



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

CRIMINAL APPEAL NO.832 OF 2005

The State of Maharashtra,
Through Police Station,
Shivaji Nagar, Nanded

.... **APPELLANT**
(Original Complainant)

VERSUS

Issaq s/o Noorkhan Pathan,
Age : 54 years, Occu.: Land Inspector,
T.I.L.R. Office, Nanded,
Labour Colony, Nanded

.... **RESPONDENT**
(Original Accused)

....
Mr. R. B. Dhaware, APP for the Appellant-State
Mr. Ziya J. Pathan h/f Mr. G. R. Syed, Advocate for the Respondent
....

CORAM : SANDIPKUMAR C. MORE, J.

RESERVED ON : 13/02/2025
PRONOUNCED ON : 14/02/2025

JUDGMENT :

1. The appellant / State has preferred this appeal challenging the acquittal recorded by the learned Special Judge, Nanded, (hereinafter referred to as 'the learned trial court') against the present respondent / accused in Special Case No.1 of 2002 under the judgment and order dated 24/08/2005.

2. According to the prosecution, the respondent / accused being a Land Inspector at T.I.L.R. Office, Nanded, had demanded bribe of Rs.5,000/- from the complainant – Venkat Laxminarayan Galande for preparing PR card of property of his friend – Sanjay Narayanrao Shrangare and caught accepting the bribe amount of Rs.2,000/- from the aforesaid complainant – Venkat Galande. The learned Special Judge, after conducting the trial, has acquitted the respondent / accused.

3. Heard rival submissions. Also perused record and proceedings alongwith the impugned judgment.

4. Though the respondent / accused is facing charge under Sections 7, 13(1)(d) r.w. Section 13(2) of Prevention of Corruption Act, 1988 (for short 'P. C. Act'), but to constitute the offence under the aforesaid sections, the necessary ingredients are demand and acceptance. In the present case, though the complainant lodged the report against the respondent / accused of demanding bribe amount of Rs.5,000/- as mentioned above and found accepting Rs.2,000/- as a bribe amount, but the complainant - Venkat Galange has not supported the prosecution case. Further, it is extremely important to note that panch No.1- Ulhas Ram Rathod,

who accompanied him at the time of actual trap, was also expired. Thus, there is no reliable evidence on record in respect of the alleged demand of bribe amount made by the respondent / accused. Further, Sanjay Shrangare (PW-3) for whose work the respondent / accused had allegedly demanded the bribe amount, did not support the case of the prosecution. Thus, there is absolutely no evidence in respect of the demand. Further, though the panch No.2 i.e. Chandu Kandhare (PW-2) supported the case of the prosecution, but he was the panch witness, who remained with other members of raiding party and his role started only after the pre-determined signal was made by the complainant. Obviously, his evidence cannot be used for establishing the aspect of demand since he was not having any personal knowledge whether any demand of bribe amount was made by the respondent / accused at the time of trap.

5. It is now settled that mere recovery of the bribe amount from a public servant, is not sufficient to constitute the offence under Section 7 of the P.C. Act i.e. for want of reliable evidence in respect of demand. Further, the evidence of investigating officer is also on procedural aspect, but cannot be treated as evidence to establish the aspect of demand. As such, no witness is coming forward to

establish the fact that the respondent / accused had demanded amount of bribe from the complainant – Venkat to complete the work of Sanjay Shrangare (PW-3) i.e. his friend.

6. Further, it is extremely important to note that Veknat Galande (PW-1) has stated that as per the say of Sanjay (PW-3), he had inserted the alleged bribe amount in the pocket of the respondent / accused. Thus, the observation of the learned trial court that the prosecution failed to prove demand and acceptance of the amount, appears reasonable. In view of such statement by the complainant himself, there is no scope for drawing presumption under Section 20 of the P. C. Act to record conviction against the accused. Therefore, considering all these aspects, there is no substance in the appeal and accordingly it stands dismissed.

(SANDIPKUMAR C. MORE, J.)