



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 593 OF 2005

- 1] Dilip s/o Limbajirao Mane,
Age; 45 years, Occ; Service,
R/o; Osmanabad, Tq. & Dist.
Osmanabad.(Since deceased
through his Lrs.)
- 1-A] Smt. Seema Dilip @ Diliprao Mane,
Age; 50 years, Occ; Household,
R/o; Umbare Galli, Osmanabad,
Tq. & Dist. Osmanabad.
- 1-B] Buddhabhushan Dilip @ Diliprao Mane,
Age; 28 years, Occ; Labour,
R/o; Umbare Galli, Osmanabad,
Tq. & Dist. Osmanabad.
- 1-C] Sau. Madhuri Pravin Bansode,
Age; 33 years, Occ; Household,
R/o; Osmanabad, Tq. & Dist. Osmanabad.
- 1-D) Madhusudan Dilip @ Diliprao Mane,
Age; 30 years, Occ; Labour,
R/o; Umbare Galli, Osmanabad,
Tq. & Dist. Osmanabad.
- 2] Rajnikant s/o Yadav Bansode,
Age; 21 years, Occ; Student,
R/o; Osmanabad Tq. & Dist. Osmanabad. ...APPELLANTS
(Accused)

VERSUS

The State of Maharashtra.

...RESPONDENT

.....
Advocate for the Appellants : Ms. Harsha R. Lomte h/f Mr. V.D. Salunke
APP for Respondents-State : Mr. C.V.Bhadane
.....

CORAM : SUSHIL M. GHODESWAR, J.

Date of Reservation : 17.11.2025
Date of Pronouncement : 02.12.2025.

JUDGMENT :

1. The appellants are challenging the Judgment and Order passed by the learned Special Judge, in Special Case No. 4 of 2002, dated 29.07.2005, wherein, the Special Judge has convicted the appellants for the offence punishable under Section 7 of the Prevention of Corruption Act and sentenced to suffer Rigorous Imprisonment for six months and to pay fine of Rs. 500/-, and in default to further Rigorous Imprisonment for one month. They are further convicted for the offence punishable under Sections 13 (1)(d) read with Section 13 (2) of the Prevention of Corruption Act and sentenced to suffer Rigorous Imprisonment for one year and to pay fine of Rs. 1,000/-, and in default to further Rigorous Imprisonment for two months.

2. As per the prosecution story, the deceased appellant is accused No. 1 in Sessions Case and was serving as Record Keeper in the office of the Taluka Inspector of Lands Record, Usmanabad during the period from February 1999 till February, 2002. Whereas, co-accused No.

2 was working as Personal Assistant of accused No. 1. It is the case of the prosecution that accused No. 1 used to pay accused No. 2 Rs. 30/- to 40/- per day for writing work.

PW-2 Umesh Vinayak Chavan in view of certain property dispute between him and other persons has decided to take legal action for protection of his share in the property. Accordingly on 12.02.2002 at 8.30 a.m. he contacted his Advocate Shri Dayanand Birajdar at Usmanabad. The said Advocate told him that he would file a suit for injunction simplicitor against those other persons with whom he is having dispute. The said Advocate suggested him to collect 9 (3)-(4) extracts of the field and Toch Map from the office of Taluka Inspector of Lands Record, Usmanabad. (for short "T.I.L.R."). On said advise of his Advocate on the very same day between 10.00 to 10.30 he left for the office of T.I.L.R. Thereafter, he submitted an application before accused No. 1 being the record keeper. The Complainant requested the accused No. 1 to supply requisite extracts to him, however, accused No. 1 told him that expenses of Rs. 200/- would be required to perform the said work. One Mr. Pavan Landge, was a Clerk on the table of Copying Section in the office of T.I.L.R., Usmanabad. Accused No. 1 asked said Pavan to collect the application filed by the Complainant and also to collect sum of Rs. 200/- from him towards copies demanded by him. Accordingly, the Complainant placed said copies on the table of said Pavan, the Copying Clerk. Said Pavan asked the Complainant to obtain the signature of of A.A. Waghmare, being his superior officer. After

obtaining the signature A.A. Waghmare, the matter was placed before Landge by making entry to that effect through the endorsement in Marathi language. Accordingly, the Complainant brought back the papers and handed over it to Pavan Landge, who kept the application in a drawer and told the Complainant to come after three days to collect the said copies. However, since the Complainant was in urgent need as the other persons with whom he was having dispute were threatening him, therefore, he requested said Landge to issue copies immediately. On that, Mr. Landge asked the Complainant to pay Rs. 200/- for preparing copies as insisted by accused No. 1. When the Complainant expressed his inability to pay the said amount on that day, therefore Mr. Landge asked him to bring amount on next day i.e. on 13.02.2002. Therefore, as the Complainant was not willing to pay bribe, he approached Anti Corruption Bureau, Office (for short "ACB"). He met Mr. G.S. Gawali, the Deputy Superintendent of Police. (for short "DYSP"). DYSP Gawali secured presence of two panchas and after giving instructions to each of them being members of raiding party, they decided to lay trap on Pavan Landge but not on the appellants. After completing all formalities the members of the raiding party, i.e. pancha witness and other members of trap party thereafter reached the TILR office. The Complainant along with panch No. 1 (PW-3) Sangnbasayya Jangam, entered the office of T.I.L.R. at 11.15 a.m.

3. Thereafter, at 11.20 a.m. the Complainant and panch No. 1

came together out of the T.I.L.R. office. Thereafter at 11.45 a.m. the Complainant gave signal and accordingly police caught hold hands of accused No. 2. Upon inquiry accused No. 2 told him that he is working as Writer and Personal Assistant for accused No. 1. The hands of accused No. 2 when checked under the Ultra Violate lamp, which glittered with blue and white colour shining under the ultra violate lamp. Thereafter panch No. 2 Suryawanshi (not examined by the prosecution) removed the amount from the pocket of pant of accused No. 2. After completion of necessary formalities, DYSP, Gawali asked accused No. 2 about the application submitted by the Complainant on 12.02.2002 for getting certificate copies of the extract. Accused No. 2 told him that said copies are in the drawer in the right side of table of accused No. 1. Thereafter DYSP, Gawali asked pancha No. 1 as to how the incident took place. Accordingly, pancha No. 1 informed that accused No. 1 had called accused No. 2 and instructed to him to give copies to the Complainant and to collect Rs. 200/- from him. Thereafter, accused No. 2 asked the Complainant to wait outside the office. Accordingly, accused No. 2 also came out of the office for some time and asked the Complainant whether the amount of Rs. 200/- has been brought by him. Accused No. 2 asked to pay said amount to him. Accused No. 2 collected that amount outside the office at the distance of 10 feet from the main entrance gate of that office. Thereafter, the DYSP, Gawali asked accused No. 1 regarding the nature of work of the Complainant with him, who told him in detailed and produced one register and also application given by the Complainant

to him. After recording the spot panchanama with all details the copy of the same was handed over to both the accused and both the accused had given their written say as per their stand. Thereafter, both the accused were brought to Police Station Usmanabad, where DYSP Gawali lodged First Information Report against both the accused and Crime No. 06 of 2002 came to be registered for the offences punishable under Sections 7,12,13(1)(d) read with Section 13 (2) of the Prevention of Corruption Act, 1988. Thereafter, DYSP, Gawali has recorded the statement of witnesses, collected requisite documents and on the strength of the same he has filed charge-sheet against the accused persons stating therein that accused No. 1 had demanded illegal gratification from the Complainant for supplying certified copies to him and accused No. 2 at the behest of accused No. 1 has collected that illegal gratification and abetted accused No. 1 in the commission of the aforesaid offences.

4. After filing of the charge-sheet, accused persons were brought before the Court. Accordingly, charge came to be framed against them vide (Exh. 6) for the offence punishable under Sections 7,12,13(1) (d) read with Section 13 (2) of the Prevention of Corruption Act. The accused pleaded not guilty to the charge and claimed to be tried.

5. The Special Court has recorded evidence of total four witnesses. After hearing the learned Counsel for both sides, the learned

Special Court was pleased to deliver the judgment thereby convicting the accused persons for the charged offences and sentenced them. Therefore, the appellants have approached this Court through this appeal.

6. Heard Ms. Harsha R. Lomte h/f Mr. V.D. Salunke, the learned Counsel for the appellants and Mr. C.V.Bhadane, the learned APP for Respondents-State at length and also perused the record.

7. Ms. Lomte, learned Counsel appearing for the appellants has submitted that offences levelled against the appellants are at all not proved and the prosecution failed to prove the same beyond the reasonable doubt that there was valid demand and acceptance of bribe of Rs.200/- by the appellants. She has further submitted that actual demand is made by Pawan Landge but he has not been made as an accused in this Crime. However, the recovery is alleged to be shown to have been made from accused No. 2. She further submitted that as the prosecution has not virtually proved their case beyond reasonable doubt, there is no question of presumption under Section 20 of the Act. Accordingly, she further submitted that the witnesses have not corroborated with each other and in their testimonies, there are too many material omissions. The main issue as regards the demand and acceptance is at all not proved by the prosecution beyond reasonable doubt. She further submitted that sanction order is not passed by applying mind and on these grounds she prayed for allowing the appeal

and thereby acquitting the accused persons.

8. Per Contra, Mr. Bhadane, learned APP for respondent-State has vehemently opposes the appeal. According to him, the prosecution has proved their case beyond reasonable doubt and as such, learned Session Court has rightly convicted the appellants and therefore, there is no valid ground to interfere in the judgment delivered by the Sessions court. Therefore, Mr. Bhadane, learned APP prayed for dismissal of the instant appeal.

9. The depositions of witnesses have been perused. PW-1 is Vikram Khedkar, who is the Deputy Director of the Lands Record, Aurangabad. In his deposition he has stated that he has not mentioned in the sanction order as to which papers were actually received by him and which papers were perused by him while according sanction. He further stated that he has not mentioned the grounds of his satisfaction while issuing sanction order. He has further stated that appellant No. 1 is the Record Keeper, who was entrusted with the duty to maintain the entire record of the office. The said Record Keeper requires to maintain register and also requires to make suitable entries relating to moving of the record. It is also the duty of the Record Keeper to hand over the file of any matter to the Clerk of the office, who is preparing certified copies and by obtaining signature of that Clerk. Again he has to take entries at the time of receiving the record in his register. He has specifically

admitted that it was not the duty of the accused No. 1 being the Record Keeper to receive application for preparing certified copies or supply certified copies of any document to any party who is demanding such copies. Thereafter, I perused the sanction order (Exh. 15), wherein, the said sanction order dated 09.04.2002 is clearly seen to be issued in draft/format and virtually there is no any explanation in the said order as to whether the officer who has issued it, has seen any record, investigation papers etc. before issuing the said sanction order. Moreover, there is not even a word or sentence mentioned that the Sanctioning Officer was fully satisfied while issuing the said sanction order. On bare perusal of the sanction order, it discloses that it was issued in mechanical manner and no mind was applied at the time of issuing the said order.

10. I have also perused the deposition of PW-2 i.e. the Complainant Mr. Umesh V. Chavan. The said Complainant in unequivocal terms has stated that Mr. Landge had asked him to bring sum of Rs. 200/- with whom the said application was pending for issuing certified copies. Thus there is no justification by the prosecution why said Shri. Landge has not been made accused. The said PW-2 Complainant vide (Exh. 16) deposed that he alongwith pancha No. 1 i.e. (PW-3) entered into TILR office at 11.00 a.m. Accused No. 1 was present in the office at that time. He offered salute to accused No. 1 which was responded by the latter. He asked accused No. 1 to supply documents

as per his application. Accused No. 1 asked him as to whether he had brought amount. He told him that he had brought the amount. Thereafter, accused No. 1 told him that Landge was on leave and accused No. 2 was present in the office and accused No. 1 called accused No. 2 and told him to give documents and to collect a sum of Rs.200/- from him. However, this version of PW-2 -Complainant is not supported by the shadow pancha i.e. (PW-3), who is examined vide (Exh. 119). According to him, the Complainant went near accused No. 1 and demanded extract from him. Accused No. 1 told him to collect extract from Landge and at that time Landge had not attended the office (since said Landge was on leave on that day). He and the Complainant came out of the office and began to wait for Landge, who were standing outside for half an hour. Thereafter, after 10 minutes, accused No. 2 came out of the Record Room and the Complainant went near him. After having some talk between accused No. 2 and Complainant, the Complainant gave signal to the raiding party. Thus, the crucial aspect as regards the demand and acceptance of the amount is at all not proved by the prosecution beyond reasonable doubt. There is also no corroboration between PW-2 and PW-4 as regards seizure and acceptance of bribe money. As regards the material issues in respect of demand and sanction, the prosecution has not established its case beyond reasonable doubt to arrive at a conclusion that the appellants have committed the offence punishable under Sections 7 and 13 (1)(d) read with Section 13 (2) of the Prevention of Corruption Act. Therefore, It is not proper to

convict the appellants for the aforesaid offences. In view of the aforesaid discussion it can be safely concluded that the prosecution has virtually failed to prove their case against the appellant beyond reasonable doubt.

11. Thus the prosecution having failed to prove the charges under Section 7 and 13 (1)(d) read with Section 13 (2) of the Prevention of Corruption Act, the appellants deserve to be acquitted.

12. Consequently, this Criminal Appeal is allowed and the impugned judgment and order passed by the learned Special Judge in Special Case No. 4 of 2002, dated 29.07.2005 is quashed and set aside.

13. The appellants/ accused are acquitted of charged offences i.e. under section 7, 12, 13(1)(d) read with Section 13 (2) of the Prevention of Corruption Act .

14. As the appellants are on bail, they need not surrender. The bail bond stands cancelled. Surety, if any, stands discharged. Fine amount, if deposited, be refunded. The record and proceedings be sent back to the concerned Court.

(SUSHIL M. GHODESWAR, J.)