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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.76 OF 2002

Shamsing s/o Ramsing Kayast,
Age-42 years, Occu-Nil,
R/o Gandhi Nagar, Somnathpur Road,
Udgir, Tq.Udgir,
Dist.Latur

-- APPELLANT

VERSUS

The State of Maharashtra

-- RESPONDENT

**WITH
CRIMINAL APPEAL NO.80 OF 2002**

Mohan s/o Dharmraj Adsul,
Age-29 years, Occu-Clerk,
Taluqa Sahakari Khredi Sangh Maryadit
Kallam, Tq.Kallam, Dist.Osmanabad

-- APPELLANT

VERSUS

The State of Maharashtra

-- RESPONDENT

Mr.B.S.Kudale, Advocate for the appellant in Cri.Appeal No.76/2002.

Mr.V.P.Latange a/w Mr.R.S.Shinde, Advocates for the appellant in
Cri.Appeal No.80/2002.

Mr.C.V.Bhadane, APP for the respondent/State.

(CORAM : SUSHIL M. GHODESWAR, J.)

DATE : 11 DECEMBER, 2025

ORAL JUDGMENT :

1. Both these appeals are Admitted by this Court vide order dated 18.02.2002. Heard the learned Advocates for the respective parties and the learned APP for State.

2. Since both the appellants have been convicted by the common judgment, therefore both the appeals are heard together and being decided by this common judgment.

3. The appellants are challenging the judgment dated 22.01.2002 passed in Special Case No.6/1999, by the learned Special Judge, Osmanabad.

4. The appellant in Criminal Appeal No.76/2002 is Grader and Assistant Chief of Centre at Cotton Purchasing Centre, Hasegaon, Kej, Tal.Kallam. On 17.03.1999, P.W.No.1 Rameshwar Devidas Goldhar lodged report with the Osmanabad Police Station. According to the said witness, he is an agriculturist by profession and in his agricultural field, the cotton was produced. The said cotton is being taken to the

Cotton Purchasing Centre of Hasegaon. The said centre is belonging to the cotton Federation. On 17.03.1999, he had taken the said agricultural produce cotton through the tempo belonging to one Kisan Shinde at about 11.30 am at the Centre. In order to ascertain the quantity, the said cotton is required to be weighed and therefore he requested Mr.Kayast, Grader (Accused No.1). According to the complainant, the accused has demanded him Rs.500/- for providing high grade to his cotton and also assured him to weigh his cotton immediately, but only after payment of money.

5. Upon that, the informant/PW.No.1 Rameshwar tried to negotiate the said amount of Rs.500/-, however, the appellant accused was not in a position to reduce the said amount. Since he was not having money to pay as demanded by the appellant/accused, therefore, he informs him that he would pay the said amount on the next date. Since he was not inclined to pay the bribe, therefore he approached the office of Anti Corruption Bureau. Accordingly, his complaint came to reduced in writing. After completing the formalities, one Section Officer P.W.No.8 Vijayanand Baburao Gaikwad, formed a team for laying a trap on the accused. As per the complaint, the

complainant alongwith panch witnesses and other members of the squad went to the said cotton purchasing centre to trap the accused. During the said trap, proper instructions were given to all the members of the team including the complainant and the panch witnesses. According to the prosecution, the appellant/accused demanded Rs.500/-. Accordingly P.W.No.1 Rameshwar paid Rs.500/- to him. The accused after accepting the said amount, alleged to have kept the said amount in the left pocket of the shirt and called accused No.2 and out of the said amount, he has paid Rs.100/- to accused No.2. After the aforesaid transaction, the informant gave a members of the squad a signal as decided between them. Therefore, the officers in the raiding squad came to the spot, disclosed their identity and nabbed accused No.1 as well as accused No.2 and asked them about the tainted amount and also recovered the amount from them. The said currency notes came to be recovered from both the accused persons and the currency was checked under ultraviolet lamp and then after completing the formalities, the Investigating Officer came to the Police Station and registered the FIR against the appellants in both these appeals. After completing the investigation, charge sheet came to be filed against the appellants.

6. Since the appellants pleaded not guilty, therefore they came to be tried. Charge vide Exh.21 came to be framed against the appellants and accordingly they came to be tried. The prosecution in order to prove its case, has examined as many as 8 witnesses. P.W.No.1 Rameshwar Devidas Galdhar, who is the complainant, is examined at Exh.29. P.W.No.2 Dattatraya Digambar Chaure is examined at Exh.31 as a panch witness. P.W.No.3 Rameshwar Honaji Parate came to be examined at Exh.35, who is the Sanctioning Authority. P.W.No.4 Jamal Dagdu Shaikh came to be examined at Exh.37, who is the another panch witness. Prosecution has further examined P.W.No.5 Devidas Haribhau Kawale, who is the Manager of Kharedi Vikri Sangh, Kallam since 1993, at Exh.40. P.W.No.6 Kisan Dagdu Shinde was examined at Exh.43, who is the tempo driver of the complainant. P.W.No.7 Ramesh Tukaram Mali, who is the Jr.Clerk in Agricultural Market Committee, Kallam, came to be examined at Exh.44 and P.W.No.8 Vijayanand Baburao Gaikwad, the Investigating Officer came to be examined at Exh.58.

7. After recording the evidence, the learned Sessions Court held the appellants guilty for the charges lavelled against them and

convicted them by passing the judgment at Exh.69 dated 22.01.2002 in special Case No.6/1999. Appellant/accused Shamsing Ramsing Kayast was convicted for the offences punishable under Sections 7, 13(1)(d), r/w Section 13(2) of the Prevention of Corruption Act, 1988 and appellant/accused Mohan Dharmaraj Adsul for the offence punishable under Section 12 of the Prevention of Corruption Act, 1988 and sentenced them to suffer the punishments as prescribed in the judgment.

8. The learned Advocate for the appellants submitted that the learned Sessions Court has committed an error in convicting the appellants. According to him, the appellants, they were not the public servants and as such there is no such demand. He has further submitted that the demand is not proved beyond reasonable doubt. According to him, the demand and acceptance governs the offence in such cases, which is required to be proved beyond reasonable doubt. It is further submitted that the complainant is a trader and not the farmer, who is taking the cotton to the Marketing Federation Centre and since the appellant/accused being a Grader was refused to provide him service and therefore the dispute between them has occurred and in

order to implicate the appellant, the complainant has lodged false report. He has further submitted that at the cotton purchase centre, the cotton produce brought by the agriculturists only is required to be accepted and the traders are not allowed to unload their cotton at the said Centre.

9. The learned Advocate for the appellant / Shamsing Kayast further submits that the panch witnesses have not supported the testimony of the complainant. He has further submitted that on the aspect of recovery, the witnesses are not corroborating to each other. The Investigating Officer, in his testimony, has deposed that the tainted amount is recovered from the trouser of the appellant, whereas the panch witnesses deposed that the tainted amount is recovered from the left pocket of shirt of appellant Shamsing/accused No.1. He further submits that the amount was not accepted by the said appellant and the same was forcibly kept into the pocket of appellant No.1. He has further submitted that the appellant/accused No.1 had immediately submitted representation after the said trap and highlighted this aspect that the complainant has kept the amount in his pocket forcibly.

10. The learned Advocate for the appellant Mr.Kudale further submitted that the PW.No.1 / Complainant has admitted in his cross examination that he has not submitted any documentary evidence to point out that the cotton which he had taken to cotton entry was belonging to his own agricultural field. He has also not produced the 7/12 extract to the Investigating Officer to claim that the cotton was belonging to him and the same was produced in his own agricultural field. He has further submitted that PW.No.2 Dattatraya Chaure, panch witness, has admitted in his cross examination that he was not in a position to listen the verbal talk between the appellant/accused No.1 and the complainant and therefore the learned Advocate for the appellant submitted that with this quality of evidence, it is very improper for the learned Sessions Court to pass conviction against the appellants. The prosecution, having failed to prove that there was a valid demand and proper recovery from accused No.1/Shamsing. Therefore, he prayed for allowing the appeal filed by the appellant Shamsing.

11. The learned Advocate Mr.Shinde alongwith Mr.Latange for the appellant/Mohan Adsul in Criminal Appeal No.80/2002 has

submitted that this appellant is a daily wages employee and the complainant has at all not uttered a word against him in his complaint. A trap, which was led, was mainly on accused No.1/Shamsing and he is not involved in this crime and falsely implicated in this crime. He also further adopted the submissions of the learned Advocate Mr.Kudale, for the appellant in Appeal No.76/2002 and prayed for allowing the appeal against accused Mohan Adsul.

12. The learned Advocate for the appellants have relied upon the following judgments, and by referring to those judgments, the learned Advocates for the appellants in both the appeals prayed to allow their appeals. The judgments are as follow :-

[i] Aman Bhatia Vs State (GNCT of Delhi) [2025 SCC Online SC 1013]
[ii] Dadaji Fakroji Kharkar Vs. State of Maharashtra [2016 All MR (Cri.) 2177]
[iii] P.Satyanarayana Murthy Vs. Dist.Inspector of Police and another [AIR 2015 SC 3549]
[iv] Ashok Kumar Bhagchand Wardhani Vs. State of Maharashtra [2003 ALL MR (Cri.) 88]
[v] State of Maharashtra Vs. Laljit Tejshi Shah and others [1994(1) Mh.L.J. 452]
and the judgments of this Court in

[i] Cri.Appeal No.496/2009 (Sukhdeo Pandurang Jadhav Vs. State of Maharashtra)

[ii] Cri.Appeal No.366/2004 (Baburao Khanduji Satdive Vs. The State of Maharashtra)

13. The learned APP has strongly opposed the appeals. According to him, the prosecution has sufficiently proved its case and therefore the judgment passed by the learned Sessions Court deserves to be quashed and set aside. He has further submitted that the appellants/accused Nos. 1 and 2 are serving in the Cotton Purchase Centre and they are performing their public duty. He further took me through the depositions of P.W.Nos. 1 and 2 and pointed out that both the witnesses i.e. the testimony of the informant is very well corroborated by the evidence of P.W.No.2 Dattatrya Chaure, the panch witness and therefore the judgment passed by the learned Sessions Court is well reasoned and as such requires to be maintained, as it is.

14. After hearing the learned Advocates for the parties and on going through the record, it is clear that the complainant has taken the Anti Corruption Bureau Squad to the Hasegaon Cotton Purchase Centre. Admittedly, he has not produced the receipts to show that

the cotton which he had brought to the Cotton Purchase Centre, Hasegaon, was belonging to him and was produced in his own agricultural field. It has come in the evidence that the P.W.No.1 complainant used to take the cotton to the Centre on many occasions and he is known as a Trader and on this issue, there was quarrel between the complainant and accused No.1/Shamsing.

15. In such circumstances, it is necessary to examine as to whether the complainant is the interested witness to falsely implicate the appellants/accused Nos. 1 and 2 ? The witnesses have admitted that the cotton unloaded by the agriculturists showing the receipts of it's production and the documents pertaining to their agricultural field, is required to be submitted before the Cotton Purchase Center and only the said cotton used to be purchased and the appellant/Shamsing, who is the Grader used to weigh the said cotton. The prompt representation by appellant No.1/Shamsing to the Investigating Officer after the trap pointing out that the amount of bribe was forcibly kept in his pocket needs consideration because the same is submitted on the very same day. The appellant Shamsing, who is the Grader alleged to have demanded an amount of Rs.500/- from the complainant. On this

aspect, since the rivalry between the complainant and accused No.1/Shamsing is establishing, therefore his evidence is required to be examined minutely. The same requires corroboration from the other independent witnesses. However, on this aspect, the evidence of P.W.No.2, panch witness No.1, is specific that he could not listen as to what talk took place between the appellant and the complainant.

16. In that view of the matter, it is very difficult to ascertain that if there is clearly any corroboration to the testimony of P.W.No.1 Rameshwar. Hence, on the aspect of demand, the evidence of the prosecution is not sufficient.

17. Further, even on the aspect of recovery, there is no corroboration in the testimony of the Investigating Officer and the Panch witnesses. The Investigating Officer, in his testimony has stated that the tainted amount is recovered from the left pocket of the trouser of the appellant/accused No.1, whereas P.W.No.2 Dattatray/ panch witness has stated before the Court that the amount in question was recovered from the left pocket of the shirt of the appellant/accused Shamsing. This being a major discrepancy, the evidence of the

prosecution witnesses cannot be relied upon and therefore on this basis, the prosecution has virtually failed to prove the demand of money and its acceptance.

18. Considering all the facts stated above, the appeals are allowed in the following terms :-

[i] The impugned judgment and order passed by the learned Special Judge, Osmanabad in Special Case No.6/1999 dated 22.01.2002, convicting the appellants for the respective charge, is hereby quashed and set aside.

[ii] The appellants in both the appeals are acquitted from all the charges levelled against them.

[iii] The appellants are already released on bail by the learned Trial Court, hence they need not surrender before the Authority. Their bail bonds stand cancelled. Sureties, if any, stand discharged. Fine amount, if deposited by the appellants, be refunded to them as per rules.

[iv] R & P received in these appeals, be sent back to the concerned Court immediately.

[v] Muddemal property, if any, be destroyed as per rules.

(SUSHIL M. GHODESWAR, J.)