



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO FILE APPEAL BY STATE
NO. 39 OF 2021

1. State of Maharashtra
Through the Police Inspector,
Anti Corruption Bureau, Latur
Dist. Latur

... APPLICANT
(Ori. Complainant)

VERSUS

1. Prakash s/o. Sopanrao Jadhav
Age : 51 years, Occ. : Service,
R/o. : Prakash Nagar, Latur,
presently R/o. : Shrinagar, Latur
2. Vishal s/o. Purushottam Budhodkar
Age : 39 years, Occ. : Service,
R/o. : Budhoda, Tq. Ausa, Dist. Latur
3. Gorakh s/o. Bhimrao Waghmare
Age : 53 years, Occ. : Service,
R/o. : Barshi Road, Latur,
presently R/o. : Kava Road,
Govt. Colony, Latur
4. Mohamad Anwar s/o. Jalil Choudhary
Age : 30 years, Occ. : Advocacy
R/o. : Mitra Nagar, Latur,
presently R/o. : Choudhary Nagar, Latur
5. Balwant s/o. Rambhau Bhosle
Age : 47 years, Occ. : Service,
R/o. : Ram Galli, Latur
6. Shahaji s/o. Uttamrao Wadgaonkar
Age : 58 years, Occ. : Retired A.S.I.,
R/o. : Prakash Nagar, Latur,

7. Ravi s/o. Nivrutti Gondkar
Age : 45 years, Occ. : Service,
R/o. : Bodhe Nagar, Latur

... **RESPONDENTS**
(Ori. Accused)

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Mr. Dnyaneshwar J. Patil – APP for Applicant, State
Ms. Neha G. Udavant h/f. Mr. S.J. Salunke – Advocate for
Respondent Nos.1 to 7

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CORAM : SANDIPKUMAR C. MORE, J.
DATE : 13th February, 2025

ORDER :

1. The applicant/State has challenged the judgment and order of acquittal dated 10.03.2021 passed by the learned Additional Sessions Judge-5 and Special Judge, Latur (*hereinafter referred to as “the learned Trial Court”*) against the present respondents/original accused in Special Case (A.C.B.) No.1/ 2015.
2. Heard rival submissions and also perused the record and proceeding alongwith the impugned judgment.
3. As per the prosecution case, the accused Nos.1, 2 and 5 to 7 are police personnel attached to the Police Station, Gandhi Chowk, Latur. Accused No.3 is the Chowkidar attached to Sinchan Bhavan, Latur. Accused No.1 demanded the bribe amount of Rs.15,000/- from the complainant by name Nitin Mamadgi on 29.05.2014 for not to register any crime against him for purchasing the allegedly stolen Toor. On the same day, accused Nos.1 and 2 in the evening at Pan Stall behind B.S.N.L. Office,

Gandhi Chowk, Latur, demanded the said bribe amount and it was accepted by accused No.2. The said amount was handed over to accused No.3 and thereafter handed over to accused No.4 who was not public servant. Further, accused Nos.3 to 7 abetted the crime intentionally by aiding accused Nos.1 and 2 for demanding and accepting the bribe amount. The learned Trial Judge conducted the trial and acquitted all the respondents/accused.

4. On careful observation of evidence on record and the impugned judgment, the evidence of complainant and panch No.1 – Avinash Sathe as well as Investigating Officer – Mr. Pankaj Bhalerao, it is evident that their evidence is not trustworthy and reliable as it suffers from material contradictions as regards spot of incidence. Further, the place of transaction of demand and acceptance of bribe amount is also doubtful and it is difficult to gather whether it took place at Police Station at Gandhi Chowk, Latur or at Pan Stall behind B.S.N.L. Office, Gandhi Chowk at Latur. Further, the manner of transaction of the same in between complainant and accused No.2, as well as in between accused Nos.2 and 3 is also doubtful. The evidence of complainant, panch No.1 – Avinash Sathe and the Investigating Officer – Mr. Bhalerao is contradictory in respect of spot of incident also. The learned

Trial Court has specifically observed that, the Investigating Officer – Mr. Pankaj Bhalerao had shown the unsuccessful trap into successful trap by changing location of the alleged transactions of demand of bribe amount and acceptance of bribe amount from Police Station, Gandhi Chowk to Pan Stall, Main Road, Latur, on 29.05.2014. Further, the spot panchnama also failed to disclose that accused Nos.1 and 3 had demanded the bribe amount from the complainant and that accused No.2 had accepted the amount as bribe from the complainant and handed it over to accused No.3, who in turn handed over to accused No.4.

5. Thus, considering the entire evidence on record it is clearly evident that, the aspect of demand and illegal gratification is not at all established. Further, it is settled that, the mere recovery of tainted currency notes from the accused No.4 is not sufficient in absence of demand not being proved. It appears that, prosecution had tried to rope all the respondents/accused in the transaction of demand of the bribe amount and accepting the same jointly, but failed to establish the said fact with reliable evidence. Thus, considering all these facts no substance is found in the appeal and the same stands dismissed.

[SANDIPKUMAR C. MORE, J.]