



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 58 OF 2015

The State of Maharashtra,
Through Police Inspector,
Anti Corruption Bureau,
Jalgaon.

... Appellant

Versus

Sanjay Sudhakar Badgujar
Age 40 years, Occu. Service,
R/o 272, Dakshta Nagar, 34/1,
Jalgaon, District Jalgaon.

... Respondent
[Orig. Accused]

.....
Mr. V. S. Badakh, APP for the Appellant-State.
Mr. M. A. Tandale, Advocate for the Respondent.
.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 30.09.2025

Pronounced on : 15.10.2025

JUDGMENT :

1. The State hereby takes exception to judgment and order dated 25.07.2014 passed by learned Assistant Sessions Judge, Jalgaon in Special (ACB) Case No. 11 of 2013 by which, present respondent-original accused has been acquitted from the charge under Section 7 of the Prevention of Corruption Act, 1988.

FACTS GIVING RISE TO THE APPEAL

2. Vehicle/truck of complainant PW1 Krishna was seized by the Talathi for indulging in illegal transportation of sand. PW1 had applied for release of his vehicle in the court of Chief Judicial Magistrate (CJM), got the order from the said court and carried it with him to the Police Station, where he was initially asked to pay fine with the RTO office, which he paid and again came back to the Police Station and requested to release his truck. Accusations are that, present accused, who was posted at Jalgaon City Police Station, demanded bribe of Rs.15,000/- for release of vehicle.

Complaint Exh. 9 was lodged by PW1, leading to planning and executing trap at the hands of the ACB authorities. After report of the Investigating Officer, crime was registered for offence under Section 7 of the Prevention of Corruption Act, 1988 for raising demand of bribe. Accordingly, present respondent was tried.

The case of prosecution was rested on the testimony of four witnesses and some documentary evidence. defence of accused was of false implication.

After hearing both sides and appreciating the evidence on record, learned trial Judge reached to a finding that, prosecution has failed to prove the charges, and acquitted the accused by above judgment and order, which is challenged by the State in the instant Appeal.

SUBMISSIONS

On behalf of the Appellant-State :

3. Learned APP pointed out that there is convincing evidence about complainant approaching Police Station for release of his seized vehicle and accused, who was posted at the Police Station, had demanded Rs.15,000/- for releasing the same. Therefore, according to learned APP, on receipt of complaint to that extent, the ACB authorities had swung into action, planned trap in presence of complainant as well as panchas and they were duly informed about the procedure and payment of bribe on demand. That, there was demand verification panchanama wherein, voice conversation of accused was recorded. Thus, according to learned APP, there is sufficient evidence about demand. He further submitted that PW1 complainant and PW2 shadow pancha are both consistent about above evidence of demand. However, according to learned APP,

learned trial court has acquitted the accused on the ground that there are contradictions in the versions of complainant, shadow pancha and the Investigating Officer. In fact, according to learned APP, there was none at all.

4. Learned APP also pointed out that, after due application of mind, sanction was accorded, but learned trial court also held that sanction was invalid. Thus, according to learned APP, the findings of learned trial court are erroneous and contrary to the evidence on record. Therefore, learned APP seeks indulgence of this Court by allowing the appeal.

On behalf of the Respondent-Accused :

5. Per contra, learned counsel for the original accused-respondent submitted that, prosecution has utterly failed to bring home the charges. He pointed out that different versions were narrated by complainant, shadow pancha and the very Investigating Officer on material count of events and also on the point of alleged demand. Therefore, when witnesses were not consistent, according to him, learned trial court committed no error whatsoever in refusing to accept such evidence. He further pointed out that in fact, it has come

on record that there was no work at all of the complainant with accused and said work of releasing of vehicle was with one Munshi, who has not been examined. He submitted that, desperately repeated attempts were made to implicate, however, all attempts to trap had failed because accused had not put up any demand by personally meeting the complainant. He also put this Court through the answers given by PW1, PW2 and PW4 in the cross and would submit that, it is apparent that these witnesses are not consistent so as to accept their versions. He further pointed out that, rather, complainant had admitted that he was upset and annoyed with accused because of several crimes registered against him for illegal activities. That, further, complainant has admitted that the idea of lodging complaint was not of his own, but it was on the advice of his friend. Thus, for all above reasons, learned counsel supports the acquittal and urges to dismiss the appeal.

EVIDENCE BEFORE THE TRIAL COURT

6. After hearing above submissions and on going through the record, it transpires that the case of prosecution is rested on the evidence of four witnesses, i.e. PW1 Krishna Koli - complainant, PW2 Khandu Kambale - shadow pancha, PW3 Jaikumar Susiraj, SP - sanctioning authority and PW4 Sham Shinde - Investigating Officer.

7. Evidence of **PW1** Krishna Koli (complainant) is at Exhibit 8 and he has testified that he owns Tata Tipper (truck) bearing registration no. MH 32/B-9681. That, the Talathi seized his vehicle while transporting sand, he applied to the court of CJM for release of the same, received orders, took it to the Police Station, requested police to release the vehicle and was told by the police to first pay fine with RTO office, which he duly paid and again returned to the Police Station with a request to release the vehicle. It is his testimony that, accused had demanded Rs.15,000/- for releasing his truck and further said that, unless said amount is paid, vehicle will not be released. Therefore, he approached the ACB authorities and lodged complaint Exhibit 9. He further testified about ACB authorities arranging panchas, introducing them to the complainant, they being given instructions and exercise of verification being undertaken. He also deposed that, he carried voice recorder and switched it on prior to conversation and again put up demand of release of truck and accused told that he was will have to pay Rs.15,000/- and only thereupon he would get his truck released. The voice recorder was handed back to the ACB authorities, who got convinced about demand and further procedure of currency being tainted with anthracene powder and he and pancha being instructed to pay on

demand, was carried out. He further deposed that accordingly, he and pancha approached Police Station at 4.00 p.m.. He also testified that on reaching Police Station, accused was not seen and so he made phone call but accused did not accept it and therefore, he came back to the ACB officer. He further claimed that after short while, accused again came near the court building, but on seeing them, accused turned his motorcycle and went away and therefore, tainted currency was handed back to the ACB officer. He further deposed that, on 16.10.2012, one Nilesh Patil approached him with a request to withdraw the complaint filed by him with ACB, and then he realized that accused had got knowledge about complaint being filed with ACB authorities and that accused will not accept bribe amount. Further, on 18.10.2012, he received message from Jalgaon City Police Station that he should take back his vehicle and he accordingly took its possession. He further testified in the Court that thereafter, no work remained with the accused and ACB authorities had returned him the amount and recorded his statement. He identified accused, who made demand, to be present in the court.

Complainant is extensively cross-examined on the points of several crimes registered against him at Jalgaon City Police Station and he being arrested and he also indulging in transportation of sand

without obtaining licence, paying fine and being involved in four crimes for theft of sand.

In further cross, he admitted that he had requested Munshi that, due to his financial condition, he was unable to deposit fine amount and at that time, he fairly admitted that, accused had told him and Munshi that it would be illegal to release the truck without paying fine with RTO office. He also admitted that there was no special reason for filing complaint with ACB Office but as per advice of his friend, he had filed the complaint.

In para 11, he admitted that on 16.10.2012, when he visited Police Station, accused was not present there and he himself made a phone call to accused, but it was not attended. He also admitted that after seeing them, accused had went away on his motorcycle and at that time, he had not made any phone call to accused. He also admitted that on 18.10.2012, while giving him possession of truck, Munshi of Jalgaon City Police Station had taken bond of Rs.15,000/- from him. That time also, he admitted regarding not making phone call to accused and further admitted that he did not meet accused that day at all.

In para 12 of the cross he admitted that, he was annoyed with the accused for making him pay fine with the RTO office and was also annoyed with police for unnecessarily filing complaint and harassing him.

8. **PW2** Khandu Kamble, who acted as shadow pancha, is examined at Exhibit 11. He also narrated about being introduced to complainant, hearing about demand for release of his truck, ACB authorities giving necessary instructions, he accompanying complainant for demand verification. He deposed that, on reaching the premises of Police Station, *de facto* complainant, pointing to the truck, told him about it being seized with full of sand. He also deposed about complainant asking accused on phone, “where he was?” and accused allegedly told *de facto* complainant that he was in SP office and so they waited in Police Station for some time. Again *de facto* complainant made second phone call and at that time, accused told that he was with his saheb and so, they again waited outside Police Station. He further deposed that while accused was passing from the gate of Police Station, *de facto* complainant pointed it to this witness and they both followed him in the Police Station. He also deposed about complainant requesting for release of vehicle after switching on the voice recorded, and accused asking him to pay

Rs.15,000/- for release of truck, and he further stated that, accused told complainant that if he is not having Rs.15,000/-, he should pay two trolleys sand, but complainant expressed his inability to give the same also and being told to pay either of the two. He deposed about handing over voice recorder to ACB authorities and its panchanama being drawn at Exhibit 14. He also narrated about the events which took place in Police Station at 4.00 p.m.. However, according to him, when they went to Police Station, at that time, accused was sitting in a room which was bolted from outside. Thereafter, he and complainant came out of the police station and waited for accused, but he did not come. Thereafter complainant made phone call to accused but he did not accept the phone call and therefore, they came back and informed the DY.S.P. He further stated that he realized that accused had doubt about the trap and therefore Dy.S.P. decided to suspend the trap that day. Again on 18.10.2012, when they came to ACB authorities, and while at guest house, they came to know that the truck of *de facto* complainant was already released and therefore Dy.S.P. decided to stall the proceedings.

Above witness is also cross-examined at length. Main cross is about demand verification and trap. Regarding this, he answered that while they were entering the premises of Jalgaon City Police Station,

de facto complainant had not switched on the voice recorder and that it was switched on while complainant inquired about accused. He admitted that complainant had not informed the Dy.S.P. by making phone call that accused was not available in Police Station. He admitted that, complainant did not receive phone call from any mobile. He also answered that when script of conversation was noted, the ACB officials had written some portion of the conversation and some portion was dropped and that, there were voices of so many persons recorded in the voice recorded.

9. **PW3** Jaikumar Susiraj, Superintendent of Police, Jalgaon, is the sanctioning authority who testified at Exhibit 25 regarding receiving ACB papers, studying the same and according sanction dated 12.08.2013 Exhibit 26. He answered in his cross that it is not mentioned in the sanction order Exhibit 26 as to how much bribe was demanded by accused and how much was accepted. Then he volunteered that accused demanded bribe of Rs.15,000/-. He admitted about crimes being registered against *de facto* complainant including crime under Section 307 of IPC, and he denied taking legal opinion prior to according sanction.

10. **PW4** Sham Shinde, P.I., is the Investigating Officer.

ANALYSIS

11. Here, on one hand, according to learned APP, witnesses were consistent on material count but learned trial court disbelieved their version and, taking minor contradictions and omissions into consideration, case of prosecution is dismissed.

12. Consequently, on such lines, the evidence is re-appreciated. It is noticed that according to the complainant, his truck was seized on 10.09.2012 and after lodging report, demand verification was done on 16.10.2012 and conversation was recorded in voice recorder. Complainant himself stated that seeing them, accused had turned back his motorcycle and went away and therefore, the first attempt of trap at 4.00 p.m. had failed. He further stated that ACB authorities postponed the trap after two days. PW2, on above count, has stated that the *de facto* complainant made phone call to accused but accused said that he was in the SP office. Second call was also made by the *de facto* complainant to accused, whereupon accused said that he was with his saheb. On the third occasion, this witness stated that the *de facto* complainant requested for release of his truck and at that time, accused allegedly told him to give Rs.15,000/- or if he is not in a position to pay, then to pay in the form of two trolleys sand. This is

not the version of the complainant about choice being given to him by accused that he should either pay Rs.15,000/- or to pay in the form of two trolleys sand. Even the very Investigating Officer has not stated to this extent. Therefore, as stated by the learned counsel for the respondent, there are variances about the exact events that took place during alleged recording of conversation.

13. Apparently, though all the witnesses are cross-examined, one fact is indisputably emerging that, on the day of trap, accused had disconnected the calls of complainant and though accused came towards the back side of court building, on seeing complainant, he allegedly turned back and went away. Therefore, there is no actual acceptance as it had failed, and complainant himself has stated that they realized that accused had entertained doubt that trap has been laid and therefore, he did not turn up to accept the amount. As stated above, PW1 complainant, PW2 shadow pancha and PW4 Investigating Officer are not consistent on the very aspect of demand also. Even when there was said to be recording of voice sample, requirements of Section 65 of the Indian Evidence Act does not seem to have been complied so as to accept the evidence in electronic form. Answers given by complainant in para 11 of cross inflict severe damage to prosecution version. Therefore, with such quality of evidence, and

when prosecution could not also establish the very aspect of demand, there is no reason to interfere in the impugned judgment. Hence, the following order is passed :

ORDER

The appeal is dismissed.

[ABHAY S. WAGHWASE, J.]

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