



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 07 OF 2025

The State of Maharashtra,
Through Police Station,
Osmanpura, Dist. Aurangabad.

... Applicant

Versus

Shrimant Shekha Gaikwad,
Age : 47 years, Occu. : Occu : Service,
R/o. Plot No. 139, Laxmi Nagar,
Garkheda Parisar, Aurangabad.

... Respondent
(Orig. Accused)

.....
Mr. N. D. Raje, APP for Appellant – State.
Mr. Joydeep Chatterji, Advocate for Respondent.
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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 02 DECEMBER 2025

PRONOUNCED ON : 04 DECEMBER 2025

ORDER :

1. As State is desirous in questioning the judgment and order of acquittal dated 04.06.2024 passed by learned Special Judge, ACB, Aurangabad in Special ACB Case No.03 of 2013, thereby acquitting accused from charges under sections 7, 13(1)(d) punishable under section 13(2) of Prevention of Corruption Act, instant leave application has been pressed into service.

2. Learned APP would apprise this court about the facts of the

case regarding present respondent – original accused to be working as a Inspector in Legal Metrology Department and complainant to be running shop of repairing scales, weights and measures. He would submit that, repairs are required to be verified by affixing stamp from the Inspector and in that connection, accused had demanded Rs.500/-. He pointed out that, on receipt of complaint to that extent, ACB authorities planned trap by summoning panchas and introducing them to complainant, further they both made aware of the procedure. He would further submit that, here, demand as well as acceptance was proved. That, there is even demand verification panchanama and a panchanama of script of the conversation containing the demand. That, PW2 and PW3, who are party to the acceptance, have also deposed to that extent.

3. Therefore, according to him, there was sufficient evidence for holding charges proved, but he would submit that, trial court failed to appreciate and consider the same and held that there is neither demand nor acceptance and even sanction is held to be invalid when in fact authority, who accorded sanction, had deposed about his power and control over accused, but the same has been incorrectly appreciated, and hence, according to learned APP, there is a good case in appeal, and so he urges for leave to file appeal.

4. In answer to above, learned counsel for respondent would point out that, prosecution has failed to bring home the charges. He pointed out that, complainant had himself assumed that he is required to pay bribe and without any demand, he lodged report. Learned counsel took this court through the evidence of PW2 and would submit that, neither demand nor acceptance is proved. He pointed out that even shadow panch PW3 has given vital admissions in cross regarding demand. That, there are material omissions in the evidence of PW2 and PW3. He also pointed out that, here, version has been improvised by complainant as well as shadow panch and the same is not proved through Investigating Officer. He further pointed out that, sanctioning authority PW1 had not applied its mind in the material and the same being brought on record, learned trial court committed no error in holding that there is non application of mind, while according sanction. According to him, judgment is well reasoned and needs no interference.

5. In the light of above submission and record is put to scrutiny, as submitted, PW2 complainant seems to be running a shop of repairing scales, weights and measures. There is no dispute that, accused was officiating as Inspector in Legal Metrology Department and he is expected to verify that repairs done by persons like complainant are in accordance with the procedure.

6. As pointed out, from the evidence of PW2 complainant, it is emerging that, he deposed that, there was regular practice in the office of Legal Metrology to handover Rs.200/- to the Inspector as bribe for seeking certification. However, he has not referred to the accused for raising any particular demand. He merely deposed that he was not willing to give bribe, and therefore, he lodged report with ACB authorities. Further as pointed out, in spite of being located at Aurangabad, surprisingly he has lodged report at ACB Jalna and in cross he has admitted that he did so as he knew certain authorities in ACB Jalna. Even as pointed out, in the very complaint Exh.49, there is no reference of demand of bribe by accused.

7. It is also pointed out by learned counsel for respondent that, complainant has improvised its version and he invited attention of this court to the findings recorded by learned trial court in paragraph no. 50, it seems therefrom that in examination-in-chief, he deposed that, accused put up demand of money and so he handed it over by right hand, but in cross he has stated that his such version in chief was also stated by him when his statement was recorded by Investigating Officer. When his statement was confronted to him, the above versions was not finding place and therefore as submitted, there is improvisation and the same is got proved through Investigating Officer.

For above reasons, aspect of very demand also comes under shadow of doubt.

8. As regards to corroboration from PW3 shadow panch is concerned, though he testified that, there was demand, in the transcript of voice recorder Exh.76 conversation between complainant and accused is regarding accused merely stating to give as decided. He further stated that, at that time complainant has said to accused that he would arrange the amount in sometime and pay it to him, however, such portion is missing from the Exh.76.

9. As regards to sanction is concerned, learned trial court has dealt the issue from paragraph 23 of the judgment onwards. Though PW1 stated that, he was working as Controller of Legal Metrology, Government of Maharashtra and he had received papers from ACB, which he examined and then granted sanction, in his cross examination, he is unable to state whether he had powers to accord sanction and as such, he himself was doubtful. Further in his cross, he claims to have studied the transcript of conversation between complainant and accused and its verification panchanama to be at Exh.65 and trap panchanama Exh.73, there is no transcript from the said panchanama.

10. Therefore, here, there is no material about actual conversation between complainant and accused, and therefore, though PW1 stated that he examined the papers and on satisfaction granted sanction, in the light of no transcript before him, his such assertions comes under shadow of doubt. For above reasons also, there is doubt about validity of sanction.

11. To sum up, here, firstly there is no demand, evidence of complainant and shadow panch is not consistent. Rather, complaint seems to have been itself silent about demand. As pointed out, there is improvisation in the testimony of complainant. Sanction is also not after application of mind, and therefore, with such quality of evidence on record, no other conclusion, but that of acquittal would emerge.

12. No case being made out on merits to accord leave, the same is refused. The application is rejected.

(ABHAY S. WAGHWASE, J.)