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

CRIMINAL APPEAL NO.496 OF 2009

Sukhdeo Pandurang Jadhav,
Age: 40 years, Occu: Service,
R/o.: Plot No.8, Shivgiri Housing Society,
Harsul, Aurangabad

....APPELLANT

VERSUS

State of Maharashtra

....RESPONDENT

.....

Mr N. S. Ghanekar, Advocate h/f Mr Joydeep Chatterji, Advocate for
Appellant

Ms A. S. Mantri, APP for Respondent/State

.....

CORAM : SUSHIL M. GHODESWAR, J.

**RESERVED ON : 07th NOVEMBER 2025
PRONOUNCED ON : 01st DECEMBER 2025**

JUDGMENT:-

1. By this appeal, the appellant (accused) has challenged the judgment and order of conviction and sentence dated 25/09/2009, passed by the learned Special Judge (P.C. Act), Aurangabad in Special Case No.06/2005, convicting him for the offence punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 (for short 'the said Act').

2. The prosecution case in brief is as under :-

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Appellant Sukhdeo Pandurang Jadhav was working as a Junior Clerk in the office of Deputy Registrar, Cooperative Societies, Aurangabad. PW-2/Sachin Pandurang Sudame is practicing Advocate at District and Sessions Court, Aurangabad. His client, namely, Pandurang M. Gund had obtained loan from Mahila Nagari Sahakari Bank Ltd., Aurangabad. Since the said loan was not repaid, the Bank had filed suit bearing Suit No.577/2001 under the provisions of Section 101 of the Maharashtra Cooperative Societies Act, 1960 before the Deputy Registrar, Cooperative Societies, Aurangabad. The said suit was decided against the said client of PW-2 Sachin Sudame vide order dated 07/11/2001. Being aggrieved by the said, the appeal came to be preferred before the Joint Registrar, Cooperative Societies, Aurangabad, which was also dismissed. For the purpose of appeal before the High Court, the certified copy of the decision dated 07/11/2001, passed by the Deputy Registrar, Cooperative Societies, Aurangabad was required, and therefore, said Pandurang Gund had engaged PW-2/Sachin Sudame as an Advocate to obtain certified copy of the said decision given in the Suit No.577/2001. After obtaining vakalatnama from Pandurang Gund, PW-2 Sachin Sudame submitted application in the office of Taluka Deputy Registrar, Cooperative Societies, Aurangabad on 22/11/2004. Thereafter, he had gone to

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collect copy of challan from the said office in the evening. The present applicant/accused was looking after the work of issuing certified copies of the decision. Initially, accused told PW-2/Sachin Sudame that an amount of Rs.50/- will have to be deposited in the Bank under challan for obtaining certified copy of the decision and then he would obtain signature of his superior on the challan and give it to him. Accordingly, appellant told PW-2 Sudame to come on 24/11/2004. Accordingly, on 24/11/2004, PW-2 Sudame went to office of appellant and the appellant handed over the challan of Rs.50/-, which bears signature of his superior. The appellant then told PW-2 Sudame that, after depositing Rs.50/- under challan and produce the said challan before him, he will have to be given an additional amount of Rs.100/-. He further told PW-2 Sudame that he would issue certified copy of the decision only after PW-2 will paid additional amount of Rs.100/-, else, he would put PW-2 Sudame into trouble by approaching the office repeatedly and would not issue certified copy. Upon that, PW-2 Sudame told the appellant that his client would not give Rs.100/-. Further, accused insisted PW-2 Sudame that, unless he paid additional amount of Rs.100/-, he would not issue certified copy of the decision to his client. PW-2 Sudame unwillingly agreed to give Rs.100/- to the appellant. Thereafter, PW-2 Sudame deposited an amount of Rs.50/-

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under challan in the State Bank of Hyderabad, Head Office Shahagunj Branch, Aurangabad. However, the appellant/accused had made demand of Rs.100/- as bribe beside challan amount.

3. Since PW-2 Sudame was not willing to pay bribe of Rs.100/-, he approached the Anti-Corruption Bureau Office (ACB office), Aurangabad. He met PW-4/Anil Gaikwad, Police Inspector and narrated the aforesaid facts, which were reduced in writing as per his narration at Exhibit-12. Accordingly, two employees, namely Soheli Ahmed Khan and Syed Abud Athar were called to act as panch witnesses. After completing formalities, they formed the raiding team and appropriate instructions were given to the members of the raiding team. PW-4/Anil Gaikwad, P.I. gave instructions to the complainant, panchas and members of raiding team. Complainant was instructed to go to the office of accused for the purpose of work alongwith panch No.1/Sohel Khan and if accused makes demand of bribe money, then to handover tainted currency note to him and upon acceptance of the same, transmit signal by scratching over the neck by hand. Similarly, panch No.1/Sohel was also instructed to remain with complainant and note down the events and happenings that would take place at the spot of incident. Panch No.2/ was instructed to remain with the raiding team and keep watch on the events and happenings. Accordingly,

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complainant and panch witnesses as per pre-planned went to office of the accused. Complainant asked accused about the copy of the decision. The accused asked the complainant, whether he has brought the challan, to which complainant answered in the affirmative and he produced the same to the accused. Accused kept the said challan in the drawer of the table. Accused asked the complainant to come on Monday to collect the copy of the decision. However, complainant told accused that, on Monday he is going out of station and he would sent his client to him to collect the copy of decision. The accused then demanded bribe of Rs.100/-. Complainant removed tainted currency note from the left pocket of his shirt by his right hand and held before the accused. Accused accepted the said currency note by his right hand and kept it in the left pocket of his shirt. As per pre-plan, complainant came out and transmitted signal by scratching over the neck. Accused also came out of the office behind him. At that time, PW-4/Anil Gaikwad, P.I., alongwith his staff members came there as per plan. Panch witness No.1 told PW-4 about acceptance of bribe by the appellant. PW-4/Anil Gaikwad introduced himself to the accused. Two police men caught hold both the hands of accused and brought him in the office. The hands of members of raiding party were inspected under ultra violet light and shown to the accused that their

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hands do not show shining of anthracene powder. The hands of accused were inspected under ultra violet light whereupon his right hand fingers showed shining of anthracene powder. PW-4 asked accused as to where he had kept tainted currency note to which accused made gesture towards his chest pocket of shirt. Panch No.2 was instructed to remove tainted currency note from the left pocket of the shirt of accused, and accordingly, he did the same. Accordingly, the said currency note was seen under ultra violet light whereupon it showed greenish shining of anthracene powder. All the formalities of recording spot panchnama and seizure of documents came to be conducted. The accused was asked to give explanation. He gave explanation at Exhibit-23. Accused was taken to the Police Station, Kranti Chowk, Aurangabad, where PW-4 lodged report, on the basis of which crime bearing C.R. No.3129/2004 came to be registered on 25/11/2004 against the accused for the offence punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. The accused came to be arrested under arrest panchnama. All the investigation papers were sent to ACB office to obtain sanction to prosecute the accused. PW-1/Dr. Anand Balwantrao Jogdand, Divisional Joint Registrar, Cooperative Societies, Aurangabad accorded sanction to prosecute the accused. After

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completion of investigation, the charge-sheet came to be filed against the appellant/accused for the offence under Sections 7 and 13(1) (d) punishable under Section 13(2) of the Prevention of Corruption Act, 1988.

4. Vide Exhibit-4, charges were came to be framed against the accused for the offence punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. The appellant/accused pleaded not guilty to the charge and claimed to be tried. His defence is of total denial. During the trial, the prosecution has examined as many as four witnesses. PW-1/Dr. Anand Balwantrao Jogdand, Divisional Joint Registrar, Cooperative Societies, Aurangabad was examined at Exhibit-6, who accorded sanction to prosecute the accused vide Exhibit-7 on 15/02/2005. PW-2/Sachin Pandurang Sudame, Advocate, who is complainant was examined at Exhibit-11. PW-3/Sohel Ahmad Khan, who was shadow Panch witness was examined at Exhibit-18 and PW-4/Anil Narayanrao Gaikwad, P.I. who was Investigating Officer in this case was examined at Exhibit-26. After recording the evidence and hearing the learned Advocate for the parties, the learned Special Judge (P.C. Act) Aurangabad, vide order dated 25/09/2009 in Special Case No.06/2005 convicted the appellant/accused for the offence punishable under

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Sections 7 and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.1,000/-, in default to suffer simple imprisonment for three months. He was further convicted for the offence punishable under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.1,000/-, in default to suffer simple imprisonment for three months. Both the sentences of imprisonment were directed to be run concurrently. Being aggrieved by the impugned order of conviction, the appellant has approached this Court in the present appeal for quashing and setting aside the same.

5. Heard Mr Ghanekar, learned Advocate holding for Advocate Mr Chatterji for appellant and learned APP Ms Mantri for respondent/State.

6. Learned Advocate for the appellant vehemently submits that, according to the prosecution, the first demand is dated 24/11/2004 and on the next date i.e. on 25/11/2004, complaint came to be filed in the ACB office, Aurangabad. According to him, there is no demand verification and on the basis of complaint, directly trap was laid. Therefore, there is no proper fairness and credibility of the trap. He further submits that the complainant thrust the amount in the pocket

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of the accused and after thrusting the said amount, when the complainant came out of office to give signal to the raiding team, it is admitted fact that the accused/appellant came behind the complainant to return that thrust amount. This fact is also admitted as the accused himself has given written statement after the trap to the Investigating Officer. Not only this, shadow panch witness No.3 also admitted the said fact of accused following the complainant. He then submits that there was at all no necessity of obtaining the certified copy of the decision of the case, as certified copy of the order which was required for appeal before the High Court was already disposed of in the year 2001. The complainant had also preferred revision against the order which was against him. Therefore, the complaint lodged by PW-2 itself is baseless. In support of his submission, he points out that the client of PW-2, namely Pandurang Gund had obtained loan from Mahila Nagari Sahakari Bank Ltd., Aurangabad and since the loan was not repaid, the bank had initiated proceedings under Section 101 of the Maharashtra Cooperative Societies Act, 1960 against him. In the said proceedings, decision was given against Pandurang Gund and therefore, a revision petition was filed before Joint Divisional Registrar, Cooperative Societies, Aurangabad. The said revision petition was also dismissed. Client of PW-2 Sudame wanted to file

appeal against the order passed in Suit No.577/2001 before the High Court and for that purpose, certified copy of judgment and order was required. Thus, Mr Ghanekar submits that there was no at all necessity for complainant Sudame to obtain certified copy as the said proceedings was already disposed of in the year 2001.

7. Mr Ghanekar further submits that the room where the accused was having office, size of which was hardly 15x8 feet. There were four tables in the said room and no arrangement of chair in front of table, but there was facility of bench. The other colleague employees were also used to seat in the said room. He then submits that at the time of raid, there were three employees already occupying their chairs in the said room and their tables were adjoining. Two visitors were also sitting on the bench when the panch witness as well as complainant came to the office. Neither they had examined by the prosecution nor their statements have been recorded. According to him, the room size was such a small that, if the talks as regards giving bribe had taken place, definitely in that circumstances, other persons might have heard what transpired between complainant and the accused. Thus, on this count, the demand becomes suspicious and therefore, not proved by the prosecution by leading cogent evidence. It is also admitted by the panch witnesses that, after the complainant

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handed over the amount to the accused, the accused followed him. Thus, the defence is getting corroboration from the admission given by the panch itself. In this case, it is clear that amount is not demanded and accepted, but it is thrust in the pocket of accused. He also challenge the conviction on the ground of non-application of mind while issuing sanction order. He invites attention of this Court to the evidence of PW-1. The said witness has unequivocally admitted that the draft of sanction order was received from the ACB office. He also admitted in his evidence that applicant had no power to put signature on the certified copy, and therefore, it is clear that sanction order was issued without application of mind. He, therefore, submits that the prosecution has failed to prove the guilt against the appellant beyond reasonable doubt and thus, prays for allowing of the present appeal.

8. In support of his submission, Mr. Ghanekar, learned Advocate for the appellant, has relied upon the following judgments:-

- “i) P. Satyanarayana Murthy v. Dist. Inspector of Police and Anr. - AIR 2015 SC 3549, (Full Bench, Supreme Court),**
- ii) C.M. Girish Babu V. C.B.I. Cochin, High Court Kerala – AIR 2009 SC 2022 (Supreme Court),**
- iii) M.K. Harshan Vs. State of Kerala – (1996) 11 SCC 720,**

- (iv) ***C.B.I. v. Ashok Kumar Aggrawal – AIR 2014 SC 827 (Supreme Court),***
- (v) ***Ram Prakash Arora v. The State of Punjab – AIR 1973 SC 498,***
- (vi) ***State of Maharashtra Through C.B.I. v. Mahesh G. Jain – 2014 ALL SCR 177,***
- (vii) ***Panalal Damodhar Rathi v. State of Maharashtra- AIR 1979, SC 1191,***
- (viii) ***B.Jayaraj v. State of A.P. - 2014 ALL SCR 1619,***
- ix) ***Mukhtiar Singh (Since Deceased) Through his Legal Representative v. State of Punjab - (2017) 8 SCC 126.”***

9. *Per contra*, learned APP Ms Mantri appearing for the respondent/State has strenuously supported the impugned judgment and order passed by learned Special Judge. According to her, learned Special Judge, after analyzing evidence brought on record in proper perspective, has rightly delivered the impugned judgment and order and has rightly convicted the appellant. There is no scope of interference in the impugned judgment. She, therefore, prayed for dismissal of the present appeal.

10. After hearing learned advocates for the parties, I have gone through the record and proceedings of the case minutely. Upon perusal of the documents, it can be seen that PW-2 Sudame was

engaged by Pandurang Gund who had borrowed loan from Mahila Nagari Sahakari Bank Ltd., Aurangabad and on failure to repay the said loan, the Bank had initiated proceedings against him under Section 101 of the Cooperative Societies Act before the Deputy Registrar, Cooperative Societies, Aurangabad. The said proceedings resulted against the said Pandurang Gund on 07/11/2001. Against the said order, said Pandurang preferred appeal before the Joint Registrar, Cooperative Societies, Aurangabad which was also dismissed. Thereafter, Pandurang had to file appeal before the High Court for which he was required certified copy of the decision of the proceedings before the Deputy Registrar, which proceedings was already disposed of in 2001. Therefore, learned Advocate for the appellant is right in submitting that there was no necessity of the certified copy as the said decision was delivered in the year 2001, against which, appeal was also preferred by said Pandurang.

11. It is required to be noted that, without verification of the demand of bribe, relying on the complaint of the complainant, the prosecution had laid the trap for appellant, which do not show reliability of the trap. It is also required to be noted that panch witness No.3 had admitted the fact that after complainant came out of the office of appellant, the appellant also followed the complainant for

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returning the said money. Thus, it becomes clear that amount is not demanded and accepted, but it is thrust in the pocket of accused.

12. Further, it is pertinent to note that the room of the office of the appellant was of small size admeasuring 15x8 feet. In the said room, four tables were there and no arrangement of chair in front of table to sit. At the time of raid, three employees were occupying the chairs. Two visitor were also there in the room who were sitting on the bench. If there was talk of complainant and appellant in respect of demand of bribe of money, the persons who were present in the said room might have heard the conversation between them. The prosecution has neither examined the said persons, who were present in the room, nor their statements have been recorded. Thus, the demand becomes suspicious.

13. It is also required to be noted that PW-1/Dr. Anand Balwantrao Jogdand, Divisional Joint Registrar, Cooperative Societies, Aurangabad who was examined at Exhibit-6, who accorded sanction to prosecute the accused vide Exhibit-7 on 15/02/2005. According to him, the draft of sanction order was received from the ACB office. He also admitted in his evidence that applicant had no power to put

signature on the certified copy, and therefore, it is clear that sanction order was issued without application of mind.

14. Considering the evidence brought on record, the prosecution is not justified in establishing the charges against the appellant. In order to prove the charges for the offence punishable under Section 13 (1) (d) punishable under Section 13 (2) of the PC Act, the proof of demand of illegal gratification is absolutely necessary as it is sine qua non of the offence. If the prosecution fails to prove this demand of illegal gratification, the charge against the appellant therefore, for the aforesaid offences would fail. It is clearly established in several judgments delivered by the Hon'ble Supreme Court including the judgments cited by learned advocate for the appellant (supra) that mere possession and recovery of currency notes from the possession of the accused, without proof of demand would not establish the offence under under Section 13 (1) (d) punishable under Section 13 (2) of the P.C. Act. In absence of proof of demand and illegal gratification and use of corrupt or illegal means to obtain any valuable or pecuniary advantage, it cannot be said that the offence of taking bribe is proved. Thus, the proof of demand has been held to be indispensable ingredient. Therefore, failure on the part of

prosecution to prove demand and illegal gratification, would be fatal and mere recovery of the amount from the appellant/accused would not entail his conviction for the offence punishable under Section under Section 13 (1) (d) punishable under Section 13 (2) of PC Act.

15. In view of the discussion in foregoing paragraphs, the prosecution having failed to prove the said charges against the appellant, the appellant deserves to be acquitted. Consequently, this Criminal Appeal is allowed and the impugned judgment and order dated 25/09/2009, passed by the learned Special Judge (P.C. Act), Aurangabad in Special Case No.06/2005, convicting him for the offence punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 is quashed and set aside. The appellant/ accused is acquitted of the said offences. As the appellant is on bail, he need not surrender. The bail bond stands cancelled. Surety, if any, stands discharged. Fine amount, if deposited, be refunded. The record and proceedings be sent back to the concerned Court.

[SUSHIL M. GHODESWAR, J.]