



Judgment

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION (APL) NO.159 OF 2024

Pratik s/o Diwakar Channawar,
aged 33 years, occupation : Government
Servant, r/o at post Nandgaon,
tahsil Mul, district Chandrapur. **Applicant.**

:: V E R S U S ::

1. State of Maharashtra, through
Police Station Officer, Police
Station Aheri, district Gadchiroli.

2. Soil Ajijkhan Pathan, aged
major, occupation: Tendupatta
Contractor, r/o post Bori, taluka
Aheri, district Gadchiroli. **Non-applicants.**

Shri N.S.Khubalkar, Counsel for the Applicant.
Shri M.J.Khan, Addl.PP for NA No.1/State.

**CORAM : URMILA JOSHI-PHALKE &
NANDESH S.DESHPANDE, JJ.**

CLOSED ON : 21/11/2025
PRONOUNCED ON : 15/12/2025

JUDGMENT (Per : Urmila Joshi-Phalke)

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1. Heard learned counsel Shri N.S.Khubalkar for the applicant and learned Additional Public Prosecutor Shri M.J.Khan for the State. **Admit.** Heard finally by consent of learned counsel for the parties.

2. The present application is preferred by the applicant under Section 482 of the CrPC for quashing of FIR in connection with Crime No.275/2023 dated 26.8.2023 registered under Sections 7 and 12 of the Prevention of Corruption Act, 1988 (the PC Act) with Aheri Police Station, district Gadchiroli.

3. Brief facts necessary for disposal of the application are as under:

The applicant is serving as Block Development Officer and at the relevant time, is posted at Aheri in Gadchiroli district and was functioning as Assistant Block Development Officer. The crime is registered against him

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on the basis of a report lodged by Soheli Ajikhan Pathan alleging that he is doing work of taking contract of collection and transportation and sell of "Tendupatta" in Grampanchayat of Umanur, Govindgaon, Petha. In connection with Govindgaon, pertaining to 41 Unit, he has already paid labour charges and royalty. However, despite of paying the said charges, "No Objection Certificate" has not been issued by the concerned authority. When he enquired, it was informed to him that the applicant working as the Block Development Officer is the competent authority who has authority to issue "No Objection Certificate" for obtaining further "Transit-Pass" from the Forest Department. Therefore, the complainant approached the concerned office and co-accused Sanjeev Kothari demanded amount Rs.1,30,000/- for the same. Out of the amount, the complainant paid amount Rs.50,000/- to said Sanjay Kothari. As the complainant

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was not ready to pay rest of the amount, he approached the Office of the Anti Corruption Bureau at Gadchiroli for lodging the report.

4. After lodging the report, officials of the Anti Corruption Bureau verified the fact of the demand and thereby led a trap and co-accused Sanjeev Kothari was found accepting the said amount. On the basis of the said report, the police registered the crime and during investigation, required panchanamas are prepared by the investigating agency.

5. After registration of the crime, the applicant approached this court on the ground that even accepting the allegations as it is, no offence is made out against the applicant as there was no demand by the applicant. The communication nowhere reveals that it was the applicant, who has demanded the gratification amount and co-accused has accepted the same. Thus, neither the offence

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under Section 7 nor under Section 12 of the PC Act is made out. In view of that, the FIR against the applicant deserves to be quashed.

6. Learned counsel for the applicant has taken us through the entire investigation papers and the communication which is recorded by the officials of the Anti Corruption Bureau to ascertain genuineness of the demand and submitted that none of communications shows that there was demand at the hands of the applicant. Thus, considering no *prima facie* case is made out against the applicant, the FIR deserves to be quashed.

7. *Per contra*, learned Additional Public Prosecutor for the State opposed the said contentions and invited our attention to communication and submitted that the communication recorded during the verification panchanama specifically states that it was the applicant who has demanded the amount through the other co-

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accused. The communication specifically discloses that the demand was made on the say of the applicant. He invited our attention to verification panchanama wherein communication between the applicant and the complainant was recorded. He submitted that nature of the communication itself shows that it was the applicant, who through other co-accused, demanded the said amount. Therefore, the said act is covered under Sections 7 and 12 of the PC Act.

8. We have given considerable thought to the submissions of learned counsel for the applicant and learned Additional Public Prosecutor for the State.

9. The law relating to quashing of FIRs was explained by the Hon'ble Apex Court in the case of **State of Haryana and ors vs. Bhajan Lal and ors, reported in 1992 Supplementary (1) SCC 335** wherein principles have been laid down which are required to be

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considered while considering applications for quashing of the FIRs, which read as under:

“(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any

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offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the

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proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”.

10. The law relating to quashing of the FIR was explained by the Hon’ble Apex Court in the case of **B.N.John vs. State of UP, reported in MANU/SC/00/2025**, as under:

“As far as quashing of criminal cases is concerned, it is now more or less well settled as regards to the principles to be applied by

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the court. In this regard, one may refer to the decision of this Court in **State of Haryana Vs. Ch. Bhajan Lal and Ors., 1992 Supp. (1) SCC 335** wherein this Court has summarized some of the principles under which FIR/complaints/criminal cases could be quashed in the following words:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice,

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though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an

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order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd

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and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking

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vengeance on the accused and with a view to spite him due to private and personal grudge.”

11. Thus, the present application has to be decided as per parameters laid down by the Hon’ble Apex Court.

12. In the present case, the contents in the FIR clearly show the demand and attempt to obtain from the complainant an undue advantage by misusing the official position by the public servant.

13. Explanation-1, given under Section 7 of the PC Act states that for the purpose of this section, the obtaining, accepting, or the attempting to obtain an undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper.

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The illustration given thereunder states that, a public servant, 'S' asks a person, 'P' to give him an amount of five thousand rupees to process his routine ration card application on time. 'S' is guilty of an offence under this section.

14. To ascertain genuineness of the allegations, the officers of the bureau called panchas and in presence of panchas, the voice recorder was switched on and the complainant was asked to communicate by approaching the accused. The communication between the complainant and the co-accused as well as the communication between the complainant and the applicant was recorded, which is reproduced in the verification panchanama.

15. The communication specifically shows that there was a demand by the applicant to the complainant and shown his willingness to accept the amount through

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another person. Admittedly, voice samples of the applicant and the complainant are obtained and forwarded to the Forensic Science Laboratory and report of the same is awaited.

16. It was submitted that the allegations in the FIR are false. At this stage, this court cannot go into truthfulness or otherwise the allegations made in the complaint. This court would not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint at the stage of quashing of the proceedings under Section 482 of the CrPC. However, the allegations made in the FIR, if taken at their face value, must disclose the commission of the offence and make out a case against the accused.

17. In the present case, the allegations made in the FIR, even if taken at their face value, supported by

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the verification panchanama, disclose the commission of offence and make out a case against the applicant.

18. It would be apt to refer the observations of the Hon'ble Apex Court in the case **State of Chhattisgarh vs. Aman Kumar Singh and ors, reported in the 2023 SCC OnLine SC 198**, which are reproduced as under:

“We preface our discussion, leading to the answers to the above two questions, taking note of a dangerous and disquieting trend that obviously disturbs us without end. Though it is the preambular promise of the Constitution to secure social justice to the people of India by striving to achieve equal distribution of wealth, it is yet a distant dream. If not the main, one of the more prominent hurdles for achieving progress in this field is undoubtedly ‘corruption’. Corruption is a malaise, the presence of which is all pervading in every walk of life. It is not now limited to the spheres of activities of

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governance; regrettably, responsible citizens say it has become a way of one's life. Indeed, it is a matter of disgrace for the entire community that not only on the one hand is there a steady decline in steadfastly pursuing the lofty ideals which the founding fathers of our Constitution had in mind, degradation of moral values in society is rapidly on the rise on the other. Not much debate is required to trace the root of corruption. 'Greed', regarded in Hinduism as one of the seven sins, has been overpowering in its impact. In fact, unsatiated greed for wealth has facilitated corruption to develop like cancer. If the corrupt succeed in duping the law enforcers, their success erodes even the fear of getting caught. They tend to bask under a hubris that rules and regulations are for humbler mortals and not them. To get caught, for them, is a sin. Little wonder, outbreak of scams is commonly noticed. What is more distressing is the investigations/inquiries that follow. More often than not, these are botched and

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assume the proportion of bigger scams than the scams themselves. However, should this state of affairs be allowed to continue? Tracking down corrupt public servants and punishing them appropriately is the mandate of the P.C. Act. “We the people”, with the adoption of our Constitution, had expected very high standards from people occupying positions of trust and responsibility in line with the Constitutional ethos and values. Regrettably, that has not been possible because, inter alia, a small section of individuals inducted in public service for ‘serving the public’ appear to have kept private interest above anything else and, in the process, amassed wealth not proportionate to their known sources of income at the cost of the nation. Although an appropriate legislation is in place to prevent the cancer of corruption from growing and developing, wherefor maximum punishment by way of imprisonment for ten years is stipulated, curbing it in adequate measure,

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much less eradicating it, is not only elusive but unthinkable in present times. Since there exists no magic wand as in fairy tales, a swish of which could wipe out greed, the Constitutional Courts owe a duty to the people of the nation to show zero tolerance to corruption and come down heavily against the perpetrators of the crime while at the same time saving those innocent public servants, who unfortunately get entangled by men of dubious conduct acting from behind the screen with ulterior motives and/or to achieve vested interests. The task, no doubt, is onerous but every effort ought to be made to achieve it by sifting the grain from the chaff. We leave the discussion here with the fervent hope of better times in future”.

19. In the light of the above observations, in the present case, the allegations in the FIR and the material collected by the prosecution show that the applicant has demanded Rs.1,30,000/- which is substantiated by the

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verification panchanama. The alleged act of the applicant covers under Sections 7 and 12 of the PC Act and, therefore, *prima facie* case is made out against the applicant.

20. For the reasons above, we have no option but to reject the application and, therefore, the application is **rejected** accordingly.

Application stands **disposed of**.

(NANDESH S.DESHPANDE, J.)

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!