



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

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 81 OF 2020

The State of Maharashtra, through
Anti Corruption Bureau, Beed

...Applicant

Versus

1. Mohan Nagnathrao Komatwar,
Age 60 years, Occu. Service as
ASI, Police Station Wadwani,
Tq. Wadwani, Dist. Beed.
2. Parayya @ Parmeshwar Girmalayya,
Hiremath, Age Adult, R/o Wadwani,
Tq. Wadwani, Dist. Beed

...Respondents

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- Mr. S. A. Gaikwad, APP for the Applicant/State
 - Mr. C. A. Shingare, Advocate for the Respondents
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CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : NOVEMBER 28, 2025
PRONOUNCED ON : DECEMBER 01, 2025

ORDER :

1. As State is keen in filing appeal against judgment and order dated 20.12.2019 passed by learned Special Judge, Majalgaon in Special Case No. 06/2012, acquitting the accused respondent herein from charge under section 7, 13(2), 13(1)(d) and 12 of Prevention of Corruption Act, instant leave application has been pressed into service.

2. Learned APP pointed out that ACB authorities has received complaint from PW1 Balasaheb Maske that to avoid initiating chapter

proceedings against him, accused who worked as police officer in police station Wadwani, demanded bribe of Rs. 5,000/- and on negotiations, agreed to accept Rs. 2,000/-. That, on receipt of complaint to that extent, ACB authorities summoned panchas, introduced them to complainant who narrated about demand made and thereafter, both complainant and panch made to go together for verification of demand. Demand was got recorded in voice recorder and after getting it confirmed that there was demand of bribe, trap was planned and laid. Learned APP pointed out that after tainted currency were handed over to the complainant to be paid on demand, complainant and panch went to the accused. That, there was demand followed by handing over the currency as directed by accused no. 1 to accused no. 2 who acted on behalf and at the behest of accused no. 1. That, after receipt of signal, raiding party apprehended accused persons.

3. He further submitted that sanction was obtained and even learned trial Court held sanction to be valid, however, according to him, learned trial Court, on the basis of minor contradictions and in view of criminal cases against complainant, disbelieved his testimony by holding to be doubtful. That, in fact, there was demand, its verification and laying of final trap, which was successful. However, learned trial Court has acquitted both the accused and, therefore, according to him, as there is good case on merit, he prays to accord leave.

4. Per contra, learned counsel for respondents would point out that prosecution has miserably failed to bring home the charges and prove its case beyond reasonable doubt. He pointed out that, complainant himself did not support prosecution. Testimony of PW1 complainant and PW2 shadow panch are not consistent. That, panch in cross has admitted that he did not hear the conversation between complainant and accused. He pointed out that witness speak about unknown person accepting bribe and no acceptance by accused. That, as there is neither demand nor acceptance was proved, he supports the judgment and order of acquittal and prays for refusal to leave for want of merit.

5. Heard. Perused the record. It seems that PW1 is complainant; PW2 is shadow panch; PW3 is sanctioning authority; PW4 is investigating officer.

PW1 in the initial part of his testimony has deposed about dispute between him and Vinayak Muley and Ramnath Muley and police visiting their field and asked his mother to send complainant to police station. He further deposed that on 04.07.2012 he received a phone call from mobile of one Londhe and person from other side gave his name as Komatwar Police and informed about complaint being received against him in police station and asked him to visit immediately but complainant told him that he would come tomorrow and accordingly, on 05.07.2012 he

visited the police station. There he claims that, he met accused who told him about complaint received against him, father and brothers and for not to take preventive action, there was demand of Rs. 5,000/-. When he conveyed his inability being farmer, he allegedly asked to bring Rs. 2,000/- and, therefore, as he was not willing, he approached ACB and narrated the complaint.

He also testified about panchas being called, introduced to complainant and panchas reading his complaint and causing signature over it. However, thereafter he deposed that he and panch as well as staff went to Wadwani for verification and thereafter he and panch no. 1 approached Komatwar and while verification of recording was done, at that time, voice recorder was kept in his shirt pocket and accused approaching him and telling him that he was having work and asked him to come later and, therefore, complainant and panch went back.

Therefore, from above material, it is evident that during first visit of verification there is no demand.

6. He further deposed that from his mobile he again made call to accused who again told him to come after 10 minutes and thereafter, he and panch went to the accused, who was sitting in the hotel in front of police station and there accused allegedly asked him to give Rs.2,000/- and complainant told him that he does not have such amount and that, he would

arrange after some time and thereafter, he and panch came and investigating officer took the voice recorder and told panch and complainant to stand near the vehicle and investigating officer alone heard recording and investigating officer himself took out currencies from pocket of this witness, applied powder and handed it down to complainant with instructions to pay on demand. Thereafter, he again made phone call to accused who asked him to come after 10 minutes in hotel and after reaching there, accused allegedly asked him whether he brought the money and after witness answered in affirmative, he again asked how much amount is about, he answered about bringing Rs.2,000/- and further accused is saying to hand it over and he hand over to accused and relayed signal.

Above is not at all story of prosecution. As according to prosecution, accused after raising demand directed amount to be paid to accused no. 2. However, complainant has given a very different version. Therefore, learned APP has on permission of Court cross-examined his own witness and in cross, at the hands of learned APP, he has virtually admitted every suggestion.

But in cross at the hands of learned defense counsel, he is unable to state the date on which he went to ACB. He is also unable to narrate and reproduce the mobile number of accused over which there was said to be conversation. In cross on behalf of accused no. 2, he admitted that he is not acquainted with accused no. 2.

7. Another witness is PW2 Kamlesh Kulkarni. According to him, after visiting ACB and after being introduced to complainant, he accompanied the complainant as per instructions of investigating officer to meet the public servant and when they went and approached accused, he told that he was busy in the work and to wait for some time. Later on, according to him, investigating officer asked them to make phone call to accused and complainant accordingly made phone call and he told them to come there. On reaching police station, they went to take tea and there, according to him, public servant told to bring his father along with Rs.2,000/- and on failure, chapter proceedings would be initiated.

In paragraph 4 regarding main trap he deposed that, when they went to the hotel, at that time public servant called one unknown person and accused said unknown person to verify the amount. Therefore, his evidence is not consistent with that of complainant. Complainant has not stated about unknown person being called. Again, while under cross, shadow panch has admitted that he has no personal knowledge about the conversation which took place between complainant and accused previous to 09.07.2012.

Therefore, with above quality of evidence, witnesses PW1 and 2 are not consistent

8. Investigating officer PW 4 in his chief narrated entire events

since receipt of complaint but while under cross, he is unable to state how portion mark 'A' and 'B' is appearing in complaint. He admitted that there are mistakes in the panchnama exhibit 48 but in spite of it, the same bears signatures of panchas as well as himself. According to him, mistakes are committed by employee Misal but he is unsure as to whether said mistakes were rectified or not. He is unable to state time of visit of complainant to the office, time of visit of panchas to the office. He admitted that notes of conversation were not drawn.

9. Therefore, here, complainant has turned hostile and not supported prosecution case. Though PW2 speaks about demand and its verification, he has admitted that he was not party to the conversation between complainant and accused. Moreover, PW2 has stated about money being accepted by unknown person and complainant also admitted about not being acquainted with said unknown person. Therefore, with such quality of evidence on record, though there is valid sanction, no fruitful purpose would be served by granting leave and, therefore, I proceed to pass following order:

ORDER

- A. Leave stands refused.
- B. Application for leave to file appeal by State is rejected.

(ABHAY S. WAGHWASE, J.)