IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.694 OF 2014

Ulhas s/o Madhavrao Naragude,
Age : 54 years, Occupation : Nil,
R/o Ravindranath Tagore Nagar,
Latur.

...Appellant/ accused No.2

- Versus -

The State of Maharashtra.

...Respondent/ State.

…

Shri Pralhad D. Bachate, Advocate a/w Shri Sachin S. Panale, Advocate for the appellant/ accused.
Shri C.V. Bhadane, APP for the respondent/ State.

…

WITH
CRIMINAL APPEAL NO.714 OF 2014

Dhananjay Baburao Kopre,
Age : 60 years, Occupation : Retired from
Government Service,
R/o Ausa, Taluka Ausa,
District : Latur.

...Appellant/ accused No.1

- Versus -

The State of Maharashtra.
Through ACB Office,
Latur.

...Respondent/ State.

…

Shri Rajendrraa S. Deshmukh, Senior Advocate a/w Shri Vishal A. Chavan, for the appellant/ accused.
Shri C.V. Bhadane, APP for the respondent/ State.

…

CORAM : SUSHIL M. GHODESWAR, J.

DATE : 24 August 2026

JUDGMENT :-

1. Since both appeals are arising out of the same judgment and order of conviction, they are being decided by this common judgment.

2. By these appeals filed under Section 374(2) of the Code of Criminal Procedure (for short, 'the CrPC'), the appellants/ accused challenge the impugned judgment and order dated 06.11.2014 passed by the learned 2nd Additional Sessions Judge, Latur, in Special Case (ACB) No.1/2009 by which, both the appellants/ accused have been convicted for offence punishable under Section 7 of the Prevention of Corruption Act, 1988, (for short, 'the PC Act') and they are sentenced to suffer Rigorous Imprisonment for two years and to pay fine of Rs.2000/- each, in default of payment of fine, they are directed to suffer further Rigorous Imprisonment for two months. They have been also convicted for the offence punishable under Section 13(1)(d) r/w 13(2) of the PC Act and are sentenced to suffer

Rigorous Imprisonment for two years and to pay fine of Rs.2000/- each and in default, to suffer Rigorous Imprisonment for two months. Accused No.2 is further convicted for the offence punishable under Section 12 of the PC Act and he is sentenced to suffer Rigorous Imprisonment for two years and to pay fine of Rs.2000/- and in default, to suffer Rigorous Imprisonment for two months. All the substnative sentences were directed to run concurrently.

3. The brief facts leading to filing of the present appeals are as under:

(a) The complainant (PW-1), Sitaram S/o Suryawanshi, a farmer required permission from the Irrigation Department, Branch Office, Ausa, for lifting water for irrigation of his land. Accordingly, on 30.10.2006, he approached the said office and met accused No.1–Kopre, who was working as a Clerk. The complainant (PW-1) showed him the 7/12 extract of his land. Accused No.1 informed him that he should first deposit the arrears of water charges.

(b) On 09.11.2006, the complainant deposited the arrears of water charges and obtained the payment receipt. On

the same day, when he approached accused No.1 and showed him the receipt, accused No.1 allegedly demanded an amount of ₹3,000/- from him, stating that the amount was to be paid for himself as well as for his superior officers. The complainant thereafter expressed his desire to meet the superior officer. Accused No.1 took him to the chamber of accused No.2– Naragude, Branch Officer, Ausa. The complainant informed accused No.2 that accused No.1 was demanding ₹3,000/- from him and also stated that he had already paid the arrears of water charges and was short of money. According to the prosecution, accused No.2 stated that the amount could be reduced and asked the complainant to wait outside. After some time, accused No.1 came out of the chamber of accused No.2 and informed the complainant that accused No.2 had directed him to collect ₹2,000/- from the complainant. Accused No.1 allegedly further told him that the requisite permission would be granted only upon payment of the said amount. The complainant (PW-1), therefore, assured accused No.1 that he would pay the amount on 16.11.2006 and accused No.1 asked him to bring ₹2,000/- in the afternoon, stating that he would keep the proposal ready.

(c) As the complainant was unwilling to pay the demanded bribe, he approached the Anti-Corruption Bureau, Latur, on 15.11.2006 and lodged a complaint with the then Dy. S.P., ACB, Latur. The complaint was reduced into writing and was verified by the complainant. The ACB thereafter secured the presence of two panch witnesses from the Office of the Divisional Deputy Director of Agriculture, Latur.

(d) On 16.11.2006, the complainant, the two panch witnesses and the members of the ACB team assembled at the ACB Office. The contents of the complaint were verified by the panch witnesses. The complainant was thereafter instructed to approach accused No.1 along with panch No.1 and to inquire about his proposal. Twenty currency notes of ₹100/- denomination, intended to be used as the trap amount, were treated with anthracene powder and their serial numbers were noted. Necessary instructions were also given regarding the signal to be given by the complainant after the demand and acceptance of the bribe amount.

(e) Accordingly, the complainant and panch No.1 went to the office of the accused at the Administrative Building, Ausa,

at about 1.25 p.m. Accused No.1 was present there. On the complainant inquiring about his proposal, accused No.1 allegedly informed him that the proposal was ready and demanded the amount. As accused No.2 was not present in the office. Thereafter, at about 2.45 p.m., the complainant, panch No.1 and another person came down from the office and proceeded towards Tea Stall. At about 2.55 p.m., the complainant gave the predetermined signal to the members of the trapping party. The ACB officers and panch witness immediately reached the spot. The tainted currency notes were thereafter recovered from the possession of accused No.1 and, on examination under the ultraviolet lamp, anthracene powder marks were allegedly detected on the currency notes and other relevant articles.

(f) The articles and currency notes were seized under the panchnama. Accused No.2, who arrived at the office subsequently, was also subjected to search; however, according to the prosecution, no anthracene powder traces were detected on the articles found in his possession. Thereafter, the report was lodged at Police Station, Ausa, and the offence was registered. Investigation was carried out by P.I. Suryakant Patil (PW-5) and,

upon completion of investigation, the charge-sheet came to be filed against both the accused.

(g) The learned Trial Court framed the charge (exhibit 12) against both the accused for the offences punishable under Sections 7, 12 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act. The contents of the charge were explained to them in Marathi. Both the accused pleaded not guilty and claimed to be tried. Their defence was of total denial.

(h) After recording evidence of PW-1 complainant Sitaram Suryawanshi, Balaji Kirwale panch No.1 (PW-2), Baburao Pingat, sanctioning authority (PW-3), Mukund Hatote, then Dy.SP. ACB (PW-4) and Suryakant Patil, IO (PW-5) and hearing the accused and prosecution side, the learned Trial Court was pleased to pass the impugned judgment as above.

4. Learned Senior Advocate Shri Deshmukh appearing for the appellant/ accused No.1 (Kopre) vehemently submitted that on the basis of testimonies of prosecution witnesses, the conviction of accused No.1 is not sustainable under the PC Act. The complainant (PW-1) has not supported the case of prosecution. Learned Senior Advocate has invited attention of

this Court to the testimony of PW-1 and particularly the suggestion put to him as to whether, accused No.1 really accepted the amount from PW-1 or he laid the said amount on the table of hotel and left that place and came outside and gave signal to raiding party. PW-1 admitted that the work of granting connection is not within the ambit of accused No.1, who was clerk. Further suggestion was given to PW-1 that as accused No.2 (Branch Manager) was not available in office, therefore, on the say of Hatote (PW-4), he implicated accused No.2 in the offence and bribe amount was tried to be handed over to him. Further suggestion was put to PW-1 that since accused No.2 was not in the office, therefore, in his absence, raid will be futile and therefore, on the say of DySP Hatote (PW-4), PW-1 has falsely implicated accused No.1.

5. Learned Senior Advocate further submitted that though PW-2 (panch witness Balaji Kirvle) was declared as hostile, however, he stated that he did not know as to what happened in hotel and it never happened that accused No.1 had demanded money to the complainant and accepted it.

6. Learned Senior Advocate vehemently submitted that

as accused No.1 was clerk and the sanctioning authority is the Superintending Engineer. In this case, composite sanction came to be issued for accused Nos.1 and 2 by the Deputy Secretary of Irrigation Department. Therefore, sanction accorded by PW-3 Baburao Pingat, is not valid in law. As such, in absence of valid sanction under Section 19(1)(c) of the PC Act, the Trial Court ought not to have taken cognizance of the case.

7. Learned Senior Advocate further submitted that accused No.1 with the aforesaid piece of evidence cannot be held guilty. The prosecution witnesses virtually failed to prove that accused No.1 has demanded bribe amount from the complainant while discharging his official duty. As the sanction was not accorded by the competent authority, therefore, the prosecution has failed to obtain valid sanction and as such, the conviction cannot be based on the aforesaid parameters.

8. Learned advocate Shri Bachate appearing for accused No.2 (Naragude) submitted that accused No.2 was working as Branch Officer in Irrigation Department. He was not at all present during the time of trap. When he got message about trap, he immediately rushed to the office and met the ACB

officers. Accused No.2 submitted his written explanation to the ACB office.

9. Learned advocate for accused No.2 vehemently submitted that the sanctioning authority, in the case of accused No.2, is the Secretary of Irrigation Department. Learned advocate took this Court through testimony of PW-3 sanctioning authority, who has deposed that after obtaining consent from higher officers, he has accorded sanction. In this case, the sanction is issued by the authority, which is not competent to remove accused No.2. Before according sanction, the Government sought opinion from the Home Department as well as the learned Advocate General and therefore, PW-3 sanctioning authority has not applied his own mind independently and as such, there is no subjective satisfaction for according sanction. PW-3 Deputy Secretary is not appointing or removing authority of accused No.2 and therefore, sanction is not accorded by the competent authority. Learned advocate, therefore, relied upon the judgment of the Hon'ble Supreme Court in ***Commissioner of Police, Bombay vs. Gordhandas Bhanji, AIR 1952 SC 16***, to contend that in such situation, the action taken on the basis of direction of

higher officer is held to be illegal.

10. Learned advocate Shri Bachate further submitted that explanation submitted by accused No.2 has been corroborated during the course of evidence. There is no sufficient evidence against accused No.2 so as to attract the said offence. PW-4 IO has also admitted in his evidence that there is no verification of demand for verifying the truth in the present case. In absence of such material in pre-trap panchanama, there would be doubt as regards the prosecution case. Learned advocate submitted that the complainant has already paid the amount of Rs.9607/- towards arrears of irrigation taxes on 09.11.2006, therefore, no amount was required to be paid by him. Thus, there was no work pending with accused No.2 on 16.11.2006. Accused No.2 used to visit various places for recovering arrears. The complainant was offended when accused No.2 visited his house twice for recovering arrears from him. According to learned advocate, the prosecution has failed to establish the demand against accused No.2 and there is no corroborative evidence to establish that accused No.2 has demanded and accepted any amount of bribe.

11. *Per contra*, learned APP strongly opposed the submissions of learned advocates for the appellants/ accused. According to learned APP, the statements of witnesses proved the guilt of the appellants beyond all reasonable doubt and, therefore, their evidence cannot be discarded. Learned APP has strenuously supported the impugned judgment and order passed by learned Trial Court. There is no lacuna in investigation. Tainted notes have been recovered from accused No.1. There is sufficient evidence to prove that there was demand from the accused persons. According to learned APP, learned Trial Court after analyzing evidence brought on record in proper perspective, has rightly delivered the impugned judgment and order and has rightly convicted the appellants. There is no scope for interference in the impugned judgment. He, therefore, prayed for dismissal of the present appeals.

12. After hearing the submissions of learned advocates and with their assistance, after going through evidence on record carefully, it is apparent that at the relevant time, accused No.1 was clerk and accused No.2 was Branch Officer in the Irrigation Department. Admittedly, the competent authority for accused

No.1 is the Superintending Engineer and for accused No.2, it is the Secretary of Irrigation Department. The prosecution has forwarded the proposal to the Government. There seems to be much deliberation on the said proposal as the opinion from the Home Department as well as the learned Advocate General was sought. On the basis of their opinion, PW-3 sanctioning authority i.e. Deputy Secretary has accorded sanction in this case. Learned advocates for the appellants/ accused rightly attacked on the aspect that PW-3 is not at all competent authority for both accused. Moreover, PW-3 has not applied his mind independently and on the basis of opinion and instructions issued to him by the Home Department and the learned Advocate General, he accorded sanction. On both counts i.e. competency and independent application of mind, the sanction order is not correct and legal. Therefore, there is no hesitation in observing that there is no valid sanction to prosecute the accused. This Court in the case of ***Dr.Jagannath Rangnath Kakade vs. The State of Maharashtra, Criminal Appeal No.225/2004, Aurangabad Bench***, decided on 17.10.2025, has observed that the sanction accorded by the authority, which is on lower post than the competent authority, is not valid sanction. The sanction cannot be

accorded in mechanical manner without examining material or without understanding the nature of allegations. However, in this case, PW-3 has admitted that the opinion from the Home Department as well as the learned Advocate General came to be sought while according sanction. That being so, admittedly PW-3 has not applied his mind independently and, therefore, he has acted under the dictation from higher authorities.

13. In view of the above discussion, learned Senior Advocate appearing for accused No.1 has rightly placed reliance upon the judgment of the Hon'ble Supreme Court in ***Central Bureau of Investigation vs. Ashok Kumar Aggarwal, (2014) 14 SCC 295***, particularly paragraph Nos.16 and 17, which read thus:-

> *"16. In view of the above, the legal propositions can be summarised as under:*
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> *16.1 The prosecution must send the entire relevant record to the sanctioning authority including the FIR, disclosure statements, statements of witnesses, recovery memos, draft charge sheet and all other relevant material. The record so sent should also contain the material/document, if any, which may tilt the balance in favour of the accused and on the basis of which, the competent authority may refuse sanction.*
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> *16.2 The authority itself has to do complete and conscious scrutiny of the whole record so*

produced by the prosecution independently applying its mind and taking into consideration all the relevant facts before grant of sanction while discharging its duty to give or withhold the sanction.

16.3 The power to grant sanction is to be exercised strictly keeping in mind the public interest and the protection available to the accused against whom the sanction is sought.

16.4 The order of sanction should make it evident that the authority had been aware of all relevant facts/materials and had applied its mind to all the relevant material.

16.5 In every individual case, the prosecution has to establish and satisfy the court by leading evidence that the entire relevant facts had been placed before the sanctioning authority and the authority had applied its mind on the same and that the sanction had been granted in accordance with law.

17. In view of the above, we do not find force in the submissions advanced by Shri Vishwanathan, learned ASG that the competent authority can delegate its power to some other officer or authority, or the Hon'ble Minister could grant sanction even on the basis of the report of the SP. The ratio of the judgment relied upon for this purpose, in A. Sanjeevi Naidu etc. v. State of Madras & Anr., AIR 1970 SC 1102, is not applicable as in the case of grant of sanction, the statutory authority has to apply its mind and take a decision whether to grant sanction or not."

14. Learned advocate appearing for accused No.2 has rightly placed reliance on ***Gordhandas Bhanji (supra)*** wherein, it

was observed that public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself. Public authorities cannot play fast and loose with the powers vested in them, and persons to whose detriment orders are made are entitled to know with exactness and precision what they are expected to do or forbear from doing and exactly what authority is making the order.

15. Thus, in the case in hand, the sanction accorded by PW-3 is not valid sanction. Hence, the cognizance taken by the learned Trial Court on the basis of such sanction order is, therefore, improper and illegal.

16. As far as the demand is concerned, learned advocates for the accused are right in contending that the demand of bribe is not proved in its strict sense. In this case, the payment

of arrears of irrigation charges are already made by the complainant (PW-1) and there is no work pending with accused Nos.1 and 2, therefore, there was no occasion for the accused to demand bribe from the complainant. On the date of complaint to the ACB, no amount was pending against the complainant and therefore, there was no justification for demanding the amount by the accused persons. It has come on record that accused No.2 in his official capacity used to visit the house of the complainant for recovering arrears of irrigation charges. Therefore, the complainant might have offended by visit of accused No.2. It is also part of record that accused No.1 was working as clerk and he was not competent to grant permission for new irrigation connection. Therefore, there is no sufficient evidence to establish that the accused have demanded bribe amount from the complainant.

17. The basic requirement of demand is required to be proved beyond all reasonable doubt. In order to prove the charges for the offence punishable under Section 13(1)(d) r/w Section 13(2) of the PC Act, the proof of demand of illegal gratification is absolutely necessary as it is *sine qua non* of the

offence. If the prosecution fails to prove this demand of illegal gratification, the charge for the aforesaid offences would fail. It is clearly established in several judgments delivered by the Hon'ble Supreme Court including the judgment in ***Neeraj Dutta vs. State (Govt. of NCT of Delhi) reported in (2023) 4 SCC 731***, that mere possession and recovery of currency notes from the possession of the accused without proof of demand would not establish the offence under Section 13(1)(d) r/w Section 13(2) of the P.C. Act. In absence of proof of demand and illegal gratification and use of corrupt or illegal means to obtain any valuable or pecuniary advantage, it cannot be said that the offence of taking bribe is proved. Thus, the proof of demand has been held to be indispensable ingredient. Therefore, failure on the part of prosecution to prove demand and illegal gratification, would be fatal and mere recovery of the amount from the accused would not entail his conviction for the alleged offences.

18. In view of the foregoing discussion, this Court is of the considered view that the prosecution has failed to prove, beyond reasonable doubt, the demand of illegal gratification by the appellants and its acceptance pursuant thereto. So also, there

is no valid sanction. Consequently, the foundational facts necessary to sustain the conviction under Section 7 and Section 13(1)(d) read with Section 13(2) of the PC Act have not been established. Accordingly, the following order is passed:

ORDER

(i) The Criminal Appeals are allowed.

(ii) The impugned judgment and order convicting and sentencing the appellants/ accused in Special Case (ACB) No.1/2009, is quashed and set aside.

(iii) The appellants/accused are acquitted of the offences with which they were charged.

(iv) The appellants are on bail. Their bail bonds stand cancelled and the surety, if any, stands discharged.

(v) The fine amount, if deposited, be refunded to the appellants.

(vi) The record and proceedings be sent back to the concerned Court.

19. The pending criminal application, if any, stands disposed of.

kps (SUSHIL M. GHODESWAR, J.)