



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

CRIMINAL REVISION APPLICATION NO. 200 OF 2023

1) Amol s/o Rajendra Dapkekar
Age: 23 years, Occu.: Agriculture,
R/o. : Itgyal, Tq.Mukhed, District Nanded.

2) Khushal s/o Sopan Jadhav
Age: 50 years, Occu.: Business,
R/o. Andegaonwadi, Tq.Mukhed
District : Nanded.

..Applicants
(Orig. Accused)

Versus

. The State Of Maharashtra
Through the Police Inspector,
Anti Corruption Bureau,
Nanded, Tq. & Dist.Nanded.

..Respondent

.....

Advocate for Applicants : Mr.R.R.Kale h/f. Mr.Kiran T. Jamdar

APP for Respondent : Mr.S.A.Gaikwad

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 17 DECEMBER, 2025

PRONOUNCED ON : 18 DECEMBER, 2025

ORDER :-

1. Order of framing charge dated 11-11-2021, at the hands of learned Additional Sessions Judge, Kandhar, Link Court, Mukhed in Special ACB Case No.11 of 2021, is questioned by the applicants.

2. In nutshell, on report of Shivkumar Madhavrao Hendge, crime bearing no.0086 of 2019 dated 20-05-2019, came to be registered at

Mukramabad Police Station, District Nanded, for the offence under Section 7 of the Prevention of Corruption Act (PC Act) and under Section 120B of the Indian Penal Code (IPC), on the premise that accused no.2 was owner of the Maha E-Seva Kendra in which accused no.1 was in employment. That, complainant had approached said Maha E-Seva Kendra for issuance of income certificate of his father and for doing the said work, it is alleged that there was demand of Rs.400/- by accused persons and after negotiation, it was brought down to Rs.200/- and as complainant was not willing to pay bribe, he lodged complaint, which was registered under Section 7 of the PC Act and under Section 120B of the IPC. After, investigation, both accused were chargesheeted on 16-03-2021 and the chargesheet came to be numbered as 11 of 2021. Learned Additional Sessions Judge, Kandhar, Link Court, Mukhed, was pleased to frame charge against both the accused at Exhibit 18 for commission of offence under Sections 7 and 7A of the PC Act.

Dissatisfied by the framing of charge, both accused have preferred instant revision application.

3. Learned counsel for applicants has placed on record written notes of arguments and it is tried to be submitted that the order of

framing charge is bad in law for various reasons spelt out in the written notes of arguments. It is emphasized that, firstly accused are not “public servant” so as to bring them under the ambit of the PC Act. Learned counsel invited attention of this Court to the definition of “public servant” as spelt out under Section 2(c) of the Prevention of Corruption Act. It is further pointed out that both accused persons are private individuals. That, accused no.2 was not party to the conversation between *de facto* complainant and accused no.1, whereas accused no.1 was merely an employee. That, they both are not getting Government remuneration/salary so as to apply provisions of the PC Act. Further it is pointed out that there is no complaint with the authority, who has allotted the Maha E-Seva Kendra to accused no.2. That, investigation machinery has not followed guidelines while recording conversation. That, there is no demand verification. That, there was no comparison of voice samples and moreover, voice samples were obtained under coercion. That, there are several shortfalls and lacunas in the manner of investigation and therefore, it is his case that learned trial Court ought not to have framed charge at all.

4. Per contra, learned APP supported the act of framing of charge

at the hands of the learned Additional Sessions Judge, Kandhar, Link Court, Mukhed. He would point out that, here, there is no dispute that accused no.2 was owner of the Maha E-Seva Kendra and there is further no dispute that accused no.1 was in employment of accused no.2. He pointed out that, for issuing income certificate in favour of father of *de facto* complainant, there was demand of Rs.400/- and subsequently, on negotiation, it was brought down to Rs.200/-. He pointed out that demand verification has got done. That, panchanama of demand verification is on record. He further pointed out that on getting confirmation of demand, investigating machinery has engaged services of shadow pancha and both shadow pancha and complainant were explained procedure of trap. That, both complainant and shadow pancha, while in company of each other, had approached accused. That, even at that time, demand was made. That, on tendering tainted currency, it was accepted. Therefore, according to learned APP, *sine qua non* for drawing charges are available. He further pointed out that there were traces of anthracene powder on the hands of accused no.1. That, even sanction has been obtained from the Collector of the District and therefore, it is his submission that essential ingredients for framing charge being available, learned trial Court, according to him,

committed no error in framing charge.

As regards to submission about accused to be not “public servant”, learned APP took this Court through the Government Resolutions dated 03-12-2008, 05-12-2016, 19-01-2018 and 24-01-2018. Moreover, he also invited attention of this Court to the definition of “public servant” provided under Section 2(c) of the Prevention of Corruption Act. Thus, according to him, both accused were receiving commission from the Government and therefore, they are discharging public duties and hence, there is no irregularity in prosecuting them.

5. On going through the submissions and record, it is seen that on complaint of Shivkumar Madhavrao Hendge, crime bearing no.0086 of 2019 was registered for the aforesaid offence. Post registration of crime, investigation seems to have been carried out and chargesheet is filed, which contains statements of witnesses. There is statement of complainant as well as independent shadow pancha. There is *prima facie* material to show that there is demand of illegal gratification and even acceptance of the same. Necessary panchanamas seems to have been drawn, which are part of the chargesheet. Taking into account the said material and definition of

“public servant”, there is no manner of doubt that both accused are liable to face trial.

Learned trial Court has, therefore, committed no error in proceeding to frame charge. No case being made out on merits, revision application deserves to be dismissed. Accordingly, following order is passed :

ORDER

Criminal Revision Application stands dismissed.

(ABHAY S. WAGHWASE)
JUDGE