



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 249 OF 2013

The State of Maharashtra,
Through Dy.S.P.,
Anti Corruption Bureau,
Jalgaon.

... Appellant

Versus

Ravindra Pitambar Bahadare
Age 50 years, Occu. Service,
R/o Phupani, Tq. and Dist. Jalgaon.

... Respondent
[Orig. Accused]

.....
Mr. D. R. Korade, APP for the Appellant-State.
Mr. Joydeep Chatterji, Advocate for the Respondent.
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 24.09.2025

Pronounced on : 03.10.2025

JUDGMENT :

1. The State appeal hereby takes exception to the judgment and order dated 14.05.2012 passed by learned Ad-hoc District Judge-1 and Additional Sessions Judge, Jalgaon in Special Case No. 7 of 2010 acquitting the accused from charges under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 [for short, "PC Act"].

2. In nutshell, the case of prosecution in trial court was that, the ACB authorities were in receipt of complaint from PW1 Sonawane regarding present respondent-accused, working as a Talathi, demanded bribe for taking necessary entry in 7/12 extract on the strength of alleged partition deed between complainant and his wife, and for doing the needful, he initially demanded Rs.25,000/- and himself brought down the figure to Rs.13,000/- and then finally to Rs.3,000/-.

As complainant PW1 was not willing to pay bribe, he lodged report with ACB authorities vide complaint Exhibit 14, on the basis of which the Investigating Officer planned, arranged and executed trap. After obtaining sanction, accused was made to face trial before the Special Court vide above Special Case.

Five witnesses were examined by prosecution in support of their contention. Defence also adduced evidence of one witness. After appreciating the said evidence, learned trial court vide above judgment, was pleased to acquit the accused on the ground that case has not been proved beyond reasonable doubt and that, defence of accused is probalilized.

Feeling aggrieved by the above, the State has come up in appeal.

3. Learned APP would point out that *de facto* complainant had approached accused, who was a Talathi in Tahsil office, for taking entry of partition deed executed between complainant and his wife. That, for doing said official work, demand of Rs.25,000/- was raised and accused himself, on next occasion, questioned complainant whether amount was too much for him and on third occasion, he himself reduced amount from Rs.25,000/- to Rs.3,000/- and directed accused to pay him bribe.

4. Learned APP further pointed out that PW1 promptly approached ACB authorities about demand of illegal gratification. That, the Investigating Officer noted report, summoned pancha, introduced him to the complainant, who appraised him too regarding above demand and that, after giving necessary instructions, trap was planned and tainted currency was handed over with specific instructions to pay bribe on demand and raiding party was waiting in lay by laying the trap. That, while complainant was accompanied by the shadow pancha, there was demand as well as acceptance and therefore, trap was executed and accused was apprehended. Thus, according to learned APP, necessary ingredients for attracting the charges for demanding illegal gratification and accepting it too, are completely available here. He further submitted that both,

complainant and shadow pancha, are unanimously deposing about demand as well as acceptance. This crucial aspect has not been considered by the learned trial Judge.

5. Learned APP pointed out that undue importance is given to the aspect of demand by way of gestures when it was clearly indicative of money being demanded, and failure to reflect to that extent in the spot panchanama. Therefore for above reasons, learned APP urges to allow the appeal by interfering and setting aside the impugned judgment.

6. In answer to above, learned defence counsel pointed out that, here, very demand has not been cogently proved. That, complainant who was in police department and was in a habit of grabbing land, was facing several proceedings. That, his demand in that connection was not admitted by respondent accused and therefore false complaint has been lodged to implicate him out of annoyance. Learned counsel further pointed out that here, there is alleged demand by making gestures, but same is not reflected in the spot panchanama which was drawn immediately after alleged trap and the very Investigating Officer has admitted to that extent.

7. Learned counsel for the respondent-accused further pointed out that it is a case of thrusting and specific defence set up by accused in trial court is in that direction and even witness DW1 has been examined on such count. Learned counsel pointed out that evidence of DW1 has not been rendered doubtful. Therefore, defence has succeeded in discharging their onus and on the contrary, prosecution has failed to discharge their primary burden of establishing the case beyond reasonable doubt. For above reasons, learned counsel for the respondent-accused prays to dismiss the appeal for want of merits.

8. Re-appreciated the entire evidence, more particularly on the lines of grounds raised by the prosecution.

9. As usual, crucial evidence is of *de facto* complainant PW1 and the shadow pancha PW2, as it is fairly settled that in cases of such nature, complainant is always looked upon as an interested witness and therefore, by way of abundant precaution, corroboration is insisted for, i.e. from the shadow pancha who is supposed to be in the company of complainant at the time of trap.

10. Visited the evidence of PW1 complainant at Exhibit 13. The substance of his evidence is that, for effecting entry of partition deed executed between himself and his wife on a stamp paper of Rs.100/-, he had approached accused Talathi on 19.11.2009 and claims that he could not meet accused and therefore he developed contact with accused on cell phone. That time, accused allegedly told him that he would meet him near Neharu statue and accordingly, complainant went there and claims that, for forwarding report regarding partition, demand of Rs.25,000/- was raised. He further stated that on 28.01.2010, accused was approached again and that time accused himself asked whether amount of Rs.25,000/- is more for him and then reduced the figure to Rs.13,000/-. As complainant allegedly told him that he is unable to pay that much amount also, accused asked to pay Rs.3,000/- for issuing notice and therefore, report to that extent was lodged (Exhibit 14). However, as pointed, said report is not of 28.01.2010 but is apparently of 30.01.2010. Then he deposed about he and pancha visiting Talathi office, approaching accused, and claims that when he asked about his work, accused said whether his work was done as was told, and was duly informed about money would be brought by his son. Thereupon, accused allegedly told him to come after some time. Again after a while, he claims that he and pancha approached accused and at that time, accused allegedly made

gestures with hand and also said that “पैसे देवुन टाका” and so, he removed the tainted currency which was allegedly counted by accused and pocketed, followed by relay of signal and apprehension of accused.

Initial cross is on the alleged partition deed and in relevant cross, complainant has been questioned that, when demand was raised on 19.01.2009, why no complaint was made till 28.01.2010, and answer to this question given by the complainant is that, on 19.11.2009 he had made oral complaint to the Dy.S.P. Deshmukh in his office. In the remaining cross, he has admitted about proceedings initiated against him on various grounds. He has been given a direct suggestion of amount being thrust, which is denied by him.

11. Another crucial witness is PW2 Vijay Hiware, shadow pancha and he, in his evidence at Exhibit 18, also stated that when he and complainant approached accused in Talathi office, accused told them to wait for some time as there was rush in the office and then Talathi made gestures and also said to complainant “आपले काय झाले?”. After a while, when they went back, complainant was again asked whether his son has arrived, upon which complainant told accused that his son has come and also brought money, and it was removed and handed over to accused, who counted it and pocketed it.

Cross of this witness is mainly on the point of, whether written complaint was shown to him, what was the date of application moved by complaint and whether there was any inquiry by Dy.S.P. with the complainant for not lodging report between 06.08.2009 to 19.11.2009. He answered that Dy.S.P. did not note the phone number of complaint. Further cross is on the geographical state of the office of Talathi, writing of panchanama, time required for writing panchanama, time of reaching Jalgaon. In para 13, this witness has answered that this was the fifth time he was giving evidence in the Court. Rest is all denial.

12. Therefore, on meticulous re-appreciation of above evidence of PW1 and PW2, the distinct features which are emerging are that, firstly, alleged demand was raised on 19.11.2009, however, report Exhibit 14 is lodged after a gap of more than two months i.e. on 30.01.2010. Secondly, both, PW1 and PW2 speak about demand being made by hand gestures and they also reproduced what accused alleged said, but said utterance is apparently distinct. Therefore, on the point of demand, as pointed, there is material about making demand by way of gestures and evidence on that count is not credible.

13. As regards the acceptance is concerned, specific defence set up here is that, amount was thrust, and there is specific suggestion also on such lines to both the witnesses, though they have apparently denied the same. However, here, defence has adduced evidence of DW1 Ratilal Sapkale who was also allegedly a visitor to the office and who had went to Tahsil office to seek documents. He has stated about the act of deliberately thrusting money and accused taking out the same to see as to what was put by complainant in his pocket. Therefore, there is material suggesting attempt to thrust bribe amount. Defence is merely expected to probabalize their defence and not expected to prove defence with said degree, with which prosecution is expected to substantiate their case.

14. Apart from above defence, accused has also cross-examined witnesses on the point of complainant to be working in police department and misusing his powers for grabbing lands and several complaints being lodged to that extent, which he too has admitted while facing cross. Specific case of defence is that complainant had asked accused to do some type of work pertaining to land, which accused had allegedly refused. Therefore, coupled with above, there is also reason for annoyance of complainant.

15. For above reasons, case of prosecution is not proved beyond reasonable doubt and has rather come under shadow of doubts for above said reasons. The view taken by learned Trial Judge is the only probable view that could emerge with such quality of evidence. No case made out on merits. Hence, following order is passed :

ORDER

The Criminal Appeal is hereby dismissed.

[ABHAY S. WAGHWASE, J.]

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