



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 577 OF 2015

The State of Maharashtra,
Through Police Inspector,
Anti Corruption Bureau, Jalgaon.

... Appellant

Versus

1. Baliram Shriram Sapkale,
Age 50 years, R/o Room No. 13,
New Police Line, Near S.T. Stand,
Chalisgaon, District Jalgaon.

2. Ganpat Daulat Mahire,
Age 47 years, R/o Room No. 10,
Old Police Line, Chalisgaon,
District Jalgaon.

... Respondents
[Orig. Accused]

WITH
CRIMINAL APPLICATION NO. 2137 OF 2025
IN
CRIMINAL APPEAL NO. 577 OF 2015

1. Baliram Shriram Sapkale
Age 62 years, Occ. Pensioner,
R/o Avhane Shivar,
Taluka and District Jalgaon.

2. Ganpat Daulat Mahire,
Age 58 years, Pensioner,
Both r/o Juni Police Vasahat,
Chalisgaon, Taluka Chalisgaon,
District Jalgaon.

... Applicants

Versus

The State of Maharashtra

... Respondent

.....

Mr. S. A. Gaikwad, APP for the Appellant State/Respondent in
Criminal Application No. 2137 of 2025

Mr. M. A. Tandale, Advocate for the Respondents in
Appeal/Applicants in Criminal Application No. 2137 of 2025

.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 04.12.2025

Pronounced on : 08.12.2025

JUDGMENT :

1. In this appeal, State takes exception to the judgment and order dated 18.03.2015 passed by learned Additional Sessions Judge, Jalgaon in Special (A.C.B.) Case No. 15 of 2012, thereby acquitting the respondents herein from charges under Sections 7, 12, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 [for short, "PC Act"]].

2. In nutshell, PW1 Sandip Parekh, while was proceeding in his car on 31.03.2012 to Verul, his vehicle was given dash by a truck and therefore he approached Chalisgaon Police Station to lodge report and accordingly registered FIR. To seek compensation and damages for the vehicle, as he was in need of copy of FIR and spot panchanama, he had approached Chalisgaon Police Station on

01.04.2012 for obtaining above documents. At that time. police personnel namely Baliram Sapkale allegedly demanded bribe of Rs.6000/- and as PW1 was not willing to pay bribe, he lodged complaint with ACB authorities, who planned and executed trap. After investigation, chargesheet was filed and both accused were tried for above offences, however, on analysis of the evidence, learned trial court acquitted both the accused from above charge.

Hence instant appeal.

3. Learned APP pointed out that in trial court, case of prosecution was proved beyond reasonable doubt i.e. by adducing cogent, reliable and consistent testimony of prosecution witnesses, more particularly of PW1 and PW2, who had narrated about both, demand as well as acceptance. He emphasized that, initially only demand was raised by accused Sapkale with PW1 and therefore prompt report was lodged. That, Investigating Officer, by summoning pancha, had introduced both i.e. complainant as well as shadow pancha. They were given necessary instructions and shadow pancha had signed complaint. He further pointed out that, prior to laying trap, exercise of pre-trap verification was undertaken during which complainant and shadow pancha were made to carry voice recorded. That, prior to it, voice

samples of both, complainant as well as shadow pancha were recorded by drawing panchanama. That, when complainant and shadow pancha together went to the accused, again there was demand and therefore, after confirming above, further trap was planned by drawing panchanama. He pointed out that, both witnesses unanimously speak about demand being made by accused no.1 and further directing payment to be made to accused no.2, who accepted the same. That, there are anthracene traces of acceptance. Thus, according to him, both, demand as well as acceptance have been proved beyond reasonable doubt.

4. He also pointed out that the trial court had held sanction to be valid and therefore, with such quality of evidence, it is his submission that, case of prosecution was proved and therefore, conviction ought to have been recorded. However, according to him, in stead, by giving undue importance to some minor inconsistency with regard to alleged stamp paper executed by complainant, and by taking reference to some persons to be also present, of whose, reference has come in the evidence of PW3, benefit of doubt has been extended. That, when there was clear reference about demand by quoting figure “three”, it ought to have been considered to be with context to bribe and nothing beyond it. But different meaning has been attributed by trial

court by raising doubt, saying that it does not pertain to bribe. For all above reasons, learned APP prays to allow the appeal by setting the impugned order under challenge.

5. Learned counsel for the accused would submit that, here, prosecution has failed to prove both, demand as well as acceptance. According to him, witnesses are not consistent. That, demand is said to be by accused no.1, but acceptance is shown to be at the instance of accused no.2 and learned counsel would strenuously submit that in fact, currency was found on the table and there is admission to this extent not only by shadow pancha but also the Investigating Officer, and as such it is his submission that, there is neither demand nor acceptance, and therefore he justifies extension of benefit of doubt to the accused and prays to dismiss the appeal.

6. In the light nature of charge, evidence of PW1 complainant and PW2 Shadow pancha is crucial. Settled position is that, complainant being interested party, it is always desirable to see whether there is corroboration to his testimony from independent corner i.e. shadow pancha. Here, learned trial court has, as pointed out, held sanction to be valid and therefore it is only to be seen whether demand and acceptance is proved.

7. On re-appreciation of entire evidence of PW1 Sandip, it is emerging that he, in his evidence at Exhibit 10, deposed about approaching Chalisgaon Police Station for issuance of copies of FIR and panchanama on 01.04.2012. According to him, at that time, accused Baliram Sapkale demanded Rs.6,000/- for issuing said documents. As pointed out, complaint is not lodged promptly, rather it is after three to four days thereafter, i.e. on 04.04.2012 and that too, only against accused Sapkale. Then, he deposed about ACB authorities arranging pancha no.1 (PW2) and making them go for verification of demand by carrying voice recorder, and accordingly they both going to Chalisgaon Police Station and on learning that accused was at police ground, they both went there and claim to have approached accused. This witness states that he had discussion about documents with the accused but at that time **accused no.2 Mahire had demanded Rs.3000/-** from him at that instance of accused Sapkale. Then he deposed about panchanama of conversation being draw by ACB officer and then he deposed about currency taken from him for application of anthracene powder and necessary instructions being given to him and shadow pancha regarding handing over tainted currency on demand and to rely signal by taking out handkerchief.

In para 11 of examination-in-chief, he deposed about he himself, his friend Dharmendra Patil, PW2 Ganpat Baviskar along with one constable proceeding towards police ground and raiding party keeping themselves away at some distance. Regarding the events at police ground, he again stated that accused were sitting in the police chowki which was in a corner of the police ground and when they entered the police chowki, according to this witness, accused no.1 gave signal to accused no.2 and accused no.2 demanded bribe amount from him and he accordingly handed over the bribe amount to accused no.2, who accepted it and kept it on table and thereafter this witness relayed signal followed by further procedure.

While under cross, he has admitted that he has not set up any claim for damage of his car with insurance company. He also admitted that the number of the truck involved in the accident was also not supplied in the complaint as well as panchanama. He also admitted that at the time of lodging complaint, he did not hand over copy of insurance policy to the police. He answered that on 04.04.2012, during visit to ACB office, Dharmendra Patil and one Sk. Rauf also had accompanied him. He admitted that, at the time of verification of demand, he had made phone call to Sk. Rauf and made

him talk to accused and at that time accused Sapkale had told him to bring stamp paper of Rs.50/-. He admitted that, he was asked by accused to bring stamp paper and he had accordingly left the police station saying that he would bring it. However, in further cross, he admitted that at the time of pre-trap panchanama, he had not reported to ACB officer about accused asking him to bring stamp paper. In further cross, he answered that at the time of trap, accused no.1 was sitting on the bench while he and Dharmendra Patil were sitting on the chairs. He admitted that, Sapkale as well as Mahire had both left the room and returned after some time and that time, Mahire had obtained his signature on the stamp paper, but he is unable to state its contents. He answered that all the while Dharmendra Patil was present with him, but ACB officer did not ask anything to him. In para 19 of the cross he answered that, he had lifted the file kept on the table and had showed the bribe amount kept below it to the ACB officer. He denied the suggestion that, while leaving the room for giving signal to the raiding party, he had shook hands with accused Mahire and further answered that ACB authorities did not examine the table on which bribe amount was kept. Rest is all denial.

8. PW2 Ganesh, who acted as shadow pancha, is examined at Exhibit 18 and in initial testimony, he narrated all events which took place at ACB office during his visit on 04.04.2012 and 05.04.2012, being introduced to complainant and accompanying him for verification to Police Station Chalisgaon. In para 3 of the examination-in-chief, he deposed that after entering the police station and on making inquiries about the accused persons, they learnt that both accused were on the police ground and hence they went towards the police chowki on the ground. According to him, **discussion took place between de facto complainant and accused persons** about the documents of accident. According to him, at that time, **accused Mahire asked complainant to bring Rs.3,000/-**. They returned and panchanama of the conversation which was recorded in the voice recorded (Exhibit 21) was drawn by the Investigating Officer.

Then he deposed about the procedure of application of anthracene powder and instructions given by the Investigating Officer and pre-trap panchanama Exhibit 22 being drawn and thereafter, he and complainant again walking towards the chowki. According to him, both accused were standing in civil dress. Again he stated that talks took place between de facto complainant and both the accused

about the accident papers and thereafter accused Sapkale pointed towards accused Mahire and directed complainant to give bribe amount to accused Mahire, and accordingly complainant took it out and gave it to accused Mahire who accepted it and thereafter kept it on the table followed by rely of signal and raiding party coming and apprehending accused.

Above witness in cross admitted that conversation between de facto complainant and accused had taken place outside the police chowki, i.e. on the ground. He admitted that during conversation between de facto complainant and the accused persons, complainant had referred about Sk. Rauf, but he denied remembering whether any phone call was made to Sk. Rauf by complainant and he was made to talk with accused persons. He admitted that during such conversation, accused Mahire had asked de facto complainant to bring stamp paper. He fairly admitted that at that time, **accused Sapkale had not made any demand from de facto complainant.** He also admitted that, he and de facto complainant had left the spot for bringing stamp paper. **According to him, at the time of trap, Dharmendra Patil had not come in the police station.** He also admitted that, de facto complainant handed over stamp paper to accused Mahire who kept it on the table and went out of the police chowki. He further candidly admitted that,

it had happened at the time of trap that when they proceeded towards police chowki, both accused were outside the police chowki and at that time, de facto complainant had occupied chair near the table of accused and was sitting on it. He further admitted that, when ACB officer asked de facto complainant as to where the bribe amount was kept, de facto complainant told that the bribe amount was kept below the file. Rest is all denial.

9. Therefore, on analyzing above evidence, here, it is emerging that, according to de facto complainant, while he approached Chalisgaon Police Station, at that time only accused Sapkale was approached for documents and he had allegedly demanded bribe of Rs.6000/- for issuing documents. At the time of verification of demand, presence of accused no.2 Mahire is shown and this time, he is shown to have put demand and not accused Sapkale. Shadow pancha has admitted that accused Sapkale had not made any demand of money. Therefore, here, who actually raised demand out of the two accused at the time of main trap, is not clear. According to PW1, during the main trap, regarding which he has deposed in para 11 that, at police chowki accused no.1 had given signal to accused no.2 and thereafter accused no.2 had demanded bribe from him. Resultantly, there is no demand directly by accused no.1.

10. Another distinct feature that is emerging here is that, according to PW1, when they entered police chowki at police ground, before there was demand of documents, accused no.1 allegedly signaled to accused no.2 and thereafter accused no.2 demanded bribe amount from him. However, according to PW2 shadow pancha, at police chowki, talks took place between de facto complainant and both the accused about the accident papers and then accused no.1 Sapkale pointed towards accused Mahire and directed de facto complainant to give bribe amount to accused no.2. Therefore, PW1 and PW2 are apparently not consistent.

11. Again, here, it is brought to the notice of this court by learned counsel for accused that, amount was found on the table and not in possession of either of the accused. Defence has put up a case of planting. There is more probability of this happening because, pancha has admitted that after they went to police chowki, both accused had left police chowki to go out and had returned at later point of time. Therefore, stand of defence has been probabalized regarding possibility of planting.

12. As regards to demand is concerned, according to PW2, accused no.2 allegedly merely uttered the word as “three”. Unless there is material to show that accused no.2 was acting at the behest of accused no.1, story of prosecution cannot be accepted. Who of the two accused was responsible for issuing documents has not been investigated. It was necessary to investigate because initially accused no.1 was only approached and presence of accused no.2 has been shown directly at the time of verification and alleged acceptance.

13. To sum up, here, initially demand is attributed to only accused Sapkale, but he has not accepted the tainted currency. Rather, during verification and main trap, demand as well as acceptance is attributed to accused no.2, however currency is found not in possession of accused no.2, but it was beneath a file on a table. There is nothing to show that alleged acceptance by accused no.2 was at the behest of accused no.1. Consequently, it is a fit case for extension of benefit of doubt.

14. Perused the judgment under challenge, the view taken by learned trial court is the only possible view that could emerge even on re-appreciation. Case not being proved beyond reasonable doubt,

there is no error on the part of trial court in extending benefit of doubt. Hence, following order :

ORDER

- I. The Criminal Appeal is hereby dismissed.
- II. In view of dismissal of the Appeal, the pending Criminal Application also stands disposed off.

[ABHAY S. WAGHWASE, J.]

vre