



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLN. FOR LEAVE TO APPEAL BY STATE NO. 126 OF 2020

THE STATE OF MAHARASHTRA
VERSUS
ARJUN MANOHAR PAWAR

Mr. N. D. Raje, APP for the Appellant/State
Mr. S. J. Salunke, Advocate for the Respondent

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : NOVEMBER 25, 2025
PRONOUNCED ON : NOVEMBER 27, 2025

ORDER :-

1. Dissatisfied by the judgment and order of acquittal dated 08.10.2020 passed by learned District Judge-5 and Addl. Sessions Judge cum Special Judge at Jalna in Spl. Case ACB No. 03/2018, State has preferred instantly Application for Leave to Appeal.

2. Learned APP pointed out that on receipt of complaint from PW-1 Kapil Shravan Bhurewal, prosecution was launched for demanding illegal gratification of Rs. 10,000/- for showing favour and not arresting cousin of the complaint. That on receipt complaint, investigating machinery planned and laid trap.

Independent panch was instructed to accompany complainant and to take mental note of events that took place. Both complainant and shadow panch are consistent on material count. There was voice recording and its script via panchama was drawn. On the date of trap there was both demand as well as acceptance. Therefore, according to learned APP, full proof case was made out. However, according to learned APP, the trial Court disbelieved the prosecution and acquitted the accused.

3. He would submit that there is erroneous appreciation of the evidence on the part of trial Court. He submitted that findings are contrary to the evidence on record. Learned APP took this Court to the evidence of complaint, as well as complaint Exhibit 12 and verification panchnam Exhibit 13. In support of his contention that there was demand and it was duly proved, he also took this Court through the panchanam Exhibit 20 which pertains to demand verification panchnama which is prior to the trial. He also pointed out that vide Exhibit 23, voice recorder panchanma after taking voice sample of the accused was drawn and as such according to him such evidence, learned Trial Court ought not to have acquitted the accused. Therefore, it is his submission that State has very

good case on merits in appeal and he resultantly urges to grant leave to file Appeal.

4. Learned Counsel for Respondent pointed out that learned Trial Court has rightly appreciated the available evidence and has reached to correct conclusion. He pointed out that evidence of PW-1 and PW-2 was not consistent. There were material omissions and contradictions. Learned Counsel took this Court to the observations of learned Trial Court more particularly paragraph 19, 22, 25, 28 and 33 and would submit that there was no evidence and therefore, observations and findings are inconsonance with the evidence. He also pointed out to the observations of the Trial Court with relation to the conduct and previous history of complainant and such appreciation is on testing the cross of complainant. Learned Counsel seeks reliance on the judgment of the Hon'ble Apex Court in case of ***Babuu Sahebgouda Rudragoudar Vs. State of Karnataka, 2024 Cri.L.J. 2021*** and he drew attention of this Court to paragraph 39.

5. In the light of above submissions, judgment sought to be impugned dated 08.10.2020 passed in Spl. Case ACB No.

03/2018 is visited.

6. Substance of the complaint is that for not arresting cousin of complainant, it is alleged that there was demand of Rs.10,000 by way of illegal gratification and he therefore, lodged report to that extent with PW-3 I.O. who planned and arranged trap. It appears that for confirming demand, pre-trap panchanama was drawn and the same is a part of charge-sheet by way of Exhibit 20. Witnesses PW-1 Kapil Bhurewal and PW-2 Nitin Sonkar, shadow panch are also Exhibits 18 and 19 respectively. These are crucial witnesses.

7. Learned APP has specifically pointed out that in the complaint as well as in the testimony PW-1 had narrated about demand of Rs.10,000. However, learned Trial Court erred in observing that there was no demand on behalf of accused. In the light of such submissions testimony of PW-1 as well complaint Exhibit 12 is visited. It appears that in both testimony as well Exhibit 12 there is indeed reference of demand of Rs.10000. Only omission is to the extent of timing that it was demanded at 7.00 p.m. Therefore, observations of learned Trial Court in paragraph 19

that demand is not proved, is apparently contrary to the evidence on record.

8. Another point which prevailed over learned Trial Judge was regarding voice sample being not taken. However, charge-sheet shows that voice sample of accused is at Exhibit 24. Therefore even observations to this extent are contrary to the evidence.

9. As regards to the submission led made by learned Counsel for Respondent-accused that Trial Court has noted the conduct and behaviour of complainant and it to be also a reason to disbelieve complainant, is also not correct. Here case is of demand of illegal gratification. Merely because complainant has bad track record or had checkered history, would be no ground to raise suspicion over his testimony.

10. Resultantly as submitted, prosecution having succeeded in showing that observation and findings on the point of demand, voice sample are contrary to the evidence, *prima facie* case has been made out to accord leave to the State to file Appeal. Hence, State succeeds in this application and the same is required to be

allowed.

11. In view of this, Application for Leave to Appeal by State is allowed in above terms.

(ABHAY S. WAGHWASE, J)

ssp