



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO.136 OF 2019

The State of Maharashtra,
Through the Police Inspector,
Anti Corruption Bureau,
Aurangabad.

.. Applicant

Versus

Sanjay s/o Madhav Dalal
Age: 60 years, Occu.: Service,
Asst. Manager, Maharashtra State,
Financial Corporation, Aurangabad.

.. Respondent

...

Ms. Chaitali Chaudhari Kutti, APP for applicant/State.

Ms. Monica N. Bagwe, Advocate h/f Mr. C. P. Sengaonkar, Advocate
for respondent.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 27.08.2026

PRONOUNCED ON : 28.08.2026

ORDER :-

1. Present application for leave to file appeal is at the instance of State i.e. on account of judgment and order of acquittal passed by learned Special Judge, Anti Corruption, Aurangabad dated 27.03.2019 in Special Case No.19 of 2009.

2. Learned APP would point out that, there is no dispute or challenge that, respondent/original accused was working as a public

servant i.e. Assistant Manager in Maharashtra State Financial Corporation (MSFC). That, there is also no dispute that complainant had borrowed loan for conducting business from the said office and was expected to repay the loan. She pointed out that there was failure to repay the said loan. However, Government had floated a scheme for part payment for one time settlement. She pointed out that accused demanded 50% of the amount that was to be waived on availment of scheme. Then complainant told him that if he will have to pay that much amount, then it will not be beneficial to him. Thereafter, accused asked him to give Rs.50,000/- to obtain that benefit. Then, amount was reduced to Rs.25,000/- and accused accepted first installment of Rs.5,000/- and that remaining amount was to be paid later on, but as complainant was not willing to pay the bribe, he approached office of Anti Corruption Bureau and said authority planned and executed trap.

3. She further submitted that here both demand as well as acceptance was proved by adducing evidence of complainant and shadow panch. That, their testimonies have remained intact during cross-examination, but still learned Trial Court held that demand and acceptance is not cogently proved. According to her, such findings of Trial Court are contrary to the evidence on record.

4. On the point of sanction, it is her submission that PW3 was examined, who was working as a Managing Director of MSFC. He had stepped into the witness box and has deposed about studying the papers and according sanction. However, according to her, the same is also not correctly appreciated by the learned Trial Court and on minor count of failure to place resolution, sanction is held to be invalid.

Thus, according to her, there are good grounds to be dealt in appeal. She therefore sought leave to file appeal.

5. Learned Counsel for respondent/accused, while justifying the acquittal and opposing the application, would submit that prosecution has failed to prove the very demand. That, shadow panch has also admitted that there was no specific demand and, therefore, the essentials being missing in the prosecution evidence, she justifies the judgment and order of acquittal.

6. She also pointed out that here very sanction was not valid and was by incompetent authority. She pointed out that witness PW3 in his examination-in-chief itself has stated that appointing and removing authority was Board of Directors and not this witness and moreover, there was no resolution and therefore, learned Trial Court rightly questioned the competence of this witness to accord sanction.

For above reasons and for want of merits in the application, she urges to refuse leave by rejecting the application.

7. Heard. Perused the papers. It appears to be the case of the prosecution that, for availing the benefit of the loan scheme, the complainant had approached the accused, who was working as an Assistant Manager with MSFC, and learnt about the scheme for waiver of interest and agreed to avail the benefit thereof. According to the prosecution, the accused demanded 50% of the amount to be waived, which was stated to be in the range of Rs.2,00,000/- to Rs.2,25,000/-. When the complainant expressed his unwillingness to pay such amount, the accused allegedly demanded Rs.50,000/- and, upon negotiation, the amount was reduced to Rs.25,000/-. An amount of Rs.5,000/- was paid upfront; however, before the remaining amount could be paid, the complainant approached the ACB.

8. In support of above case, prosecution has adduced evidence of in all six witnesses. Going by the nature of charge, it is to be primarily seen whether there is voluntary demand followed by acceptance and it is so proved by the prosecution beyond reasonable doubt. Further, it is to be seen whether there is valid sanction to prosecute.

9. Accordingly, studied the evidence. PW1 Complainant Balasaheb, who is examined at Exhibit-29 on the point of demand, has narrated in paragraph No.3 of his examination-in-chief that he and panch, after reaching the office of accused, were called in cabin. He claims to have asked the accused to complete his proposal, to which the accused allegedly replied that the work would be completed as agreed. However, he counter questioned complainant as to whether he had brought the money, which was asked by him. When it was answered in affirmative, he suggested going down the stairs and there accused reached at later point of time, asked him to give amount, which was handed over and duly accepted.

10. Now, if evidence of shadow panch is visited to ascertain whether he corroborates complainant to the above extent, it is noticed that shadow panch PW2, in para 7 of his examination-in-chief, deposed that when he and complainant were in front of District Office of MITCON Consultancy, accused came there and questioned complainant, why he was late and further said that he has charge of Walzade and there is work load and to give what you brought and complainant took out Rs.5,000/- and handed it to accused.

11. Thus, as regards to demand is concerned, shadow panch does not speak about demand of amount. Even in paragraph No.11 of his

cross-examination, he admitted that in the conversation there was no specific mention about demand of bribe by accused.

Consequently, there is no corroboration to the testimony of complainant on the point of demand itself.

12. As regards to sanction to prosecute is concerned, there is evidence of PW3, who is examined at Exhibit-159. In examination-in-chief after deposing that he was working as Managing Director of MSFC, he himself testified that in respect of accused, who was Assistant Manager, the appointing and removing authority was Board of Directors and that, the board had studied his proposal and had authorized him to grant sanction on behalf of Board. Thereafter, he granted sanction.

While under cross-examination, he is unable to state whether any resolution has been passed by the Board of Directors in respect of granting sanction for prosecution against the accused and whether the same was sent to the ACB or not. He is also unable to remember whether authority given by Board of Directors for authorizing him to sign sanction on its behalf was forwarded to ACB or not. Resultantly, as submitted, this witness was neither the appointing authority nor the removing authority and, though he claimed to have been authorized by the Board of Directors, there was no resolution to that

effect. Therefore, the sanction cannot be said to be valid.

13. As the learned Trial Court appears to have considered and appreciated the case advanced by each side meticulously and has refused to accept the prosecution case, and as no patent perversity has been brought to the notice of this Court so as to grant leave, the application deserves to be rejected by refusing the leave. Hence, the following order is passed :-

ORDER

. Application is rejected.

[ABHAY S. WAGHWASE, J.]

scm