

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

**CRIMINAL APPLICATION NO. 4097 OF 2015**

The State of Maharashtra  
through PSO, ACB, Dhule,  
District Dhule

APPLICANT

**VERSUS**

Yuvraj Lahu Pawar,  
Age : 50 years, Occu. Service,  
R/o Plot No. 97, Om Nagar,  
Deopur, Dhule

RESPONDENT

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Mr. V.P. Kadam, A.P.P. for the applicant/State  
Mr. Joydeep Chatterji, Advocate for the respondent

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**CORAM : M.T. JOSHI, J.**

**DATE : 28/09/2015**

**ORAL ORDER :**

1. Heard both sides.
2. Aggrieved by the recording of acquittal of the present respondent from the offence punishable under section 7 and 13 (1) (d) read with section 13 (2) of the Prevention of Corruption Act, 1988, by the Special Judge, Dhule, vide judgement and order dated 30.05.2015, passed in Special Cae No. 477 of 2011, the State wants to prefer an appeal and therefore, the present

application for grant of leave to file appeal is filed.

3. The respondent - Yuvraj was working as Circle Officer of the revenue circle, consisting of village Raitel and other villages. The complainant (PW1) wanted to seek certain permission for selling his agricultural land. He and his father had filed an application and he came to know that the said application was forwarded for enquiry purposes from the Tahsil office to the present respondent.

. The respondent told them that he would have to record the statement of one Gorakhsing Rajput and certain other adjoining land owners and he would send the report and for sending favourable report, he made demand of Rs. 5000/- sometime in the month of December, 2010.

. After 4 or 5 days, he told that he had already sent the report to the Tahsildar, Sakri after recording the statements of those persons. However, he told that in case the money is not given, he would create hurdle in his further work. After negotiations, the respondent has agreed to pay an amount of Rs. 3000/-. Accordingly, the complaint was filed on 13th January, 2011.

. The raid was organized by the Anti Corruption Bureau, Dhule on 14<sup>th</sup> January, 2011 with the aid of two panch witnesses including PW2, the shadow witness. The verification of demand of bribe had taken place wherein in presence of the panch witness, the respondent again made demand of money and thereafter, accepted the money smeared with anthracene powder on the same day, during the second exercise. Thereafter, after necessary process, the chargesheet came to be filed.

4. Before the learned Special Judge, the complainant, during cross-examination, deposed that he did not know as to for what purpose, the respondent had made demand of money. He deposed that he did not remember as to whether other witnesses i.e. 3 to 4 persons were sitting in the office of the respondent/accused. He further deposed that though he knew that the report was already sent to the Tahsildar, he again enquired as to whether the report was sent. He denied that the respondent had come for taking tea at the office at the time of the raid as against the prosecution case.

5. PW2 — the shadow panch witness admitted in

cross-examination that 2 to 3 independent persons were sitting in the office of the respondent. He deposed that it did not happen that the respondent had demanded money from the complainant and the complainant did not give the money to the accused. He also deposed that it did not happen that the complainant and he himself went towards the tea-stall for giving order of tea. He also admitted that he did not remember as to who was possessing those tainted currency notes while proceeding towards the police station.

. Taking into consideration all these prominent facts and the other variances, the learned Special Judge has acquitted the present respondent.

6. The learned A.P.P. submitted that it was the prosecution case that the official work was already done. However, since the present respondent had threatened that he would later on create hurdle, the bribe was agreed between the complainant and the respondent. He further submitted that because of certain statement made by the shadow panch witness, the case of the prosecution cannot be thrown away.

7. Mr. Joydeep Chatterji, learned counsel for the respondent, supported the reasoning forwarded by the learned Special Judge.

8. Upon hearing both sides, in my view, the independent panch witness has admitted that there were 2 to 3 persons sitting in the office which has been conveniently given go-bye by the complainant. It is further pointed out that the shadow panch witness has admitted in the cross-examination that he was warned that in case he did not depose as per the documentary evidence, then his job would come in jeopardy.

9. Considering all these facts on record, the learned Special Judge has taken reasonable and probable view of the material as was placed before him. In the circumstances, grant of leave to file an appeal against the order of acquittal would be an exercise in futility. The leave to file an appeal is, therefore, refused. The application is accordingly dismissed.

**[M.T. JOSHI]**  
**JUDGE**