

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO.118 OF 2010

The State of Maharashtra,
Through Dy. S.P., ACB Sleuth,
Nagpur.

.. Appellant

.. Versus ..

1] Randhir s/o Rameshsingh Dixit,
Aged about 32 years,
R/o. Ganeshpeth Police Quarters,
Nagpur.

2] Arvind s/o Tukaramji Zilpe,
Aged about 35 years,
R/o. Plot No.8, New Kailash Nagar,
Nagpur.

.. Respondents

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Mr. I.J. Damle, Additional Public Prosecutor for Appellant-State,
Mr. V.M. Gadkari, Advocate for Respondent No.1,
Mr. Sachin R. Gupta, Advocate for Respondent No.2.

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**CORAM : K.R. SHRIRAM, J.
DATED : 21st MARCH, 2023.**

ORAL JUDGMENT :

1. The State is impugning the judgment and order dated 29th July, 2009 passed by the learned Judge, Special Court (ACB), Nagpur acquitting respondents of offences charged under Section 7 and 13 (1)

(d) read with Section 13 (2) of the Prevention of Corruption Act, 1988 (for short, PC Act).

2. The accused were Police Constables on traffic duty. It is the prosecution case that on 27.05.1999, the accused were on traffic duty near Traffic Signal at Railway Station Over Bridge, Nagpur. Complainant Sandeep Rahate (PW-2) was going on a scooter from the railway bridge square. PW-2 did not have vehicle documents with him. Not only that he was speeding and also jumped the traffic light. At that stage, the accused stopped him and took away his driving licence. It is alleged that accused also demanded a sum of Rs.150/- as illegal gratification for return of the driving licence of PW-2. PW-2 assured them that he would finish his work and come back, show the documents, pay the amount and then take the driving licence. PW-2 thereafter finished his work and proceeded straight to the office of the Anti-Corruption Bureau (ACB) and reported the matter. PW-2 and the ACB worked out the method to lay a trap, marked currency were given to complainant PW 2 and he was given instructions as to how the trap should be effected.

3. On the same day, PW-2 along with trap team went to the traffic place where the accused were still present and doing their duty.

PW-2 went to the accused along with PW-3 Vijay Nagrare (panch witness no.1). Accused demanded the bribe amount in the presence of panch and then directed PW-2 to go to the Police Booth on the other side of the road where there would be a register in which the marked currency should be kept and PW-2 can pick up his driving licence which was kept on the table. PW-2 went to the traffic booth, placed the amount in the register and took back his driving licence. Thereafter, he gave agreed signal to the raiding party, who swung into action and picked up the marked currency from the register. It is stated that accused could not give any satisfactory explanation and hence were arrested. The post-trap panchanama was prepared, investigation commenced, statements of witnesses were recorded, sanction was obtained and then a charge-sheet came to be filed.

4. To drive home the charge, prosecution examined seven witnesses, viz. namely, Ashok Bais, Police Constable as PW-1, Sandeep Rahate – Complainant as PW-2, Vijay Nagrare, panch witness no.1 as PW-3, Rajgopal Begul, panch witness no.2 as PW-4, Avinash Rajurkar, Police Inspector in the Traffic Division as PW-5, Dinkar Tankar, Investigating Officer as PW-6 and Prabhat Ranjan, the Sanctioning Authority as PW-7.

5. PW-2, PW-3 and PW-4, i.e., the complainant and two panch witnesses respectively, turned hostile. The Trial Court made an attempt to see if the prosecution would, despite these three persons turning hostile, have some material with them to prove the accused guilty beyond reasonable doubt. The Trial Court had no option but to come to conclusion that the prosecution was unable to drive home the guilt of the accused.

6. PW-3-panch witness, who was supposed to accompany PW-2 Complainant at the time of payment of marked currency, in his evidence, has stated that he did not accompany PW-2 when he went to the Police Booth to keep the marked currency in the register and PW-2 went alone. It is also clear that no one heard the conversation between PW-2 and accused in respect of demand. The Trial Court, therefore, came to the right conclusion that there was no corroboration to the evidence of PW-2 that there was demand of bribe by the accused.

7. PW-2, who was the complainant, in his cross-examination, states that he kept the amount on his own, even though it was not demanded by the accused. He says that there was no demand of any bribe by the accused. The accused had only asked documents of the scooter from him, which he assured to show them after sometime. In

fact, the answers given by PW-2 in his cross-examination by the prosecutor, is diametrically opposite to the statement made by the complainant on oath before the Court in his examination-in-chief.

8. The Trial Court, therefore, rightly concluded that there was no regards to the sanctity of the Court proceedings and the Trial Court went on to even impose costs on the complainant PW-2 for having misused the public machinery and instituted a complaint on false allegation against Policemen.

9. In the circumstances, I see no reason to find any error in the conclusion arrived at by the Trial Court.

10. The Appeal is dismissed.

11. The Government/Appropriate Authority shall pay over to respondents, within a period of 30 days from today, all pensionary or other benefits/dues stalled, in view of pendency of this appeal. If during the service, in view of this matter, the promotions or increments of accused have been affected, the concerned Authority/Department will pay, proceed and calculate on the basis that there was no such matter ever on record against accused and will factor

in all promotions and increments that accused would have been entitled to and all the amounts shall be accordingly paid within 30 days.

After 30 days interest at 12% p.a. will have to be paid by Government/Appropriate Authority to respondents.

It is clarified that this is subject to there being no other complaint or proceedings pending against respondents.

No authority shall demand certified copy for reimbursing the benefits/dues as directed above. All to act on authenticated copy of this order. Certified copy expedited.

(K.R. SHRIRAM, J.)

Gulande