



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 52 OF 2025

The State of Maharashtra,
Through Police Inspector,
Police Station Kranti Chowk,
Dist. Chhatrapati Sambhajinagar.

... Applicant
(Orig. Prosecution)

Versus

Suresh Vishwanath More,
Age : 58 years, Occu. : Service,
R/o. Plot No. 10, Tornagad Housing Society,
Police Colony, Padegaon,
Dist. Chhatrapati Sambhajinagar.

... Respondent
(Orig. Accused)

.....
Mrs. A. S. Mantri, APP for Applicant – State.
Mr. Joydeep Chatterji, Advocate for Respondent sole.
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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 01 OCTOBER 2025

PRONOUNCED ON : 09 OCTOBER 2025

ORDER :

1. This application is at the instance of State seeking Leave to file Appeal against judgment and order of acquittal dated 19.11.2024 passed by learned Additional Sessions Judge, Chhatrapati Sambhajinagar in Special Case (ACB) No.10 of 2015 for offence punishable under sections 7, (13)(2) read with section 13(1)(d) of the Prevention of Corruption Act, 1988.

2. Learned counsel for applicant pointed out that, in this case accused is constable, whereas complainant PW2 is also constable. That, complainant had applied for allotment of quarter. That, accused who was posted as a Police Head Constable, had allegedly demanded illegal gratification of Rs.12,000/-. That, as complainant was in need of shelter, he complied part demand i.e. Rs.3,000/- and the remaining amount was to be given subsequent to the work. That, meanwhile, he reported ACB authorities to file complaint, on the basis of which ACB authorities had arranged trap. Learned APP pointed out that, ACB authorities arranged independent panch i.e. PW3 Vijay. PW2 complainant and PW3 independent panch are consistent and corroborating to each other on material counts. That, in presence of shadow panch accused demanded remaining amount, accepted it and thus, according to learned APP, essentials of both, demand and acceptance are available. That, there was voice sample of accused regarding demand. That, sanction has been duly obtained and said authority has been duly examined. That, therefore there was legally acceptable evidence in support of the charge. Learned trial court has failed to consider and appreciate such quality of evidence. There are sound grounds to be agitated and contested in appeal and she urges for leave to file appeal.

3. In answer to above, learned counsel for respondent would

point out that prosecution has miserably failed to bring home the charges and submitted that there is crucial witnesses. That, shadow panch did not fully support, rather he turned hostile and is rather flip-flop witness. According to him, evidence of complainant was without sufficient corroboration. He further pointed out that, first alleged demand is of June 2014 and second demand is of 3rd July 2014 and third demand of alleged conversation of remaining amount of Rs.9,000/- is said to be on telephone of which there is no CDR and which is admitted by Investigating officer in cross examination. He further pointed out that, here, after the trap, complainant and accused were in one room and the Investigating Officer was in another room, and therefore, case of prosecution is shrouded in suspicion, rendering it unworthy of credence. That, thus he supports the judgment and order of acquittal and prays to dismiss the leave application for want of merits.

4. Perused the evidence as well as impugned judgment and order. PW1 Sandeep Aatode, Deputy Commissioner of Police seems to be the Sanctioning Authority; PW2 Ajay original complainant; PW3 Vijay shadow panch; and PW4 P.I. Pravin More, are the main witnesses and their testimonies are at Exhs.30, 41, 45 and 57, respectively.

5. Sum and substance of the prosecution case is that,

complainant and accused was working in police department and PW2 complainant was in need Government quarter and had duly applied for the same, whereas, accused was a Head Constable. Allegations are that, there was demand of Rs.12,000/- for allotment. Rs.3,000/- were paid and before remaining amount was to be paid, report was lodged with ACB authorities, resulting into action for the said demand.

6. PW2 complainant deposed as per his report. But, in his cross examination he has admitted that conversation with accused was about expected expenditure for repair works and accused putting Rs.10,000/- to Rs.12,000/- amount in that connection. From the cross of complainant it also emerges that accused, at his own instance introduced the topic of bribe, before it was demanded by accused. Thirdly, as pointed out by learned counsel for respondent, this crucial witness was permitted to refer the notes, i.e. just before stepped into the witness box. Therefore, as submitted, version of complainant has a blend of being updated prior to give testimony and not his personal version.

7. PW3 Vijay, shadow panch, who is expected to corroborate, has at one point of time refused to support prosecution and subsequently admitted all suggestion put to him. Thus, he is flip flop witness and hence unworthy of credence.

8. Learned APP has raised strong objection to the observation of trial court on the point of sanction to be invalid. However, as pointed out, it has come on record that PW1 was Deputy Commissioner of Police in the office of Police Commissionerate, whereas accused was appointed by Superintendent of Police, and therefore, said authority was only competent to accord sanction. This has not happened in this matter. This witness could not produce any letter regarding delegation of powers by the Commissioner of Police to sanction the prosecution of accused. Therefore, for above reasons, learned trial court has dealt with the legal position and has refused to accept the case of prosecution. This court does not find any legal valid point raised so as to accord leave as prayed. Hence, I proceed to pass the following order :-

ORDER

- (i) The leave is refused.
- (ii) The application for leave to appeal by State is rejected.

(ABHAY S. WAGHWASE, J.)