



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

CRIMINAL APPEAL NO. 86 OF 2017

The State of Maharashtra
(Through Dy. Superintendent of Police
Anti Corruption Bureau, Ahmednagar)
(C.R.No.3012/2013 of Parner P.S.)

....Appellant

Versus

Rajaram Baban Bhand
Age : 39 years, Occ.: Service as a
Kamgar Talathi, Sajja Kinhi, Class-III,
Tal. Parner, Dist.Ahmednagar.
R/o. Dhotre Budruk, Tal. Parner,
Dist. Ahmednagar.

.....Respondent
(Original accused)

.....
APP for Appellant : Mr.N.D.Raje
Advocate for Respondent : Mr.K.J. Tandale
.....

CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 18 NOVEMBER, 2025
PRONOUNCED ON : 19 NOVEMBER, 2025**

JUDGMENT :-

1. This is a State appeal, wherein judgment and order dated 30-12-2015 passed by the learned Judge, Special Court (ACB), Ahmednagar in Special Case (ACB) No.18 of 2013, thereby acquitting the accused from offence under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, is assailed.

FACTS IN NUTSHELL

2. PW2 Anil has approached Tahsil office with order of Civil Judge, Junior Division, Parner, whereby partition suit filed by him and his siblings regarding ancestral property was passed. To give effect to the same, he claims to have approached present respondent, who was officiating as a Talathi. Case of prosecution is that, for taking names in mutation entry and drawing 7/12 extract, there was demand of Rs.6,000/-. As PW2 Anil was not willing to pay bribe, he approached ACB authorities, Ahmednagar and lodged report on the strength of which, investigation was carried out by PW4 Mali (PI) and on completion, necessary sanction for prosecution was obtained from PW3 Bhor and thereafter, present respondent was made to face trial vide above special case in which he stood acquitted and hence, the instant appeal by State.

SUBMISSIONS

On behalf of appellant State :

3. Learned APP would apprise this Court with the above factual background of the case and would submit that on receipt of report from PW2 Anil, PW4 Mali, Investigating Officer summoned panchas and thereafter, both complainant as well as panchas were initially

sent for verification of demand. On getting satisfied to that extent, trap was planned and it was successfully executed. According to learned APP, accused in presence of PW3 Balu, independent shadow pancha witness, had demanded bribe and even accepted the same and therefore, there was both demand as well as acceptance. That, sanction was after due application of mind and thus, according to him, necessary requirements for attracting the charges, were very much available and therefore, it is his submission that learned trial Court ought to have held the case of prosecution as proved and ought to have convicted the accused, but it having failed, he urges this Court to allow the appeal.

On behalf of Respondent accused :

4. Supporting the judgment of the learned trial Court, learned counsel for respondent pointed out that, prosecution has miserably failed to bring home the charges. He pointed out that, according to complainant, there were several demands prior to lodging report, but at no point of time or any time earlier, there was lodgment of any complaint. He would point out that, infact there was no work with respondent as already an order has been passed by Civil Court on account of compromise in a partition suit and therefore, merely effect

was given to the same. That, there was no question of any demand. Moreover, he pointed out that accused was holding additional charge.

5. He further submitted that, PW2 complainant himself has not supported prosecution and he was required to be cross-examine by prosecution itself. He further pointed out that, PW3 shadow pancha witness has categorically stated in his evidence that, even before any demand by respondent, PW2 complainant had offered money and therefore, with such quality of evidence, learned counsel supports the judgment and order of acquittal. He further pointed out that even sanction is not valid. That, when crucial aspects of demand and acceptance had itself came under shadow of doubt, he justifies the order of acquittal and urges to dismiss the appeal for want of merits.

ANALYSIS

6. Re-appreciated and re-analyzed entire evidence on record. Case of Prosecution seems to have rested on evidence **PW1** Bhor, Sanctioning Authority, **PW2** Anil, complainant, **PW3** Balu, shadow pancha, and **PW4** Mali, Investigating Officer.

Here, considering the nature of allegations, evidence of PW2 complainant must find corroboration from independent person like

PW3 shadow pancha. Existence of demand and acceptance are *sine qua non* for bringing home the charge.

PW2 Anil, in his evidence at exh.18, narrated about approaching respondent on 08-06-2013 for requesting to take mutation entry and according to him, Rs.6,000/- was demanded for the same. He further claims that on 10-06-2013, he again made a phone call to the accused and according to him, during such telephonic call, he was asked to come to meet with money on 16-06-2013 and therefore, he claims to have lodged report on 14-06-2013.

As pointed out, though, there was demand on 08-06-2013, no report was lodged by him and rather on his own, PW2 complainant had made a telephone call to accused on 10-06-2013 and claims that during telephonic communication, accused suggested meeting on 16-06-2013 for the money. Apparently, as observed by the learned trial Court, there is no compliance of provisions under Section 65-B of the Indian Evidence Act, for production of tape-recorded evidence. Therefore, verification itself comes under shadow of doubt.

7. **PW2** Anil, Complainant has narrated the events, which took place at ACB office i.e. after summoning of panchas, explaining them

procedure and sending them for verification and thereafter, making PW2 complainant and PW3 shadow pancha visit office of accused with instructions to pay on demand. However, after stating in paragraph 6 about handing over currency notes for application of anthracene powder and then accompanying PW3 shadow pancha on motorcycle, he deposed that, accused was approached in his office and seeing them, accused allegedly came out and enquired whether money was brought and it was allegedly handed over and even accepted by accused followed by relay of signal. However, after so much of testimony, PW2 complainant deposed that thereafter, he went home and finding him not supporting, learned APP, after seeking permission from the Court, cross-examined his own witness wherein he has virtually admitted to every suggestion.

While under the **cross-examination** at the hands of defence counsel, PW2 complainant has admitted that, he himself had made two phone calls to accused. In paragraph 23, he admitted that he made phone call at the instance of ACB and further candidly admitted that, when said call was made, except conversation about knowing presence of accused, there was no conversation between them. Such answer itself shows that there was no demand even on phone.

8. **PW3** Balu, shadow pancha, who is examined at exh.22, has testified about attending ACB office, being introduced to PW2 complainant, listening to his grievance and then causing signature on complaint. He also deposed about the process of verification of demand being completed and its panchnama being drawn at exh.24. He further deposed about procedure of application of anthracene powder and then in paragraph 6, he deposed about accompanying PW2 complainant to village Kinhhi and after reaching office of accused, he deposed that, in presence of all other persons, who were sitting in front of accused, complainant enquired about work of 7/12 extract and also enquired when he would get it and he deposed that accused informed him that he would get it within 7 days and thereafter, PW2 complainant removed tainted currency notes from his left chest pocket and held it in front of accused, who accepted it in right hand and thereafter, PW2 complainant gave signal.

Therefore, above testimony itself shows that, even during visit to the office of accused, on relevant day, even before any demand is made, complainant has held and offered tainted currency in front of the accused i.e. without any demand. Again in paragraph 18 of cross-examination, he has admitted that there was conversation between complainant and accused with respect to third person and

not of accused.

Resultantly, evidence of PW2 complainant and PW3 shadow pancha is very weak. PW2 Complainant himself has retracted and he himself seems to have offered bribe before the demand. PW3 Shadow pancha admits conversation pertaining to third person and not of accused. Therefore, their evidence is of no avail to the prosecution.

9. Learned APP has submitted that, there was valid sanction and on another hand, learned counsel for respondent would point out that PW1 Bhor was Sub Divisional Officer and appointment letter was issued by the Collector and therefore, PW1 Bhor was not authorized to accord sanction. That, even there is non-application of mind to the entire material placed before said authority.

10. Evidence of **PW1** Bhor, Sanctioning Authority at exh.13 is accordingly visited and it is emerging that he deposed about he working as Sub Divisional Officer and to be competent to remove persons working on the post of Talathi from employment.

While under **cross-examination** para 3, this witness has admitted that appointment of accused was recommended by the Collector and in such case, he had no right to refuse appointment to

accused. Even on examining sanction order exh.14, it transpires that, there is reference about first demand to be made by accused on 14-06-2013 and amount to be accepted on same day. This was not at all the case of prosecution. Here, infact first demand as per PW2 complainant was on 08-06-2013 and not 14-06-2013. For the more reason, as submitted, there does not seem to be even application of mind by PW1 Sanctioning Authority while according sanction. This also contributed to the weakness of prosecution case.

SUMMATION

11. To sum up, here, prosecution had failed to bring home the charges by proving its case beyond reasonable doubt for above reasons. Learned trial Court has considered entire evidence and analyzed it meticulously and has recorded findings, which are based on sound reasons. Therefore, there being no case on merits, this Court proceeds to pass following order.

ORDER

Criminal Appeal stands dismissed.

(**ABHAY S. WAGHWASE**)
JUDGE