



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 507 of 2012

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

... Applicant
(Ori. Complainant)

Versus

Kiran Shridhar Patil
Age 35 years, R/o Londhari,
Tq. Jamner, Dist. Jalgaon.

... Respondent
(Ori. Accused)

.....
Mr. S. A. Gaikwad, APP for the Appellant-State
Mr. V. B. Patil, Advocate for the Respondent
.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 12.11.2025

Pronounced on : 18.11.2025

JUDGMENT :

1. Instant appeal is on behalf of the State as it is aggrieved by the judgment and order dated 18.02.2012 passed by learned Additional Sessions Judge, Amalner in Special Case No. 4 of 2011 thereby acquitting respondent from offence under Section 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988.

2. In nutshell, prosecution was launched against present respondent on the report received from PW1-Anil that, for plying auto rickshaw, present respondent, who was a police constable, had demanded bribe of Rs.300/-. PW1 approached Anti Corruption Bureau (ACB) Nashik and lodged report, resulting into arranging and planning trap by constituting raiding party. After trap, complaint was lodged, it was investigated and respondent was duly chargesheeted and tried, but learned trial court acquitted the accused by holding that prosecution failed to bring home the charges.

Precisely above judgment and order of acquittal is taken exception to by the State.

SUBMISSIONS

On behalf of the Appellant-State :

3. Learned APP submitted that, complainant owns auto rickshaw and to permit him to ply it near bus stand, accused police constable demanded bribe/hafta of Rs.300/-. On receipt of report to that extent, ACB authorities had planned and executed trap and it was successful. Learned APP submitted that, shadow pancha was engaged and he had accompanied complainant and they both had deposed about accused

approaching them to make a demand and taking Rs.300/-. Thus, according to learned APP, there is both, demand and acceptance. He submitted that evidence of both witnesses has, though not remained intact, it has remained unshaken on material count of demand and acceptance. That, in spite of availability of evidence, learned trial court has failed to appreciate the same and has disbelieved their versions and has relied only on the portion which was not material.

4. He further submitted that, there is evidence of Investigating Officer, who had narrated entire events that ensued since receipt of complaint. His evidence ought not to have been doubted. That, after sanction, prosecution was launched. All ingredients for attracting the charges were available but, according to him, only because of inappropriate appreciation and non consideration of settled law, acquittal has resulted and he thereby seeks indulgence by allowing the appeal.

On behalf of the Respondent-accused :

5. Learned counsel for original accused would point out that prosecution has miserably failed. According to him, very complainant has not supported prosecution. Shadow pancha used was a regular and stock pancha and he has given vital admissions. He pointed out

that, evidence of PW1 and PW2 materially differs than the evidence of the very Investigating Officer. That, cross of PW1 and PW2 inflicts serious dent to the case of prosecution and their evidence is also full of material omissions. Therefore learned counsel prays to dismiss the appeal for want of merits.

6. Re-appreciated the evidence. Here, evidence of complainant (PW1), shadow pancha (PW2) and Investigating Officer (PW3) is of significance.

7. PW1 complainant, at Exhibit 7, deposed about he to be driver of Ape rickshaw and accused constable demanding bribe of Rs.300/- from him for plying said rickshaw and therefore he lodged report with ACB, Nashik on 24.02.2010, which he identified to be at Exhibit 8. Then he testified about panchas, namely, Vinchu and More, being introduced to him and *panchas* signing his complaint on 26.02.2010. He also deposed about pre-trap panchanama prepared in the Rest House that day itself i.e. on 26.02.2010. He, accompanied by pancha Vinchu, went near the spot where rickshaws were halted, where accused came and demanded money and he was told that it would be duly paid within 2 to 3 days. However, accused insisted him to pay it that time itself and so he gave currency kept in the left pocket which

accused accepted, and thereafter he relayed signal, followed by catching hold of accused on the spot.

While under cross, he has admitted in para 3 that he has no permit to carry passengers and that he has been served with several challans for wrong parking. In para 4 of cross, he has admitted that on 08.02.2010, police constable Sanjay Patil had filed summary criminal case against him and he was also produced before JMFC. He admitted in para 6 of cross that, he had lodged complaint 7 to 8 days after initial demand. He admitted that, he did not lodge complaint at Jalgaon, but went to Nashik i.e. after discussing with members of rickshaw union, and he also admitted that, complaint was lodged due to vengeance. In para 7 he admitted that, shadow pancha was 10 feet away from him while he was talking with accused. In same para, he has admitted that, amount was paid to accused to be paid to his superior, and he surprisingly admitted that accused had told him that he does not know anything about hafta and accused went ahead saying that he wanted to go to the court that day. He also admitted that he himself took out the currency and forcibly inserted in right pant pocket of accused. Omissions are brought in para 8 regarding accused demanding Rs.300/- towards hafta and so he saying that he would pay it after 2 to 3 days.

8. PW2 is the shadow pancha and he is examined at Exhibit 11. In his examination-in-chief itself he has stated that, when he and other pancha went to ACB office Nashik on 24.02.2010, at that time he did not see complainant in the said office. He directly deposed about the events in the morning of 26.02.2010 i.e. when he and other pancha accompanied Investigating Officer from Nashik to Amalner. He stated about complainant carrying Rs.300/- and application of anthracene powder to it. He deposed that another pancha, i.e. Vilas More, was instructed to accompany the raiding party and he himself was instructed to be with the complainant. He deposed that, he accompanied complainant from Rest House in Ape rickshaw towards S.T. stand and there, accused demanded hafta and complainant suggested that he would pay, but accused insisted to be paid immediately and therefore complainant gave him money which he accepted, and thereafter complainant relayed signal.

While under cross, in para 4, he denied stating portion marked "A" in his statement to ACB dated 03.03.2010, i.e. regarding the Investigating Officer suggesting him and another pancha to get acquainted with the complainant and to ask him about the nature of his complaint. He denied that in his statement dated 03.03.2010, he had stated that on 24.02.2010 complainant informed him about the

nature of his complaint at ACB office. He denied to have ever stated portion marked "B" in his statement dated 03.03.2010. In para 5, he started to resile by denying that on 26.02.2010, he along with the raiding party, complainant and another pancha, had been to S.T. stand area in a Government jeep. He answered that when they reached the said spot, 30 minutes thereafter, accused had come. He flatly denied that on the day of incident accused demanded money from complainant. There is omission to the extent that he and complainant came by rickshaw from Amalner Rest House to the spot.

9. PW3 is the Investigating Officer and he has narrated the events which took place since inception i.e. since receiving report from PW1 till filing of charge sheet. While under cross, he answered that on 24.02.2010 complainant was introduced to panchas in his office. In para 13 of the cross, he answered that he did not inquire whether complainant had faced any criminal trial or prosecution. According to him, it did not happen that complainant and pancha Vinchu had come to the rickshaw stand via Ape rickshaw, i.e. from the guest house. In para 15, Investigating Officer has admitted that accused had stated before him in writing that complainant had thrust the amount in his pocket for prosecuting him under the Bombay Police Act and the Motor Vehicles Act.

10. On critical re-appreciation of above evidence, here, it is emerging that witnesses are not consistent, more particularly complainant, shadow pancha as well as the Investigating Officer. It is noticed that, PW1 and PW3 are not consistent on their versions because, according to complainant, when accused insisted for money, it was duly paid at the spot itself. However, version of PW3 is not in such manner as, according to him, complainant had come to him and reported about demand of Rs.300/- being made. Secondly, according to PW2, he was not introduced with complainant on 24.02.2010, but contrary to it, Investigating Officer has deposed that, in his office, complainant and pancha were introduced to each other on 24.02.2010 itself.

11. It is also noticed that according to the Investigating Officer, after pre-trap panchanama, they all proceeded to the spot rickshaw stand in Government vehicle, but according to shadow pancha, he and complainant went to the spot in rickshaw. Therefore, the distinct modes of conveyance used to go to the spot from the guest house itself has rendered the very visit to the spot that day doubtful.

12. PW2 has virtually admitted to every suggestion in cross, i.e. regarding never ever stating portion marked "A" and "B" in his

statement to ACB on 03.03.2010. In para 5 of the cross, he has candidly answered that, it did not happen that on the day of incident, accused demanded money from the complainant. He is in fact independent witness. In cases of such nature, complainant being interested party, corroboration from shadow pancha is expected. But for above reasons, PW2 himself has inflicted severe blow to the prosecution story by denying demand made by accused from complainant. His answer in cross para 6 shows that he has previously also acted as a pancha on behalf of ACB in a case pertaining to trap against a traffic constable at Newasa. Thus, he is a stock pancha and for the more reason, he is unworthy of credence.

13. Defence taken by respondent accused is that, because several actions were taken against complainant, due to vengeance, to implicate him, amount has been thrust in his pocket. To this extent, very Investigating Officer has admitted in his cross about accused giving statement that money was forcefully thrust in his pocket.

14. Therefore, in the light of above quality of evidence, case of prosecution is rendered doubtful for various above said reasons, and as prosecution has failed to establish its case beyond reasonable doubt, no fault can be found in the order of acquittal passed by the

learned court below so as to interfere in the appeal. There being no merit in the appeal, the following order is passed :

ORDER

The appeal is dismissed.

[ABHAY S. WAGHWASE, J.]

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