that, by examining Sanctioning Authority even prosecution has proved that there was valid sanction, but according to him, learned trial Court acquitted the accused and

therefore, he prays to allow the appeal by setting aside impugned Judgment.

**On behalf of Respondent Accused :**

4. Learned counsel for respondent/accused would justify the Judgment and order of acquittal. She too took this Court through testimony of complainant and shadow pancha and the answers given by them in cross-examination and then would submit that, apparently initial demand is not proved by the prosecution. Pointing to the evidence of shadow pancha, she would submit that, this witness has admitted that, he was away when the events of demand and acceptance took place at the time of main trap. That, this witness has admitted that, the amount accepted was not bribe amount. She pointed out that, infact complainant himself has not supported prosecution and there are vital admissions in the cross-examination. Hence, for want of merits, she prays to dismiss the appeal.

**ANALYSIS**

5. Re-appreciated the evidence. Prosecution has adduced evidence of as many as five witnesses i.e **PW1** Santosh Sitaram

Shirgude is shadow pancha, **PW2** Mary Nilima Keirkatta is Sanctioning Authority, **PW3** Ramdas Jaiuwant Maghade is Tahsildar, **PW4** Leeladhar Aakatrao Gadadhe is Complainant and **PW5** Hanumant Panditrao Kulkarni is Investigating Officer.

6. In view of nature of charge, it is essential for prosecution to prove that there was demand of bribe followed by its acceptance. On this count, if **PW4** complainant's evidence at exh.23 is put to scrutiny, it appears that, complainant was desirous of procuring caste certificate in the name of his wife so as to avail benefits of the scheme run by the Government and he claims to have approached accused 4-5 times in that regard. In examination-in-chief itself, he stated that, during first meeting, accused said that for obtaining caste certificate, amount is required to be spent. During such meeting, apparently no quantum allegedly stated by accused as witness has stated that, during subsequent visit, it was said that amount of Rs.200/- would be required to be spent. But after stating so much, witness seems to have stated in examination-in-chief itself that, he does not remember as to how much amount he has to pay to accused, about he paying Rs.150/- to accused, receiving no receipt in exchange and therefore, finding him not supporting, learned APP

seems to have obtained permission of the trial Court to cross-examine complainant himself. However, surprisingly though he admitted during cross-examination at the hands learned APP that, during first visit, accused demanded Rs.150/-, he answered that it was towards fees for issuing application of caste certificate. Witness has again admitted that, work would not be done unless he paid Rs.200/-. Learned trial Court has noted the demeanour of the witness and in further cross-examination, he admitted that, he has made oral complaint with ACB, which was further reduced in writing. Then virtually to all suggestions, he has answered in affirmative, but again stated that he does not remember whether shadow pancha also stated about acceptance of amount and also admitted that, at that time he kept the tainted currency in the register and attention of accused was towards it.

In **cross-examination** at the hands of defence, he has also admitted to all suggestions put to him.

Therefore, this witness is sometimes refusing to support prosecution, sometimes supporting prosecution and also supporting defence version and therefore, unworthy of credence.

7. **PW1** Shadow pancha, who is examined at exh.13, as pointed

out, in cross-examination has stated that, he had acted as a pancha in a previous complaint by present complainant. As pointed out, he has also admitted in cross-examination that while complainant was putting tainted currency in the register, accused was unaware of it and was busy in taking out the papers from cupboard. Therefore, his such answers show that there is every possibility of planting of currency. Consequently, the aspect of acceptance has also come under shadow of doubt.

8. Even on comparative analysis of evidence of PW4 complainant and PW1 shadow pancha on the points of events that took place during main trap, it is noticed that they are not consistent.

9. Therefore, here, *sine qua non* like demand and acceptance is not cogently proved and therefore, submission of learned APP that the same was proved beyond reasonable doubt and therefore, presumption available under the Act has to be applied, has no force. The very aspect of demand and acceptance is not cogently proved before the trial Court.

10. I have gone through the ruling cited by the learned APP, however, the facts in the said ruling and the case in hand are quite distinguishable.

11. Perused the Judgment under challenge. Learned trial Court has carefully appreciated evidence adduced by the prosecution. Sound reasons are assigned while recording findings. There is no illegality or perversity so as to interfere in the impugned Judgment. Hence, for want of merits, appeal deserves to be dismissed. Accordingly, following order is passed :

**ORDER**

Criminal Appeal stands dismissed.

**( ABHAY S. WAGHWASE )**  
**JUDGE**