



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 06 OF 2022

The State of Maharashtra,
Through Akole Police Station,
Akole, Tal. Akole,
Dist. Ahmednagar.

... Applicant

Versus

Sultan Usman Shaikh,
Age : Major, Occu. Service,
R/o. Gat No.11, Kuran Road,
Vijaynagar, Sangamner,
Tal. Sangamner, Dist. Ahmednagar

... Respondent

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Mr. D. R. Korade, APP for Applicant – State.
Mr. Joydeep Chaterji, Advocate for Respondent.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 23 SEPTEMBER 2025

PRONOUNCED ON : 09 OCTOBER 2025

ORDER :

1. Present application by State is for leave to question the judgment and order dated 27.10.2021 passed by learned Additional Sessions Judge, Sangamner, Dist. Ahmednagar in Special Case No.06 of 2016, thereby acquitting present respondent from charge under sections 7, 13(2) read with section 13(1)(d) of the Prevention of Corruption Act.

2. Learned APP pointed out that, complainant's vehicle was

seized by police on suspicion that said car was used in one criminal case. That, complainant had approached the police station for release of the same. Accused, who was working as Police Constable, demanded Rs.6,000/-. Learned APP further pointed out that, as complainant was not willing to pay bribe, he lodged report with ACB authorities, who planned and executed raid by taking necessary steps.

3. Learned APP pointed out that, there is evidence of both, complainant as well as shadow panch, which is apparently consistent on the point of demand. That, during pre-trap verification voice of accused raising demand was recorded. That, there is acceptance of tainted currency from complainant in presence of shadow panch and as such according to learned APP, essential ingredients of demand and acceptance are proved. That, after obtaining valid sanction, accused was charge-sheeted. However, according to learned APP, in spite of availability of evidence on record and in spite of testimonies of witnesses having remained unshaken, guilt ought to have been recorded, but it has not so happened. That, there is incorrect appreciation, and therefore, learned APP seeks leave to question the judgment.

4. Learned counsel for respondent pointed to the cross faced by complainant as well as shadow panch. He pointed out that neither

demand nor acceptance is proved. He submitted that complainant himself has admitted about demand being raised by another person for releasing the vehicle. That, such crucial admission by none other than complainant had inflicted severe blow to the prosecution case. He also pointed out that, there is said to be demand on telephone, but there is no CDR to that extent and even during alleged telephonic conversation name of accused was not supplied regarding which there is admission. He also pointed out that, here, there is no valid sanction prior to trial. For above reasons, he supports the judgment of acquittal and prays to dismiss the application for want of merits.

5. Heard both sides. Perused the evidence and record. Visited the judgment sought to be impugned herein. As pointed out, complaint seems to have been lodged by one Manik Hase regarding demand of Rs.6,000/- for release of his vehicle seized in one criminal case. After negotiations, it is alleged that, amount was negotiated and brought down to Rs.5,000/-. Prosecution seems to have adduced evidence of 04 witnesses before the trial court.

6. Visited the cross faced by complainant as well as shadow panch. As pointed out there is clear admission by complainant that demand was not raised by accused for himself. Exh.33 shows that there

is acknowledgment of receipt of seized vehicle. Complainant has admitted about not naming of accused while giving telephonic report and further admitted that amount was handed over for P.I. Wakhare only.

7. There was seem to be invalid sanction and there is discussion to this extent in paragraphs 26 and 27 of the judgment. For above reasons, in view of answers given by complainant in cross, very aspect of alleged demand by accused, has itself comes under shadow of doubt. Therefore, with such quality of evidence, no case is made out on merits to accord leave for filing further appeal. Hence, the following order is passed :-

ORDER

- (i) Leave is refused.
- (ii) The application for leave to appeal by state is rejected.

(ABHAY S. WAGHWASE, J.)