



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

CRIMINAL APPEAL NO. 779 OF 2006

The State of Maharashtra

....Appellant

Versus

Abasaheb Dnyandev Chaure
Age: 45 years, Occu.: Service as
Revenue Inspector, Tahsil Office,
Osmanabad.

.....Respondent
(Original Accused)

.....
Mr.S.M.Ganachari, APP for Appellant.
Mr.Satej S. Jadhav, Advocate for Respondent.
.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 01-10-2026

Pronounced on : 05-10-2026

JUDGMENT :

1. In this appeal by State, there is challenge to judgment and order dated 23-08-2006 passed by learned Special Judge, Osmanabad in Special Case (AC) No.13 of 2003 acquitting present respondent from offence under Sectionss 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act.

BRIEF FACTS OF CASE

2. Case of prosecution in trial Court was that, accused, a Circle Inspector in Tahsil Office Osmanabad demanded Rs.5,000/- for

granting mutation entry and issuing 7/12 extract in respect of land Gut No.140 owned by Adarsha Shikshan Prasarak Mandal, Osmanabad, of which complainant PW2 was an Administrative Officer. Initial payment of Rs.2,000/- was made upfront and remaining Rs.3,000/- to be paid after the work was over. As complainant PW2 was not willing to pay bribe, he approached Anti Corruption Bureau (ACB), gave complaint, on the strength of which PW5 Investigating Officer arranged independent panchas, gave necessary instructions to them, demonstration of application of anthracene powder was also given and thereafter, main trap was laid and accused was apprehended. On complaint by PW5 Investigating Officer, investigation was carried out, duly completed and after chargesheeting accused and after trying him in above referred special case, he came to be acquitted.

Feeling aggrieved by the same, State has preferred instant appeal.

SUBMISSIONS

On behalf of Appellant State :

3. Sum and substance of arguments of learned APP is that, accused had demanded Rs.5,000/- for granting mutation entry. That, he had demanded said amount and accepted part payment to the tune of Rs.2,000/-. That, complainant was told by accused that work

would not be done unless remaining Rs.3,000/- was paid and therefore, complaint was lodged with ACB, it was duly investigated. Learned APP points out that, independent pancha PW3 was engaged and he was made to accompany complainant. Both these witnesses are consistent on the point of demand and acceptance. That, core of their testimony on the point of demand and acceptance has remained intact inspite of facing cross-examination. That, even PW1 Sanctioning Authority had accorded sanction after due application of mind. Therefore, case of prosecution was full-proof. That, unfortunately evidence of prosecution has not been correctly appreciated and defence of accused about thrusting is believed by the learned trial Court. According to learned APP, there is incorrect appreciation of evidence resulting into unwarranted acquittal. Hence, he prays to set aside the impugned judgment and order by allowing the appeal.

On behalf of Respondent/original Accused :

4. In answer to above, learned counsel for respondent would support the judgment and order of acquittal by submitting that, complainant's story was unworthy of credence both on the point of demand as well as acceptance. That, moreover, PW3 shadow pancha was not party to the very demand and acceptance and as such, there

was no corroboration to the testimony of PW2 complainant. Therefore, learned trial Court has rightly refused to act on such evidence and committed no error whatsoever in acquitting the accused and he prays to dismiss the appeal for want of merits.

SUM AND SUBSTANCE OF EVIDENCE

5. Re-appreciated the evidence. Prosecution has rested its case in evidence of five witnesses. Crucial evidence is of **PW1** Sanctioning Authority followed by **PW2** complainant and then **PW3** shadow pancha.

6. **PW1** Ashish Sharma is Sanctioning Authority and he in his evidence at Exhibit 16 has deposed about receiving papers, studying the same, applying his mind and then according sanction.

Nothing damaging is brought in his cross-examination and therefore, there was valid sanction.

7. As regards to demand is concerned, **PW2** Sudhir Keshavrao Patil, complainant, in his testimony at Exhibit 20 in initial part of examination-in-chief deposed about he to be Administrative Officer of Adarsha Shikshan Prasarak Mandal, Osmanabad and said institute owning 7 acres open land and Zilla Parishad, Osmanabad was in need

of 3 acres 20 gunthas land and on settlement, Body members of the Educational Institution deciding to hand over said land to Zilla Parishad and on behalf of General Secretary namely K.T.Patil, an application was tendered with Tahsil office, Osmanabad for issuing directions for sanctioning mutation entry and to enter names of Zilla Parishad as well as said educational institution respectively as regards to the said land. Complainant claims that in that respect he approached Talathi and requested him to do the needful, who suggested him to initially make necessary compliance. Complainant deposed that, he met said Talathi in February 2003 as well as in March 2003 and he finally told him that, his part was over and to further meet Circle Officer and so he claims to have approached accused, a Circle Officer and requested him to expedite the work of certification of mutation entry. However, according to him, accused demanded Rs.5,000/- for the said work and therefore, complainant told him that, he would consult his Institute and even paid part amount of Rs.2,000/- immediately and it was agreed to pay remaining Rs.3,000/- after the work was over, but accused did not complete the work up to 31-03-2003.

In paragraph 5 of examination-in-chief, he deposed that on 12-04-2003 while he was proceeding towards field, he happened to meet accused at Barshi Naka and at that time, he asked accused about his

work and at that time, according to him, accused suggested that, if remaining Rs.3,000/- is paid, he would grant mutation entry by putting back dated entry. That, accused told him to contact him at Barshi Naka with Rs.3,000/- in the afternoon. Therefore, when complainant was sure that, accused was giving evasive reply, he approached ACB and gave complaint Exhibit 22.

Thereafter, in paragraph 6, he narrated about steps taken regarding application of anthracene powder, instructions being given to him as well as shadow pancha. In paragraph 7, he deposed about he and pancha visiting Barshi Naka at around 04.50 pm but accused did not arrive till 07.30 p.m. and therefore, he himself claims to have telephoned accused, who allegedly told him that he would come next morning. Therefore, trap was called off that day and they again returned to ACB office and again on 13-04-2003, he and shadow pancha reached Barshi Naka at 08.40 a.m., accused came at 10.15 a.m. and he claims that, when he asked accused about his work, accused asked him about remaining amount and it was duly handed over which accused accepted in his left hand and retained in his fist and thereafter, predetermined signal was relayed followed by apprehension of accused.

Complainant is extensively **crosse-examined** initially on the points of his qualification, he contesting elections, about the School

runs by educational institution, about complaints lodged by Shri Datta Maharaj against him. In further cross-examination, he admitted that he himself did not find any application with Tahsildar. He also denied suggestions which were defence case that accused had told him that mutation entry cannot be sanctioned as there was no document of title.

In paragraph 19 of cross-examination, he admitted that, his first meeting with accused was in first week of February 2003 and at that time, 2-3 persons were present in the office of accused. He admitted that, he did not place on record document in ACB office about initial payment of Rs.2,000/- being accounted in the record of educational institution. He is unable to state how portion marked "A" is appearing in his statement. In further cross-examination, he admitted that it is he who called accused.

8. **PW3** Mehabub Abdul Gani Hannure, shadow pancha, who is examined at Exhibit 39 also deposed about he visiting ACB office, being introduced to complainant, hearing his story, signing complaint Exhibit 22, he and complainant being given necessary instructions. In paragraph 6, he narrated about accompanying complainant to Barshi Naka and complainant giving a phone call to accused, who allegedly told that he would come next day and trap being called off that day.

In paragraph Nos.8, he deposed about he again accompanying complainant to Barshi Naka and there, complainant and accused exchanging greetings. In paragraph 9 of examination-in-chief itself, he stated that complainant asked accused about his work, and thereafter, complainant took out money from right pocket of his pant and gave it to accused, who accepted money in his left hand. He claims that, he heard part of the reply given by accused and then deposed that, he does not remember what was said by accused.

While under **cross-examination**, he also admitted about not having stated portion marked "A". In paragraph 17 of cross-examination, he admitted that, when there was conversation between accused and complainant, he could not hear it nor he saw amount being given and accepted.

ANALYSIS AND CONCLUSION

9. Therefore, on analyzing above discussed evidence, it is clear that firstly when complainant approached accused has not been stated by him. He has admitted that, he himself did not give application for mutation entry. Though he claims to have given Rs.2,000/- as part payment, there is no corroboration. Infact in cross-examination, he has admitted that, 2-3 other persons were present with accused at the relevant time, but none of them are examined. It also appears that,

he had made contact with accused during which he learnt that accused was not coming on agreed day in the afternoon, but CDR is not placed on record to substantiate the same. Further it appears that, accused has not called complainant and complainant happened to meet accused by chance at Barshi Naka i.e. on 12-04-2003. He has also admitted that, he himself has called accused. His such evidence shows that, accused did not develop contact and called complainant. Rather it is other way around and there is nothing to show that there was telephonic conversation between complainant and accused.

10. **PW3** Hannure, shadow pancha, who is a crucial witness, though corroborated complainant about they both going on 12-04-2003 at Barshi Naka and accused did not turning up and therefore, trap being postponed, this witness in paragraph 9 of examination-in-chief itself has stated that on 13-04-2003 i.e. during second visit, when accused and complainant met, at that time, complainant asked accused about his work and thereafter, without any demand, complainant offered money, which accused accepted. Further in his cross-examination, this witness has admitted that, he could not hear the conversation between complainant and accused and he also did not see that money changed hands. Therefore, there is no corroboration to the story of prosecution. Very crucial and

independent witness i.e. shadow pancha has apparently not supported prosecution on the point of demand and acceptance. Resultantly, on reanalyzing prosecution evidence, though there is valid sanction, case of prosecution on the vital aspect of demand and acceptance is not proved beyond reasonable doubt,.

11. Learned trial Court has correctly appreciated evidence available on the record and for above reasons, committed no error in refusing prosecution case and acquitting accused. There being no merits in the appeal, the same deserves to be dismissed. Accordingly, following order is passed :

ORDER

Criminal appeal stands dismissed.

[ABHAY S. WAGHWASE, J.]