



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

**CRIMINAL APPEAL NO. 669 OF 2006**

The State of Maharashtra  
Through Police Station, Kingaon,  
For S.B.Patil, PI. ACB,  
Latur.

..Appellant

Versus

Premanand s/o Shivrajappa Gore  
Age: 45 years, Occu.: Service,  
Helper to Lineman,  
R/o. Kingaon, Tq.Ahmedpur,  
District Latur.

..Respondent  
(Orig. Accused)

.....  
APP for Appellant : Mr. P.P. Dawalkar  
Advocate for Respondent : Mr. Joydeep Chattarji  
.....

**CORAM : ABHAY S. WAGHWASE, J.**

**RESERVED ON : 03 DECEMBER, 2025**

**PRONOUNCED ON : 05 DECEMBER, 2025**

**JUDGMENT :-**

1. In this appeal by State, there is challenge to the judgment and order dated 18-05-2006, passed by learned Special Judge, Udgir, Camp at Ahmedpur, in Special (ACB) Case No.11 of 2005, by which present respondent stood acquitted from offence under Sections 7, 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988.

**FACTS IN NUTSHELL**

2. Prosecution was launched against present respondent on the premise that there was D.P. problem in village Khanapur and Chatewadi and therefore, villagers had approached Maharashtra State Electricity Board (MSEB) office, Kingaon. A representation about this problem was given to Mr.Dhembre Patil, Junior Engineer, MSEB office, Kingaon. Mr.Dhembre Patil orally ordered accused Gore, who was a Helper to Lineman to rectify the problem of D.P. It is alleged that for doing the said work, accused had demanded Rs.500/- bribe and therefore, PW1 Atul lodged report with Anti Corruption Bureau (ACB) resulting into arranging panchas, laying trap, apprehending accused and chargesheeting accused.

At trial, prosecution adduced evidence of in all six witnesses i.e. PW1 complainant, PW2 shadow pancha, PW3 Sarpancha of village Khanapur, PW4 sanctioning authority, PW5 Junior Engineer of MSEB and PW6 Investigating Officer, PW7 P.I. Malegaon (City).

On appreciation of evidence of above witnesses, learned trial Court acquitted accused by holding charges not to be proved. Hence, present appeal.

## SUBMISSIONS

### On behalf of State :

3. According to learned APP, there is no dispute that accused was working as Helper to Lineman in MSEB. That, when PW1 complainant had approached with complaint of fault in the D.P., superior authority of accused respondent had directed him to rectify the problem. That, for doing the said work, the accused had demanded bribe and therefore, report was lodged to that extent with ACB and therefore, Investigating Officer arranged panchas, planned and conducted raid. He further submitted that, complainant did not support the prosecution, however, there is evidence of PW2, who is shadow pancha and he as well as PW6 Investigating Officer and both have unanimously deposed about demand and acceptance by accused. That, their evidence was sufficient to attract the charges. That, there was also sanction by higher authority. That, sanction was valid. However, there is non-consideration of the said material in proper perspective and by improperly analyzing the evidence and ignoring law, learned APP submits that, accused is acquitted and therefore, he urges to allow the appeal.

**On behalf of Respondent Accused :**

4. Per contra, learned counsel for respondent accused pointed out that prosecution has miserably failed to bring home the charges. He pointed out that at the first instance, complainant has not supported prosecution. That, even aspects of demand and acceptance are not proved as expected. He pointed out that PW4 sanctioning authority had put to use draft sanction. Therefore, according to learned counsel, learned trial Court committed no error in disbelieving the case of prosecution and hence, he urges for dismissal of appeal for want of merits.

**EVIDENCE IN TRIAL COURT**

5. In support of its case, prosecution has adduced evidence of in all seven witnesses.

**PW1** Atul Anantrao Deshpande is complainant. At exh.22, he deposed as under :

*“1. The accused Gore was serving as a line man at our village. There was some fault in the D.P. of our village and hence, some electrical instruments of all the villagers were damaging. Thereafter on 14.9.2004, I had scribed one application and obtained the signatures of 5 to 7 villagers and submitted it to the Asst.Engineer Shri Dhembre of Kingaon. On receiving my a application, said Engineer Dhembre directed the accused Gore in my presence to go to village Khanapur, and remove that problem of D.P.*

*2. Then the accused directed us that there would be delay to bring the articles from the office and if you want urgent relief, then we all the villagers should dig six ditches and should bring 12 bags of salt and six bags*

*of coal, four rods and 16 aluminium strips which are called as lugs. Then we brought all the articles from the market. Then the accused enquired with us, as to whether we had dug the ditches upon which we told him that we had done it.*

*3. Thereafter on 23rd or 26th day of Sep. 2004, the accused came to our village and directed that we should bring oil also. At that time, the accused told me that he has to go to Udgir and he would bring oil from Udgir, but we should provide money to him for purchasing of oil. At that time, I told to the accused that I am not having money and we will go to Kingaon and I would make some arrangement of money at Kingaon only. Hence, I myself and the accused, came to Kingaon. At Kingaon, we went to the Hotel of my friend by name "Oaa Tea house". I halted my motor cycle in front of that hotel and from there only, I directed that hotel Keeper to give Rs.100/- to the accused Gore, for me. As there was heavy rush in the hotel, I gave such directions from my motor cycle only and then immediately I returned back on my motor cycle to my village Khanapur.*

*4 Thereafter, about 2 to 3 days I tried to enquire with the accused but he did not meet me, Thereafter, I went to the office of MSEB Kingaon, and informed the officers that the accused Gore is not meeting me and hence, what I should do.? Then those officers of M.S.E.B. office Kingaon, directed me that I will have to pay Rs.400/- to 500/- to accused Gore for that work.*

*5. It was never occurred that on 23.09.2004, I met the accused Gore at my village Khanapur only and informed him that as per his directions we have brought the articles and dug the ditches also and at that time, the accused Gore demanded Rs.800/- for immediate work."*

**PW2 Sanjay Babanrao Bhale** is shadow pancha. At exh.24, he  
deposed as under :

*"On 5.10.04 our D.H.O. has given written directions to me and another panch Umesh Kulkarni to go to A.C.B. Office. The officer informed us that we have to go for trap on the next day and we should come to the A.C.B. office at 8.00 a.m. only on 6.10.04. There I was introduced with the staff members of A.C.B. office as well as with the said person who was complainant in this case. They also introduced themselves with us. There Pl. Patil himself informed we both the panchas that we will have to go to Kingaon for the trap, as there was demand of Ra.500/- for the work of D.P. There after the complainant also told that he will have to pay Rs.500/- for the work of D.P of his village. The detail panchamama was prepared in the*

*office of A.C.B. Pre-trap panchanama is at Exh.25.*

*At about 12.15 noon, I myself and the complainant, went ahead by walk and the second panch and other members were following us. Then we went to old S.T.Stand, but the accused was not seen there. Then we went by road ahead in search of the accused, but he was not found us. Thereafter, we proceeded to old market and stood near a pan tapari near a hotel. At pan tapari, the complainant enquired with one person about the accused, upon which said person informed him that the accused had gone in the locality at Kingaon. Thereafter. I myself and the complainant stood there only, waiting for the accused.*

*Thereafter at bout 1.45. p.m. the complainant saw that the accused was coming towards him. Then we went ahead and then the complainant made Namaskar to the accused. Then I satisfied that he must be the accused-Gore. Thereafter complainant Atul Deshpande told to accused Gore to come for tea. Then we all the three persons went in a hotel behind that pan tapari and sat there to take tea. Then complainant enquired with the accused whether he takes tea or milk, upon which the accused told that he used to take milk only. Then the complainant gave order of one milk and two tea. The accused was sitting on one side of the table and I myself and complainant were sitting in other side of the table, infront of accused Gore. Then the complainant enquired with the accused as to what has happened to the work of D.P?. Then the accused told him that ditches are dug, all other articles are brought and he had received the orders of his superior officers also and he would do the work. Then the complainant told to the accused to do that work of D.P earliest. Then the accused Gore enquired with the complainant as to whether he had brought, as per previous saying.? Then the complainant Atul Deshpande told him that he had brought Rs.500/- and he should take it. Then the accused Gore told him that there is no objection and he should pay the amount to him. Then, the complainant took out the currency note of Rs. 500/- from his pocket and held it infront of accused, upon which the accused took it and kept it in the chest pocket of his shirt. It was about 2.00 p.m. Then the complainant gave the requisite signal by wiping out of his swet by the handkerchief.*

**PW3** Sou.Nanda Nathrao Khandekar is Sarpancha, Gram Panchayat, Khanapur. Her evidence is at exh.29. She did not support prosecution case.

**PW4** Ratangir Narsing Gir is Sanctioning Authority. His evidence is at exh.35.

**PW5** Kashinath Balajirao Dhembre is Junior Engineer, MSEB, Ahmedpur. At exh.42, he deposed as under :

*“1. In the Year 2004 I was attached to our office at Kingaon. I was I/c of about 30 villages surrounding to Kingaon. On 14.9.2004 the complainant Deshpande has submitted an application before me. In that application, he has mentioned to maintain the D.P Said application Ex.23/A, now shown to me is the same,*

*2. Thereafter on 6.10.2004, the police officers of A.C.B. Latur came to my office at Kingaon. They have demanded the copy of the said application to me. I have handed over the original application Exh.23/A to P./I. Suryakant Patil, by keeping the xerox copy of it with me. He has also demanded me the xerox copy of the attendance register pertaining to the accused Gore. Said xerox copy of attendance register Ex.27 now shown to me is the same.”*

**PW6** Suryakant Balbhim Patil (PI) is the Investigating Officer. His evidence is at exh.43.

**PW7** Narayan Parashram Tandale (PI) is the pancha to arrest panchanama. His evidence is at exh.49.

### **ANALYSIS**

6. Re-appreciated and reanalyzed evidence on record. Here evidence of **PW1** Atul and **PW2** Sanjay is crucial.

In short, the case of prosecution is that, accused, present respondent, who was working as Helper to Lineman in MSEB, was

instructed by his superior to rectify problem of common D.P. of villages Khanapur and Chatewadi.

According to **PW1** complainant, there was demand of Rs.500/- to do the said work. However on perusal of the record, it is clear that, in witness box, **PW1** complainant Atul, during his evidence at exh.22, deposed only about approaching MSEB authority i.e. Mr.Kashinath Dhembre, Junior Engineer and he, directing accused to rectify problem of D.P. and further, accused informing them that there would be delay to bring the articles from the office and if they want urgent relief, then the villagers should dig six ditches and should bring 12 bags of salt and six bags of coal, four rods and 16 aluminum strips and accordingly, villagers brought the said material and later on, this witness deposed that on 23<sup>rd</sup> or 26<sup>th</sup> of September, 2004, accused came to the village and asked villagers to arrange for oil also and provide money for purchasing the same. He stated that, he told accused that he would arrange for money at Kingaon and took accused on Motorcycle, went to Kingaon and there, he directed one hotel keeper to give Rs.100/- to the accused and he went away. He denied that on 23-09-2004, he met accused at village Khanapur, and informed him that, as per directions, articles were brought and ditches were dug and at that time, accused demanded Rs.800/- for

immediate work. Therefore, finding complainant giving contrary version than the very complaint lodged by him, learned APP, after seeking permission from the learned Court, cross-examined his own witness.

In **cross-examination**, he has admitted to every suggestions put to him by learned APP. Though there is report regarding bribe of Rs.500/- being demanded, in the witness box, apart from denying demand of Rs.800/- by accused, totally different version has been given by the complainant.

7. **PW2** Sanjay Bhale, who is examined in the capacity of shadow pancha, has deposed at exh.24 about he being called to ACB office, introduced to complainant and his complaint and he accompanying the complainant at 12:15 noon for going towards S.T. Stand, but accused was not found and therefore, they both waited there for accused. He deposed that at around 01:45 p.m. complainant saw accused and therefore, they both approached him. In examination-in-chief itself, he stated that they went to a hotel and there, complainant when enquired with accused as to what happened about work of D.P. According to this witness, accused told that ditches are dug, all other articles are brought and he had received the orders of

his superior Officers also and he would do the work. Then the complainant asked accused to do the work at the earliest and then accused allegedly enquired with the complainant as to whether he had brought as per previously said and thereafter, complainant handed over Rs.500/- to accused, which was accepted by him and pocketed it, after which, predetermined signal was relayed.

However, in **cross-examination**, in paragraph 16, this witness has admitted that in the dialogue between complainant and accused, there was no use of word “bribe”.

Therefore, from the evidence of above witness, it is merely coming on record about accused merely saying to complainant whether he has brought as previously said. PW2 shadow pancha, in his cross-examination, has admitted that there was no reference of “bribe”. Therefore, very crucial aspect of demand itself comes under shadow of doubt.

8. It is fairly settled position of law that when demand itself is not proved, even after there is possession of currency, it cannot be straightaway accepted that there was demand as well as acceptance. Therefore, case of prosecution suffers from serious dent. It appears from above evidence that PW1 Complainant himself retracted and

PW2 shadow pancha has not deposed about demand of bribe by accused.

9. As pointed out, learned counsel for respondent submits that here, PW4 sanctioning authority has not applied its mind. Here, accused was mere 4<sup>th</sup> standard pass and was appointed as Lineman to Helper. He had no requisite expertise and knowledge to undertake work of repair of D.P. Therefore, there is no question of motive. That, there is nothing in black and white to show that accused was directed by Mr.Dhembre, Junior Engineer to rectify the D.P. problem. Even as pointed out, PW4 sanctioning authority put to use draft sanction and all such material show that there is no independent application of mind.

Therefore, all such points went against the prosecution in the trial Court and therefore, learned trial Court committed no error whatsoever in acquitting the accused. No case being made out on merits, appeal deserves to be dismissed. Accordingly, following order is passed :

**ORDER**

Criminal Appeal No.669 of 2006 is dismissed.

**( ABHAY S. WAGHWASE )**  
**JUDGE**