IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 205 OF 2018

The State of Maharashtra,
Through Police Station Khultabad,
Tq. Khultabad, Dist. Aurangabad. … Applicant

Versus

Balu S/o. Kashinath More,
Age : 38 years, Occu.: Gramsevak,
Gadana Borwadi, R/o. Khultabad,
Tq. Khultabad, Dist. Aurangabad. … Respondent

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Mrs. P. V. Diggikar, APP for Applicant – State.
Mr. N. S. Ghanekar, Advocate for Respondent.

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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 04 DECEMBER 2025
PRONOUNCED ON : 08 DECEMBER 2025

ORDER :

1. Leave is sought to question the judgment and order dated 05.06.2018 passed by learned Additional Sessions Judge-5, Aurangabad in Special Case (ACB) No. 25 of 2013 acquitting the accused respondent from charges under sections 7, 13(1)(d) punishable under section 13(2) of the Prevention of Corruption Act, 1988.

2. Learned APP pointed out that, on receipt of report from PW1 that, the accused, a Gramsevak, demanded Rs.3,000/- as a bribe for issuing Form-8 extract, ACB authorities entertained the complaint,

followed by arranging independent panch and explaining to the complainant and panch the procedure of trap. That, prior to main trap, verification got done. That, after getting demand confirmed, trap was laid and it was successfully executed. According to learned APP, both, complainant and shadow panch, who were in each other's company, had unanimously stated about demand during verification and its acceptance by accused. Accused was apprehended red handed after accepting the currency, and a detailed panchanama of the spot was said to be drawn. That, there is transcript of conversation. Therefore, a full-proof case was made out, but learned trial court failed to consider and appreciate the same. As the prosecution has a good case on merits, in the light of above panchanama, she urged to accord the leave.

3. In answer to above, supporting the judgment, learned counsel for respondent pointed out that, prosecution had miserably failed to bring home the charges. He pointed out that, Investigating Officer and panch witness had admitted that the amount which was demanded and accepted, was towards tax and not illegal gratification. He pointed out that, even immediately after alleged apprehension, statement was given by accused that amount demanded by him was towards the tax and not bribe. Therefore, considering such evidence, he would submit that, trial court was correct and justified in acquitting accused and for want of merits, he urges to reject the application for leave.

4. Heard. Perused papers. PW1 Sudam complainant, who approached ACB authority for lodging complaint Exh.12. According to him, he had approached Gramsevak for issuing certified copy of extract of 8-A and for the same, according to him, there was demand of bribe of Rs.5,000/- and finally on negotiation, it was brought down to Rs.3,000/-. As he was not willing to pay bribe, he approached ACB authority and lodged complaint Exh.12. Then, he narrated about panchas summoning, introducing them to complainant, explaining procedure and verification panchanama got done by recording conversation in tape recorder and thereafter complainant and shadow panch together going to the office of accused and there again accused making demand and accepting the amount.

While under cross, in paragraph 1, complainant has admitted that accused has asked him to pay tax and he had paid Rs.1,000/- out of Rs.3,500/- on 03.04.2013. In paragraph 4, he admitted that, after demand by him to the accused to issue property extract, at that time, accused told him, first give the arrears and then take a copy of extract. He also admitted that, when he gave Rs.3,000/- to the accused, accused told him that he to pay Rs.500/- more. Therefore, the above evidence of complainant shows that he have arrears of tax and the same was demanded by accused.

5. PW2 Ambadas, shadow panch, is examined at Exh.22, wherein he deposed about approaching ACB office, being introduced to complainant, signing over complaint Exh.12 and on hearing from accused regarding demand made for issuance of Form 8-A extract. He also deposed about conversation between complainant and accused in a tape recorder and its panchanama being drawn.

In paragraph 5, he narrated the events of main trap. In Saishraddha hotel, accused arrived, the complainant ordered a tea and accused refusing to take tea. He deposed that, complainant asked how much amount he should pay and accused said that he had already informed, upon which complainant replied that it was not fixed and when the accused handed over a copy of extract of Form 8 of village panchayat property, complainant again asked himself about the entry of tax and thereafter took the extract and handed over the cash to the accused. Thereafter, predetermined signal was relayed and accused was apprehended.

This witness, while under cross in paragraph 7, admitted that, complainant had not stated that he paid Rs.1,000/- towards tax of his property and he also admitted that accused and complainant talked about the tax when they met in the hotel Saishraddha and he also further admitted that complainant conversed with the accused that he had paid some amount earlier. He also admitted about accused asking complainant that Rs.3,000/- is not enough and he has to pay Rs.500/- more. He further admitted that, accused illustrated the complainant about the description of the property and assessment of tax and complainant himself requested accused to reduce the amount of tax. This witness admitted that he did not realize whether the amount paid towards tax or a bribe. He further deposed in the court that he was handed over panchanama for perusal prior to his evidence.

6. Therefore, from the above evidence of shadow panch an independent witness, again it has come on record that the amount demanded was towards tax and not towards bribe. As pointed out by learned counsel for respondent, Investigating Officer in his evidence in paragraph 5 admitted that he did not carry out investigation regarding civil suit instituted by Gadana village panchayat against complainant. He admitted that investigation revealed that no assessment was fixed to pay property tax of the vacant plot of the complainant to village Panchayat till recording the entry of the complainant. He answered that, he learnt about communication exchanged between the complainant and accused regarding ancestral property and the property tax. He also admitted communication exchanged between both for payment of tax. In paragraph 7, he answered that, during investigation he did not come across whether the complainant was assessed for property tax to the tune

of Rs.4,800/-. He admitted that, before lodgment of complaint, he was not aware of the procedure and practice to be followed by village panchayat to assess the property tax.

7. Therefore, in the light of above discussion, here, it is emerging that, complainant was due towards payment of property tax and demand was towards the same. In spite of paying Rs.3,000/-, there was a shortfall of Rs.500/- and accused had asserted it in demand. Therefore, in view of answers given by the witnesses in cross, here, there is sufficient evidence to show that whatever amount was demanded and was also accepted by accused, was towards property tax and not bribe. Therefore, in view of admission of complainant himself, shadow panch as well as Investigating Officer, this court does not find any illegality or perversity in the findings and conclusion drawn by the learned trial court for acquitting the accused.

8. No case being made out on merits to accord leave, I proceed to pass the following order :

ORDER

(i) The leave is refused.

(ii) The application is rejected.

(ABHAY S. WAGHWASE, J.)

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