



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

CRIMINAL APPEAL NO. 656 OF 2004

The State of Maharashtra,
Through Police Station,
City Chowk, Aurangabad.

..Appellant
(Ori. Complainant)

VERSUS

Shyamrao S/o Laxman Wathore,
Age : 47 Years, Occ. Service, Clerk
in Tahsil Office, Aurangabad
R/o. Bhimnagar, Bhavsingpura,
Aurangabad.

.. Respondent
(Ori. Accused)

...
Shri. R. B.Dhaware, Additional Public Prosecutor for the State.
Shri. R. N. Chavan, a/w Adv. Ms. M. N. Bagve h/f Mr. C. P.
Sengaonkar, Advocate for respondent.

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CORAM : SANDIPKUMAR C. MORE, J.
RESERVED ON : 10th FEBRUARY, 2025
PRONOUNCED ON : 12th FEBRUARY, 2025

JUDGMENT :-

1. The appellant/State has challenged judgment and order dated 06.07.2004, passed by the learned Special Judge, Aurangabad i.e. the learned trial Court in Special Case No. 1 of 2001. Under the impugned judgment, the present respondent/accused Shyamrao Wathore has been acquitted of the offences punishable under Sections 7,13(1)(d) and 13(2) of The Prevention of Corruption Act, 1988. (for short 'P.C. Act').

2. According to the prosecution, complainant Sachin Mahire

i.e. P.W No.1 was taking education in 11th standard in 'Milind Science College', Aurangabad in the year 2000. He was in need of caste certificate, and therefore, had gone to Tahsil Office, Aurangabad on 13.07.2000. One person namely Vijay Lahane, who was original accused No.2 was an agent. He told Sachin to submit application in prescribed form, along with caste certificates of relatives and their affidavits. According to him, Sachin was to pay Rs. 200/- towards the expenses for getting caste certificate, out of which, half of the amount was to be paid to the concerned Clerk Shri. Wathore i.e. respondent/accused. Lahane, also took Sachin to respondent-accused, who asked for amount of Rs. 200/- for getting caste certificate. Then complainant Sachin lodged report with Anti Corruption Bureau (for short 'ACB'), Aurangabad on 14.07.2000 and accordingly agent Lahane was caught with bribe amount, which he had accepted at the instance of respondent/accused. The learned trial Court, after conducting the trial, acquitted the respondent/accused. It is to be noted here that, during the investigation, accused No.2-Lahane died, and therefore, charge sheet was filed only against the present respondent/accused.

3. The learned A.P.P. strongly submitted that, complainant

Sachin has deposed as per the prosecution story. Moreover, *panch* No.2 Dhongade has also corroborated with the testimony of Sachin. Moreover, deceased Lahane was also caught with bribe amount, which he had accepted on the say of respondent/accused. Thus, he claims that the learned trial Court, by ignoring vital evidence on record, wrongly acquitted the respondent/accused.

4. On the contrary, the learned counsel for the respondent/accused supported the judgment of acquittal. He pointed out the variance in the evidence of complainant as well as P.W. No.1 Panch. According to him, brother of complainant i.e. Rahul was working with A.C.B. and, therefore, at the instance of Rahul, complainant Sachin might have lodged false report against the respondent/accused. Thus, he prayed for dismissal of the appeal.

5. Heard rival submissions, also perused the documents on record along with the impugned judgment.

6. Admittedly, it is case of the prosecution that for getting caste certificate, the respondent/accused had demanded bribe of Rs. 200/- from the complainant Sachin, through deceased accused No.2 Lahane, who in that attempt, was caught with

bribe amount. However, the facts which took place in connection of getting the caste certificate are very much important. On 13.07.2000, the complainant- Sachin had approached Lahane, who quoted amount of Rs. 200/- for getting caste certificate. This Lahane had taken the complainant to accused Wathore, who advised complainant to act at the instance of agent Lahane. Thereafter, on 14.07.2000 complaint was lodged by Sachin Mahire. On 15.07.2000, when complainant -Sachin and Panch Dhongade again met Lahane, at that time Lahane told them to get a death certificate of his father. Thus, there was no pre-trap verification of the demand. Even on the day of trap, complainant Sachin had presented an application with documents to respondent/accused Wathore, by standing in the queue. However, respondent again advised him to get affidavit mentioning that his father was no more. Thus, Sachin then prepared an affidavit of his brother Rahul and again submitted the papers to respondent/accused. It has come on the record that respondent/accused verified those documents and issued receipt and instructed Sachin to pay Rs. 200/- to agent Lahane. However, though the learned A.P.P. claims that it was the demand made by the respondent/accused, but there is no supportive evidence, since complainant -Sachin nowhere stated that when he was

standing in the queue to submit papers to the accused, P.W. No.1 Panch Dhongade was accompanying with him. Moreover, the tainted currency notes were handed over to agent Lahane, but there is no reliable evidence on record that Lahane had accepted the bribe at the instance of respondent/accused. There is only uncorroborated testimony of complainant - Sachin about such acceptance of bribe amount by Lahane at the instance of respondent/accused, on the day of actual trap.

7. Though the panch No.1 Dhongade deposed that the respondent /accused in his presence demanded bribe amount, by asking complainant Sachin whether he had cleared his account with Lahane, but complainant Sachin is not saying before the Court that at the relevant time panch Dhongade was also standing with him in the queue. From the deposition of Panch Dhongade, it appears that they had met accused in isolation. Nothing is there in the testimony of panch Shri. Dhongade that they were standing in the queue.

8. Further, it is also significant to note that the respondent/accused had in fact issued a receipt about submission of papers to Sachin and it was not given to agent Lahane in attempt to get caste certificate. Thus, no satisfactory and reliable evidence has come on record in

respect of connection of Lahane and respondent/accused. Further, it is extremely important to note that the work of Sachin for getting caste certificate was not completed on the day of the trap, but still complainant paid an amount of bribe to the agent Lahane. Further, Officer Shri. Bankar from the raiding party has admitted in his cross-examination that it was not the respondent/accused, but Tahsildar was authorized to issue the caste certificates. Thus, the respondent/accused was merely a processing Clerk. Thus, on this evidence, it would be rather dangerous to connect the act of Lahane with respondent/accused, specially in absence of verification of demand of bribe, at pre-trap stage. Further, it has already come on record that brother of complainant Sachin was working with A.C.B. and, therefore, attempt of roping/implicating the respondent/accused in false case at his instance cannot be denied. Therefore, considering all these aspects, the evidence on record is not sufficient to establish the guilt of respondent/accused beyond all reasonable doubts. Thus, the acquittal recorded by the learned trial Court against the present respondent/accused needs no interference. Accordingly, the appeal stands dismissed.

(SANDIPKUMAR C. MORE, J.)