

in respect of charges levelled against accused persons, the learned APP vehemently argued that accused no.1 Veterinary Doctor has demanded and accepted illegal gratification from the complainant Sharad Ghare for treating she-buffaloes of the complainant. The learned APP further argued that accused no.2 had abetted accused no.1 veterinary Doctor in commission of crime and tainted currency notes were recovered from accused no.2. Therefore, in submission of the learned APP, the impugned judgment and order of acquittal is totally perverse and, therefore, the State is entitled for leave to appeal.

3 None appeared for the Respondents.

4 I have carefully considered submissions advanced by the learned APP. I have also gone through the deposition of witnesses. Briefly stated, it is the case of the prosecution that complainant Sharad Ghare is resident of Village: Garade. He was having 12 she-buffaloes. Respondent No.1-Original Accused is veterinary doctor at the said village. According to the prosecution case, in discharge of his official duties, respondent-accused no.1 visited cattle shed of complainant- Sharad Ghare, checked 15 she-

buffaloes and demanded Rs.850 instead of Rs.95/-. According to the prosecution case, respondent-accused no.1 being veterinary Doctor employed by the State was entitled to recover an amount of Rs.50/- towards his visit fee and Rs.3/- per buffalo towards charges for medical examination of she-buffaloes totalling to Rs.95/-. Instead of this fees payable to the State, the Respondent No.1-accused demanded Rs.850/-. The complainant paid Rs.100/- to him. However, the respondent no.1-accused was insisting for balance amount of Rs.750/- from the complainant. Therefore, according to the prosecution case, this demand for Rs.750/- is gratification other than legal remuneration demanded by the respondent no.1-accused and ultimately accepted through the respondent no.2-accused no.2 on 3.3.2013.

5 In pursuant to the complaint lodged by the complainant Sharad Ghare, after recording pre-trap panchanama on availing services of panch witnesses, a trap was led and ultimately, according to the prosecution case, accused persons were apprehended on 3.3.2013. This has resulted in registration of crime and ultimately, after due trial, respondents came to be

acquitted by the learned Special Judge.

6 Perusal of evidence of complainant/P.W.1-Sharad Ghare shows that visit of respondent no.1-accused no.1 Dr. Nikam/Veterinary Doctor to his cattle shed was on 9.2.2013 at about 2.30 p.m. At that time, accused no.1-Dr. Nikam as per version of P.W.1 Sharad Ghare had medically examined 15 she-buffaloes belonging to the complainant. P.W.1 deposed that respondent/accused no.1 Dr. Nikam then demanded his charges to the tune of Rs.850/- but what was payable was only Rs.95/-, Rs.50/- being visit fee and Rs.3/- per buffalo being legal charges. Hence, according to the P.W.1-Sharad Ghare, the illegal gratification amounting to Rs.750/- was demanded by respondent -accused no.1 Dr. Nikam.

7 Congruous evidence of P.W.1-Sharad Ghare and shadow panch P.W.2-Ravindra Kavitkar goes to show that after necessary formalities of pre-trap panchanama, on 2.3.2013, respondent/accused no.1 accepted amount of Rs.750/- through respondent/accused no.2 Amol Janawale at the cattle shed of complainant-Sharad Ghare.

8 In the wake of this evidence, evidence of PW.3-Kantilal Umap Chief Executive Officer of Zilla Parishad, who is sanctioning authority shows that veterinary Doctor can undertake private practice after office hours. Evidence of PW.3-Kantilal Umap shows that on Saturday office hours for veterinary doctors are from 8 a.m. to 12 noon.

9 On 9.2.2013, when there was alleged demand for illegal gratification on account of medical examination of she-buffaloes of the complainant, the day was Saturday. Evidence of the Sanctioning authority makes it clear that on that day after 12 noon, respondent-accused no.1-Dr. Nikam was entitled to do private practice. Timing of visit to the cattle shed of the complainant/PW.1 Sharad Ghare was 2.30 p.m. on 9.2.2013. It was after office hours. Therefore, respondent-accused no.1 Dr. Nikam was entitled to demand his professional fees from complainant-PW.1-Sharad Ghare as his visit was after office hours. As such, amount of Rs.850/- demanded by the respondent-accuse no.1 on 9.2.2013 and allegedly accepted amount of Rs.750/- on 2.3.2013 towards balance amount cannot be said to be towards

illegal gratification as a motive or reward for doing or forbearing to do official act. To crown this all, cross-examination of P.W.1- Sharad Ghare goes to show that balance amount of Rs.750/- was towards medicines used by respondent no.1-accused no.1 Dr. Nikam on 9.2.2013 while examining his she-buffaloes.

10 In the wake of forgoing discussion, it cannot be said that the view taken by the learned trial Judge while acquitting respondents-accused is not a plausible view based on evidence on record. In this view of the matter, no case for grant of leave is made out. The Application is rejected.

(A. M. BADAR, J.)