



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 242 OF 2017 WITH
CRIMINAL APPLICATION NO. 2138/2025 WITH
CRIMINAL APPLICATION NO. 4402/2022

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

...Appellant

Versus

1. Dhanraj Shantaram Badgujar,
Age 40 years, Occu. Service,
R/o Room No. 1, Tadavi Wada,
Vivekanand Nagar, Jalgaon,
Taluka and District Jalgaon
2. Onkar Sitaram Mali,
Age – 59 years, Occu – Agriculturist,
R/o Parola Naka, Bhavani Nagar,
Dharangaon, Tq. Dharangaon,
Dist. Jalgaon.

...Respondents

- Mr. N. D. Raje, APP for Appellant/State
- Mr. M. A. Tandale, Advocate for Respondents

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : NOVEMBER 26, 2025
PRONOUNCED ON: NOVEMBER 27, 2025

JUDGMENT :

1. State hereby takes exception to judgment and order dated 13.01.2017 passed by learned Additional Sessions Judge, Jalgaon in Special (ACB) Case No. 18/2014, acquitting both accused from offence under sections 7, 8, 12, 13(1)(d) read with 13(2) of the Prevention of Corruption

Act.

2. Present respondents-original accused were made to face trial on receipt of complaint from PW - 1 Milind Pawar that one Meenabai, resident of Dharangaon, had lodged complaint against him at Dharangaon Police Station. For settling the matter, it is alleged that PSI Sabale, police constable Badgujar demanded Rs. 30,000/- through Onkar Mali accused no.2. As complainant was not willing to pay bribe, he filed complaint Exhibit 24, on the strength of which investigating officer planned and executed trap by involving panchas and after completing the investigation, he charge-sheeted both the accused (present respondents for above charges).

In the trial Court, apart from documentary evidence, case of prosecution is rested on the evidence of PW-1 complainant; PW-2 shadow panch; PW-3 sanctioning authority and PW-4 investigating officer.

After appreciating above evidence and on hearing learned counsels representing each of the side, learned trial Court held that prosecution failed to prove the charges and thereby acquitted both accused vide impugned judgment, which is now subject matter of appeal before this Court.

SUM AND SUBSTANCE OF THE EVIDENCE IN TRIAL COURT

3. **PW 1** Milind Pawar at Exhibit 23 testified that, one Meenabai

resident of Dharangaon had come to his rationing shop and she had filed false case with intention to seek share in his property. In the backdrop of above complaint, he testified that for settling the complaint, PSI Sabale, constable Badgujar, posted at Dharangaon police station, put up demand of Rs. 30,000/- from him through accused Onkar Mali. He, therefore, lodged complaint. In further testimony he deposed about pre-trap panchnama via voice recording and verification panchnama being drawn and thereafter, he deposed about final trap being planned by PW-4 and he while in the company of panch PW-2 approached accused at police station and there, it is alleged that, accused made demand of bribe and directed it to be paid to Onkar Mali, which was duly handed over to him who kept Rs. 2,000/- for himself and handed over Rs. 8,000/- to accused Badgujar who accepted it which was followed by relay of signal and raiding party apprehending accused.

4. **PW 2** shadow panch who is examined at Exhibit 29 testified about vising ACB Office, approaching PI. Mali who introduced them to complainant PW-1 who narrated his complaint regarding demand of bribe for not taking action and written complaint Exhibit 24 being shown which was duly signed on 12.08.2014. He further testified that he and another panch visited office of ACB on 14.08.2014 and accompanied complainant for verification of demand and carrying voice recorder, approaching accused

for work, accused demanding gratification, they returning and drawing verification panchnama. In paragraph 6 he testified about the main trap about accompanying complainant to the police station and at that time accused Onkar Mali being initially approached and he taking them to upper floor where Badgujar was sitting and there after talks between de facto complainant took place, accused Badgujar asked complainant to pay bribe to accused Onkar Mali. He also deposed that Onkar Mali retained Rs.2,000/- for himself and gave rest amount of Rs.8,000/- to accused Badgujar. After accepting the bribe, complainant gave the pre-determined signal followed by trap.

5. **PW 3** is the sanctioning authority who claims to have received papers from the ACB, studying it, and thereafter accorded sanction to prosecute. Last PW 4 is investigating officer.

SUBMISSIONS

6. Learned APP by inviting attention of this Court to above evidence would submit, that here accused no. 1 Badgujar is a police constable whereas accused no. 2 Onkar Mali was a stamp vendor working outside police station. He further pointed out that for resolving dispute and complaint lodged by one lady, accused Badgujar had raised demand of bribe of Rs. 30,000/- and directed it to be paid to accused Onkar mali. He pointed out that on receipt of such complaint, investigating machinery had planned

trap. Steps for verification of demand got done by sending complainant and shadow panch with voice recording, recording their conversation and after getting convinced that there was demand, learned APP would submit that investigating officer planned further final trap and gave necessary instructions and made them to demonstration of application anthracene powder to the currency which was directed to be paid only on demand and shadow panch was made to accompany complainant and to remain watchful regarding events in the police station and that signal was directed to be laid on demand as well as acceptance.

7. Learned APP submitted that in support of above, prosecution had adduced evidence of above four witnesses. According to him, both PW 1 and 2 are unanimous about both verification demand as well as final demand and acceptance by accused no. 2 on behalf of accused no.1 and they both being apprehended. Thus, according to him, requirements for attracting charges are very much available. He further invited attention of the Court to the pre-trap verification demand panchnama, voice recording panchnama as well as final trap panchnama and would submit that prosecution has thereby discharged the burden of proving the charges.

8. He further pointed out that here sanction was obtained before prosecuting accused. Such sanctioning authority has been examined as PW 3. Sanction is valid as it is due application of mind. Hence, according to

learned APP, full proof case being made out, case of prosecution ought to have been accepted and conviction ought to have been recorded, however, learned trial Court failed to do so. According to him, there is improper appreciating of evidence and failure to consider settled legal position of law and there is illegality in acquitting the accused and, therefore, he urges for allowing the appeal.

9. In answer to above, learned counsel for respondent would point out prosecution has miserably failed to bring home charge. There is apparently false implication because according to him complainant had lodged report regarding demand by one PI Sabale and such person is not accused. That, there was no demand directly by Badgujar or Onkar. He pointed out that acceptance is allegedly by Onkar but there is no demand by said Onkar. Therefore, according to him, there is neither demand nor acceptance. He pointed out that case of prosecution about demand being raised through Onkar has no foundation. That, there is nothing to connect both the accused together. He further pointed out that surprisingly prosecution has not been launched against main accused Sabale who had allegedly raised demand and regarding whom PW 1 had lodged written report.

10. Learned counsel took this Court through the cross of PW-1 and 2 and submit that answers therein inflict serious dent to the prosecution

story on the count of both demand as well as acceptance. Learned counsel by inviting attention of this Court to paragraphs 51, 52, 55 and 56 of the judgment supports the same and urges not to disturb the sound reasoned findings and judgment and ultimately prays to dismiss the appeal.

ANALYSIS

11. Re-appreciated and reanalyzed entire evidence. PW-1 Milind Pawar has moved ACB authorities by written complaint dated 13.08.2014 conveying that one Meenabai had lodged complaints against him and his family members at police station. In that reference, it is alleged that PSI of Dharangaon police station, namely, Sabale as well as police constable Badgujar had demanded Rs. 30,000/- for settlement through Onkar Mali, who was a stamp vendor sitting out side the police station. In his evidence at Exhibit 23 also he testified that for settling the matter filed by Meenabai, PSI sable and police constable Badgujar demanded Rs. 30,000/- through Onkar Mali. Contents of Exhibit 24 are on similar lines.

Therefore, the above material shows that demand is attributed to Sabale as well as Badgujar and also through Onkar Mali. There cannot be demand by three persons at one and the same time.

12. Though complainant participated in pre-trap verification demand exercise in presence of PW 2, he has not uttered a word about Sabale. Sabale is not made accused here for the best reasons known to

prosecution. Further, written complaint is of 13.08.2014 but PW-1 claims that he approached ACB office on 14.08.2014. During pre-trap verification, it is alleged that accused Badgujar had raised demand of Rs. 10,000/- that too by way of gestures. Therefore, he himself contradicts by stating in complaint regarding demand of Rs. 30,000/- and at the time of verification alleging demand of Rs. 10,000/-. In paragraph 5 of the chief he stated that after reaching police station, he initially approached accused no. 2 Onkar Mali and said person took them to upper floor of police station where accused Badgujar was sitting. He claims that he had discussion with Badgujar about the complaint and at that time, Badgujar asked him to pay amount of Rs. 10,000/- to Onkar Mali. Therefore, such evidence does not show that demand was made by Badgujar for himself.

13. Further, in paragraph 7 he has stated that at the time of final trap when they reached police station, at that time demand was made by Badgujar asking him about the bribe and directing him to be paid to Onkar Mali, who allegedly took the bribe, counted it, kept Rs. 2,000/- for himself and paid the remaining amount to accused Badgujar. This sequence of events shows that actual handing over of money is not by complainant to Badgujar but it is by Onkar Mali to Badgujar.

While under cross paragraph 13 he stated about visiting ACB office on 13.08.2014 and previous to it not going to ACB office. He

answered that Exhibit 24 de facto complaint was written by him in the ACB office itself and on 14.08.2014 demand verification was done by use of voice recorder but he answered that he does not know whether the memory card in which voice sample of himself as well as panchas were recorded was seized or not. In paragraph 16 he admits of one Rafique Qureshi to be with accused no. 2 and to be present throughout the main trap but said Qureshi is not examined.

14. PW 2 Shadow panch testified that on 12.08.2014 he and another panch had been to ACB office. Question is when report by PW-1 is itself on 13.08.2014, what was the occasion for this witness to go to act as panch on 12.08.2014 i.e. earlier to the lodgment of the complaint. In cross, in paragraph 19 he also speaks of signing document in ACB office and rather states that he does not remember whether he caused signature on any document on 14.08.2014. This witness in cross in paragraph 18 has also admitted that at the time of drawing panchnama of conversation, he had not heard the word Rs. 10,000/- being demanded. In paragraph 12 he is unable to state whether he had met complainant in ACB office on 12.08.2014. In cross paragraph 13 this witness is unable to state whether on 12.08.2014, 13.08.2014 and 14.08.2014 while in ACB office whether de facto complainant had told him regarding of Rs. 30,000/- raised by police of Dharangaon police station. He also does not remember as to whether it was

noted in the complaint that Badgujar had demanded Rs. 10,000/- from complainant and amount to that extent being brought by complainant. He fairly admitted in his cross that in de facto complaint Exhibit 24 it was not written that, accused Badgujar had raised demand of Rs. 10,000/-. He is unable to state what conversation and discussion took place between de facto complainant, Onkar Mali while in the company of Qureshi. He admitted that when Qureshi, Onkar Mali and de facto complainant had approached PSI Sabale, at that time he was outside.

Therefore, above material that has emerged in a crucial witness like PW-2 shadow panch, who is independent panch, there are serious doubts about the prosecution story.

15. There is nothing to connect present respondent Badgujar with accused Onkar so as to accept the version that currency was accepted by accused no. 2 on behalf of accused no. 1.

16. To sum up, here, as pointed out, demand is said to be by one Sabale but he is not arraigned as an accused. Prosecution evidence shows that alleged demand was by Sabale as well as Badgujar, there cannot be demand in chorus. Here, as stated above, accused no. 2 Mali had allegedly received currency and he has apportioned the amount by retaining Rs. 2,000/- for himself and paying rest Rs. 8,000/- to accused Badgujar. If at all it was a story of prosecution that demand was made through Onkar Mali,

the actual conversation of demand ought to have been from Onkar Mali, but it has not happened so.

For above reasons, as case of prosecution is not proved beyond reasonable doubt, its case cannot be accepted.

17. Perused the judgment under challenge. Findings are recorded by assigning sound reasons. There is appreciation of available evidence. Settled law has been borne in mind. Therefore, bearing in mind the principles to be considered while interfering in appeal against acquittal, this Court is also of the opinion that there is no merit in the appeal and this Court thereby refrains from interfering in it.

18. In view of above discussion, there being no merit in the appeal, the same stands dismissed.

19. Pending application(s), if any, stands disposed of.

(ABHAY S. WAGHWASE, J.)

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