



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

CRIMINAL APPEAL NO. 361 OF 2004

The State of Maharashtra

....Appellant

Versus

Arun Sambhajirao Bansode
Age: 43 years, Occu.: Talathi,
Sajja Shingoli, Tahsil Office,
Osmanabad.

.....Respondent
(Ori. Accused)

.....
APP for Appellant : Mr.V.S.Badakh
Advocate for Respondent : Mr. Pathan Sartaj Khan H.

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 23 SEPTEMBER, 2025

PRONOUNCED ON : 04 OCTOBER, 2025

JUDGMENT :-

1. In this appeal, there is challenge by the State to the Judgment and order of acquittal dated 07-02-2004 passed by learned Special Judge, Osmanabad, in Special Case (A.C.) No.6 of 1998.

FACTUAL MATRIX

2. Prosecution was launched against present respondent on being chargesheeted by the Anti Corruption Bureau (ACB) authorities for the charge under Sections 7, 13(1)(d) read with 13(2) of the

Prevention of Corruption Act alleging that, PW2 complainant, had approached respondent for taking entry of existence of bore well in the field, to enable him to obtain electricity connection. For doing such work, there are allegations that accused demanded Rs.300/- and accepted Rs.100/- as part payment. On report of PW2 complainant, ACB authorities planned and executed trap in presence of shadow panch where in there was alleged demand to the complainant of illegal gratification as well as its acceptance. On above charges, respondent faced trial before learned Special Judge, Osmanabad, who had occasion to examine in all eight prosecution witnesses as well as documentary evidence.

On appreciation of oral and documentary evidence, present respondent stood acquitted by judgment and order dated 07-02-2004. Hence, instance appeal by State.

SUBMISSIONS

On behalf of appellant State :

3. Learned APP took this Court through evidence of PW2 and would submit that this witness in his evidence justified that for taking entry in 7/12 extract, approached respondent, a Talathi, who demanded Rs.300/- as bribe. Therefore, complainant, who was in

Military services, had approached ACB and had lodged report on the strength of which, ACB authorities planned trap by arranging independent witness, panch and given both complainant and shadow pancha necessary instructions about execution of trap. Learned APP pointed out that, apart from evidence of PW2 complainant, prosecution adduced evidence of PW3 shadow pancha. That, they both are consistent on material counts. That, essential ingredients for attracting the charges i.e. demand and acceptance are demonstrated and substantiated.

4. Learned APP further submitted that, after investigation was completed, chargesheet and papers were referred to Sanctioning Authority PW1, who had applied mind and thereafter, accorded sanction, thus, according to learned APP, a full-proof case was tendered before learned trial Court, but because of improper appreciation of evidence and minor inconsistencies in evidence, acquittal has resulted and therefore, it is urged to allowed the appeal by setting aside the impugned judgment.

On behalf of Respondent / Accused :

5. Learned counsel for respondent supported the order of

acquittal by submitting that, prosecution had failed to establish the case beyond reasonable doubt. Learned counsel pointed out that evidence of PW2 complainant did not find complete support from PW3 shadow pancha or even very Investigating Officer. That, very aspects of demand and acceptance has come under shadow of doubts. That, witnesses PW2 complainant and PW3 shadow pancha are not consistent and there are variances on various counts. He further pointed out that, here sanction order, though obtained through PW1 sanctioning authority, very sanction order, which was purportedly issued, was typed by staff by referring to model sanction order and moreover, sanction order is issued in two languages i.e. English and Marathi and one of the sanction orders is not on record. Accordingly, it is submitted that case of prosecution has suffered serious blow and therefore, was not worthy of credence and consequently, it rightly came to be dismissed.

Learned counsel relied on the decision of the Hon'ble Apex Court in the case of *Mir Mustafa Ali Hasmi v. The State of A.P.* in Criminal Appeal (arising out of SLP (Cri.) No(s).9091 of 2022) dated 10-07-2024; *Madan Lal v. State of Rajasthan, 2025 (LiveLaw (SC) 310)*, and the Judgments of this Court in the cases of *Vijay s/o Wasudeo Shende v. The State of Maharashtra, 2024 ALL MR (Cri)*

2132; State of Maharashtra v. Baliram s/o Vithoba Bhute, 2024 ALL MR (Cri) 2150; Manoj Ramesh Waghela v. The State and Maharashtra dated 19-07-2024; The State of Maharashtra (ACB C.R.No.20/2002) v. Ramesh Khandu Salve dated 05-03-2021; as well as Judgment of High Court of Gujarat in the case of Ajitkumar Somnath Pandya v. State of Gujarat, LAWS (GJH)-1991-8-51.

EVIDENCE IN TRIAL COURT

6. In support of its case, prosecution has adduced evidence of in all eight witnesses. Sum and substance of their evidence is as under :

PW1 Dr.Satish Shankar Bhide is the Sanctioning Authority. At exh.14, he deposed as under :

“1. Presently I am serving as Additional Collector Nagpur. On 21.11.98 I was serving as Sub. Divisional Officer, Osmanabad. Arun Sambhajirao Bansode, was serving as Talathi of Sajja Shingoli Tq. & Dist. Osmanabad at that time. I was the appointing and removing authority of all the Talathi under Osmanabad Sub-Division including Arun Shabhajirao Bansode, because I was Sub-Divisional Officer Osmanabad.

2. I received papers of investigation pertaining to crime no.27/98 from Dy. S.P., A.C.B. Osmanabad. for the purpose of considering the question of issuing sanction to prosecute Arun Sambhajirao Bansode. Sanction was required to be issued for prosecuting the accused under Prevention of Corruption Act. It was the story that, the complainant had dug Bor-well in his lane and wanted to take entry there of in the 7/12 Extract. For that

purpose the accused Arun Bansode demanded Rs.500/- as bribe, but ultimately the matter was settled for Rs.300/-the Demand was made on 16.5.98. On 18.5.98 Rs.100/-were paid and balance of Rs. 200/- was to be paid on 20.5.1998. The accused was trapped by A.C.B. Officer while accepting the bribe amount of Rs. 200/- from the complainant. All the papers pertaining to trap proceedings were forwarded to my office. I received the papers on 23.5.98.

3. I read all the papers of investigation which included the complaint of complainant, pre-trap panchnama, post-trap panchnama, and statements of witnesses and after applying my mind to all the documents and facts I came to the conclusion that, sanction to prosecute the accused should be granted and accordingly I issued sanction order. I issued sanction in two languages namely Marathi & English and in triplicate. I will be able to identify sanction orders if shown to me. I am now being shown sanction order dt. 21.12.98 bearing outward no. EST/WS/1998/528. It bears my signature and the seal of my office, its contents are correct. It is at Exh. 15. This sanction order is in English. (There is no Marathi sanction order in the record and proceeding of this case.) On 1.6.98 I forwarded to the A.C.B. the true copies of first page of service book and the appointment and posting order pertaining to the accused. The letter now shown to me is same, it bears my signature, its contents are correct, The documents attached therewith are true copies pertaining to service record of the accused. Letter exhibited at Exh. No, 16. and documents attached there on are at Exh.16/1, 16/2 and 16/3.”

PW2 Adinath Bhimrao Shinde is complainant. At exh.30, he deposed as under :

" 1. During the year 1998 I was serving on the post of Naik in Indian Military and my place of posting was at Jamnagar in Gujrat State. Shingoli is my native place. My parents are staying at my Shingoli. There is land standing in the name of my father at Shingoli bearing Gat No.203

admeasuring one hectare. In the year 1996 the bore well was dug in this land.

2. *On 8.5.98 I came to Shingoli on two months leave. I had decided to install electric motor on the bore well. Therefore, I contacted the MSEB Officers for getting an electricity connection. The officers told me that I should produce the 7/12 extract having the entry regarding the existence of the bore-well. I asked my father and some elderly person as to how the entry regarding existence of the borewell is to be taken to the 7/12 extract. Everyone told me to contact Talathi of Shingoli.*

3. *On 16.5.98 at 10 a.m. I met the accused, who was then working as Talathi in his residence at Bhimnagar, Osmanabad. The accused told me that he is the Talathi of Shingoli village. I told him about my problem to him. The accused asked me to give one application under the signature of my father to him for making necessary entry in the record of rights. He also told me that for finishing this work the sum of Rs.500/- should be paid to him. I asked him the purpose for which he demanded the amount. He told me that for completing the work, I have to pay him that amount. I told him that I was not having that much of amount and I also told him that it was the need to get entry of the existence of the bore well to the 7/12 extract. Since I was in problem. I thought it to pay the sum of Rs. 300/- for this work to the accused. The transaction was settled between myself and the accused for Rs.300/-.*

5. *On 18.5.1998. I handed over the application duly signed by my father and the blank paper duly signed by four persons to the accused. Accused asked me to pay the settled amount of Rs.300/-. I paid him the sum of Rs.100/- and assured him to pay the remaining balance afterwards. He told me that he would complete the work on 20.5.98, and asked me to get the 7/12 extract on that day from him by paying Rs.200/- to him. Thereafter I home returned back to him and narrated all these details to my father.*

6. *On 19.5.98 at 10 a.m. I visited the office of Anti-corruption Bureau, Osmanabad. I narrated all the details and put-forth my grievances to the Police Officers there."*

PW3 Prakash Uttamrao Tekale is Shadow Panch. His evidence is at Exh. 34.

"2. *On 19.5.98 myself and Sanjay Ramrao Eklare were called at Anti-corruption Bureau (ACB) Osmanabad. One Adinath Bhimrao Shinde was present there.*

4. *Shri.Adinath Bhimrao Shinde was present in the office of Anti Corruption Bureau Dy.SP, Shri. Dabkekar introduced him to us. He told us to hear his complaint. He told in our presence that one landed property was standing in the name of his aged father and that some entry was to be made regarding the bore well dug in it in the year 1996. He told us that he contacted the accused for that purpose and that the accused had demanded the sum of Rs.500/-from him as bribe to take the entry. Thereafter, in negotiations the amount between the two was settled for Rs.300/-. He also told us that as instructed by the accused he had obtained the signatures of four adjoining land owners on the blank paper and that he had paid the sum of Rs.100/- and the remaining sum of Rs. 200/- was to be paid to the accused on 20.5.98. He also told in our presence that he had brought the sum of Rs. 200/-. The typed complaint was to us the contents from it were narrated in our presence by Adinath Shinde. Thereafter, myself and other pancha Sanjay signed on it. complaint shown is the same, Exh.32.*

5. *Thereafter, in Anti Corruption Bureau one Anande, PC showed us the anthracene powder and also told its effects in ultraviolet lamp. He also told us that if the anthracene powder is seen in ultraviolet lamp then it appears with blue-white shining. Thereafter, complainant Shinde handed over two notes each of the denomination of 100/- to PC, Anande. Shri.*

Anande, PC kept those two notes on one plain paper and applied anthracene powder to it by cotton boll. Then PC Anande kept those two notes in the pocket of the wearing shirt of complainant Shinde. Then Shri. Dabkekar, Dy. A.P told Shri. Shinde that on demand these two notes should be paid to the accused. I was asked to accompany Shinde and to hear the talk between Shinde and the accused. Other pancha Sanjay Eklare was asked to join with other members of raiding-party. DY.S.P. asked Shinde that in case the amount is accepted by the accused then by way of signal he should raise his hand and throw the bag from his hand. He also instructed him to be lift it again and to throw it on the ground. Thereafter, the pretrap panchnama was written there from 9.00 a.m. to 10.30 a.m. It is now shown to me. The contents therein are correct. It bears my signature as also the signature of other pancha Exh. 10.

6. Thereafter, myself and complainant Shinde left Anti corruption Bureau at 10.30 a.m. and reached the office of Tahsildar, Osmanabad at 10.40 a.m. Shinde inquired about accused. We were told that the accused was working in Bachat Bhawan. My self and Shinde went in Bachat Bhawan and we saw the accused there wearing Paizama and Nehru shirt. Shinde asked the accused whether 7/12 extract was prepared. The accused told him that it was ready. He then asked Shinde as to whether he had brought the amount. Shinde told him that he had brought the amount. Shinde asked accused to join for a cup of tea Thereafter, myself complainant Shinde and the accused went in Canteen which is in the campus of Tahsil office. The accused sat on one bench facing towards east and myself and Shinde were sitting on other bench facing toward the west. Shinde gave order for tea. We all took a cup of tea. Thereafter. Shinde paid the bill and again sat on his bench. Then accused handed over 7/12 extract to Shinde. Shinde collected it and kept it in a bag. Thereafter Shinde paid the amount from his wearing shirt and the accused accepted it. Thereafter, Shinde lifted the bag and kept it on the table. He again lifted the bag. At that time, two constables rushed and entered into the room from the window. Thereafter, they caught hold of both the hands of the accused. Thereafter, the accused

tried to take his amount from his left hand into right hand and to put in into his mouth".

PW4 Trimbak Digambar Joshi is Panch Witness to trap panchanama. His evidence is at Exh. 39.

PW5 Maya Sripati Damodhare is PHC, who registered Complaint. Her evidence is at exh.40.

PW6 Dashrath Dnyanoba Mundhe is Panch witness to panchanama of existence of bore well. His evidence is at Exh. 41.

PW7 Venkat Jaisingrao Dabkekar is Investigating Officer, who initially carried out investigation and later on handed over the investigation to PW8. His evidence is at Exh. 46.

PW8 Kalidas Shankarrao Suryawanshi is Investigating Officer. His evidence is at Exh. 57.

ANALYSIS

7. On one hand, according to appellant State, evidence of complainant PW2 Adinath, and shadow pancha PW3 Tekale is

consistent on both counts i.e. demand as well as acceptance and accused was caught raid-handed and therefore, charges stand proved. On the other hand, respondent/accused put up a specific case that, firstly, evidence of both complainant PW2 Adinath and shadow pancha PW3 Tekale is inconsistent on the chronology and sequence of events and they are not lending support to each other rendering the case doubtful. Secondly, electronic evidence by way of voice sample is not supported with necessary certificate and thirdly, there is no valid sanction and therefore, any trial without valid sanction does not stand.

8. Studied the evidence of complainant **PW2** Adinath at exh.30. Substance of his evidence is that, he had approached accused, a Talathi, for taking entry of existence of bore well in his agricultural land to avail benefits of electric connection to enable him to install electric motor to the bore well. In that backdrop, he claims that on 16-05-1998, he approached accused, who initially asked to him to tender an application and then put up demand of Rs.500/- to do the work. According to him, the deal was finalized at Rs.300/-. Complainant paid Rs.100/- to accused on the said day. However, he approached ACB authorities and lodged report exh.32 against

accused for demanding illegal gratification.

On the strength of the same, PW7 Dabkekar, Investigating Officer, summoned pancha, then complainant and shadow pancha were given instructions and complainant was asked to bring currency to apply anthracene powder and thereafter, both were instructed to approach accused and specifically instructed to pay tainted currency by way of bribe only on demand and then relay necessary signal.

In paragraphs 10 and 11, he has narrated the events after approaching Tahsil Office i.e. in the office of accused in Bachat Bhavan and in his evidence, he submitted that after approaching accused, who was busy in work, he was asked regarding the work and accused allegedly told that he has done the work and further asked regarding the balance amount. Complainant claims that he suggested accused to come out for taking tea in a hotel and accordingly, he himself, shadow pancha and accused went to the canteen. There, he claims to have placed order for tea and before waiter could bring the same, he claims that accused handed over to him the 7/12 extract, he got it confirmed that accused had made necessary entry and kept the same in his bag. This was followed by serving of tea by waiter and then accused asked, who was the person accompanying him and complainant introduced him as brother-in-

law. He further testified that, thereafter, accused said to him that he has done his work and asked for the remaining amount. Then, complainant allegedly removed the notes from front pocket of his shirt and then handed over to accused, who allegedly accepted it after which predetermined signal was relayed, raiding party waiting in lane caught hold of accused, who tried to make efforts to escape from their clutches.

This witness has faced **cross-examination**. The relevant cross-examination to which learned counsel for respondent invited attention commences from paragraph 16 i.e. which is pertaining to the events that emerged in the office and canteen. In paragraph 17, witness answered that he had asked accused in the office itself that whether his work was done and he was told by accused that it was done. Thereafter, all suggestions are denied.

9. **PW3** Tekale is shadow pancha and he in his evidence at exh.34, in paragraph 4, stated about being called to ACB office, he being introduced to complainant PW2, who allegedly briefed about demand of Rs.300/- raised by accused for taking entry in 7/12 extract and he also stated about procedure explained by ACB authorities. In paragraph 6, he stated that he and complainant both

reached office of the Tahsildar, Osmanabad. He stated that complainant asked accused whether 7/12 extract was prepared. He deposed that, accused told complainant that it was ready. He then deposed that, accused asked complainant as to whether he has brought the amount. That, complainant told him that he has brought the amount. Thereafter, complainant asked him to join for a cup of tea and they all come in canteen and had tea and here, according to this witness, accused handed over 7/12 extract, complainant collected it and kept it in his bag and paid amount to the accused, who accepted it followed by apprehension of accused by ACB authorities.

Above witness has also faced extensive **cross-examination** wherein he deposed in paragraph 8 that, after reaching Bachat Bhavan, accused was approached and complainant asked accused whether copy of 7/12 was ready and accused told that it was kept ready. This witness stated that they were there for 5 to 10 minutes and thereafter, he denied the suggestion that complainant asked accused to join for a cup of tea and accused was denying to join for tea. He answered and admitted that accused took with him a copy of 7/12 extract and come with complainant to tea stall. He admitted that they had cup of tea first and thereafter, accused handed over

7/12 extract to complainant. He admitted that thereafter, it was kept by the complainant in his bag. However, he denied that complainant PW2 tried to put amount in the pocket of shirt of the accused and at that time, some scuffle took place between accused and Shinde.

10. On complete re-appreciation, here as submitted by learned counsel for the respondent, PW2 complainant and PW3 shadow pancha are not consistent about chronology of events which took place after accused was approached in his office i.e. the events narrated by PW2 complainant in his evidence about he himself requesting the accused to join for cup of tea and then they come out and went to a tea stall and there demand being put up by accused following by handing over of the 7/12 extract, complainant handing over tainted currency and thereafter, on relaying predetermined signal, raiding party apprehending accused. The sequence of accused handing over copy of 7/12 extract and complainant keeping it in bag is also not consistently stated by these two witnesses. Cross-examination of PW3 shadow pancha shows that though suggestion of amount been tried to thrust is denied, there is material suggesting some scuffle taking place between accused and complainant while handing over the cash and pocketing it. Defence has come with a

specific case of thrusting.

11. Learned counsel for the respondent pointed out that here evidence of PW2 complainant also does not find support from the evidence of the PW7 Investigating Officer. He pointed out that timing of lodging report is not consistent as stated by these witnesses, who are crucial on the point of very entertaining of complaint by ACB authorities. On such count, if evidence of PW2 complainant is visited, it is emerging that he stated that while lodging exh.32, he approached office of accused on 19-05-1998 at 10 a.m., however, surprisingly, PW7 Dabkekar, Investigating Officer, who took cognizance of complaint, has stated about complainant approaching him at 04:00 p.m. and not 10:00 a.m. Therefore, there is a huge gap and different timings quoted by these two witnesses raising doubt about lodgment of complainant exh.32 on 19-05-1998.

12. Learned APP raised strong objection by pointing to the evidence of **PW1** sanctioning authority and has submitted that here PW1 Dr.Satish Shankar Bhide, who was working as Additional Collector and has accorded sanction, has examined at exh.14 and he, in his evidence testified that, he received papers from the

Investigating Officer, about trap by ACB on accused and for receiving sanction to prosecute him. According to him, he has received said papers on 23-05-1998. He claims to have read all the papers including complaint, pre-trap panchanama, post trap panchanama, statement of witnesses and then further deposed about applying his mind to all these documents and coming to conclusion that sanction needs to be accorded and accordingly, he also accorded sanction on 21-12-1998.

While in **cross-examination**, he admitted that in the Sanction Order dated 21-12-1998, details of papers perused by him are not reflected and no grounds of satisfaction are stated therein. He answered that above papers were with him for one and half month. In paragraph 5, he answered that Sanction Order was typed by Steno-Typist by referring model sanction order.

13. Therefore, what is emerging from above evidence of PW1 Sanctioning Authority is that, this Officer has received papers on 23-05-1998 itself, however, Sanction Order, authorizing sanction to prosecute accused, was issued on 21-12-1998 i.e. after almost seven months. He answered that investigation papers were with him for one and half month. PW7 Investigating Officer, who has noted

complaint exh.32, and has conducted investigation, did not move PW1 Sanctioning Authority for according sanction. PW7 Investigating Officer has stated that, after conducting investigation, he handed over investigation to one Kalidas Shankarrao Suryawanshi i.e. PW8 on 26-05-1998, who in spite of taking over investigation on 29-06-1998, it has come in his evidence that he did not send original file directly to Sanctioning Authority for obtaining sanction. According to him, Superintendent of Police (ACB), Aurangabad had sent that file to Sanctioning Authority. Therefore, there is material suggesting that prosecuting agency i.e. A.C.B. did not move Sanctioning Authority within time. It is further emerging from the evidence of PW1 Sanctioning Authority i.e. inspite of receiving papers, he has sat over the same for over one and half month and moreover, he admitted that his Steno Typist has prepared the Sanction Order exh.15 as per the model standing order.

14. In the light of above discussion, on re-appreciation and reanalysis of evience, even this Court is convinced that PW2 complainant and PW3 shadow pancha, who are crucial witnesses, are not consistent on the chronology of events. Very lodgment of report has come under shadow of doubt. Prosecuting agency has delayed

the process of obtaining sanction. Sanctioning Authority has signed over the sanction order, which is copied from the model sanction order and Sanction Order is prepared by the Steno-Typist by referring model sanction order. For above reasons, the case of prosecution does come under shadow of doubt.

15. In the light of above quality of evidence, no fault can be found in the findings and reasons assigned by the learned trial Court for acquitting accused. Therefore, appeal deserves to be dismissed. Accordingly, I pass following order .

ORDER

Criminal Appeal is hereby dismissed.

(ABHAY S. WAGHWASE)
JUDGE