IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPEAL NO. 347 OF 2018

Sharad S/o Namdeorao Targe,
Aged about 40 years, Occ. Service
R/o Gopal Nagar, Chandrapur,
Tahsil & District Chandrapur … **Appellant.**

// VERSUS //

State of Maharashtra,
through Deputy Superintendent of Police, Anti Corruption Bureau,
Chandrapur, District Chandrapur ... **Respondent**

Shri S.V. Sirpurkar, Advocate for the appellant.
Shri S.S. Hulke, Addl.P.P. for the respondent/State

CORAM : NIVEDITA P. MEHTA, J.

Reserved on : 21st November, 2025.
Pronounced on : 27th November, 2025.

JUDGMENT

The appellant has preferred the present appeal being aggrieved by the judgment and order dated 11.05.2018 passed by the learned Additional Sessions Judge, Chandrapur in Special ACB Case No. 5 of 2009, whereby the appellant was convicted for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988

("PC Act") and sentenced to undergo rigorous imprisonment for three years and to pay a fine of ₹10,000/-, in default whereof to suffer rigorous imprisonment for a further period of three months.

2. The prosecution case, in brief, is that the complainant, Shilratan Gongale, had participated as a candidate in the police recruitment process at the Chandrapur Police Headquarters. He was declared unfit on account of chest measurement. On 30.05.2006, while the recruitment process was in progress, the Superintendent of Police, Chandrapur had instructed the S.P./Dy.S.P., ACB, Nagpur to keep clandestine surveillance to prevent any misuse of official position. Pursuant to the communication dated 29.05.2006, officers of the ACB, Chandrapur commenced discreet vigilance.

It is the prosecution case that during this period, the accused contacted the complainant, who was a rejected candidate, and assured him that he could secure his selection. When questioned, the accused allegedly informed the complainant that the then S.P., Chandrapur, one Ravindra Kadam, was close to him and though the S.P. did not directly accept money, he accepted the same through the accused. The ACB allegedly called the complainant to their office, obtained his confidence, and recorded his statement to that effect.

3. A verification was thereafter planned. Two panch witnesses, Maroti Nikhare and Bhushan Gajpure, were called from the office of the Conservator of Forests, Upper Division, Chandrapur. After being apprised of the purpose and giving their consent, the complainant was deputed along with panch No.1 Maroti Nikhare, who was instructed to introduce himself as the father of a rejected candidate named Gedam. The complainant contacted the accused on mobile phone. The accused initially directed them to a canteen where he was said to be having a meal, but he was not found. Upon subsequent calls, he directed them first to the Tahsil Office and thereafter to wait near the Traffic Office.

While they were waiting, a person arrived on a motorcycle, whom the complainant identified as the one deputed to receive the bribe amount. This person allegedly signaled the complainant, made inquiries with panch No.1, and demanded 50% of the agreed amount of ₹1,10,000/-, instructing them to bring the same on the following day at the Police Headquarters ground, Chandrapur. On this basis, a verification panchanama was drawn and signed by the panchas and the ACB Officer, Shri Todase. A trap was accordingly arranged for the next day.

4. On the following day, the complainant and the panchas assembled. It was decided that the complainant would carry ₹10,000/- along with blank papers shaped like currency notes. A demonstration of phenolphthalein powder was conducted. Necessary instructions were issued, and a pre-trap panchanama was drawn. At about 12.30 p.m., the complainant and panch No.1 proceeded towards the spot near the footpath at the Police Headquarters, while the rest of the trap party waited concealed nearby.

After about half an hour, both the complainant and panch No.1 returned and reported that the trap had failed. On inquiry, it was informed that the complainant had gone to a telephone booth to contact the accused, keeping the panch waiting. Upon return, he informed the panch that the accused had expressed suspicion regarding the presence of panch No.1, resulting in the aborting of the trap.

5. Thereafter, the Investigating Officer lodged a complaint (Exh.46) after a delay of nearly six months, on 08.12.2006, allegedly

pursuant to directions received during an office visit from the superior officer, late Shri Hemant Karkare. Sanction was subsequently obtained. Statements of the complainant, the panchas, and supplementary statements of Ravindra Kadam and the then S.P., Chandrapur (both recorded on 14.11.2007) were taken. The charge-sheet came to be filed on 17.03.2009.

6. Charge (Exh.13) for the offence punishable under Section 7 of the PC Act was framed by the learned Special Judge on 19.04.2012. The accused pleaded not guilty (Exh.14) and claimed to be tried. The prosecution examined four witnesses: P.W.1 Shilratan Gongale (complainant), P.W.2 Maroti Nikhare (panch), P.W.3 ACP Chhering Dorje, and P.W.4 Shri Shriram Todase, retired Dy.S.P. Upon closure of prosecution evidence (Exh.60), the statement of the accused under Section 313 Cr.P.C. (Exh.62) was recorded, wherein he denied all incriminating circumstances.

7. The trial Court, upon appreciation of the evidence, held that the prosecution had proved that the accused attempted to obtain and agreed to accept illegal gratification for showing official favour. Invoking

Explanation (e) to Section 7 of the PC Act, the trial Court held that the accused, being a public servant, induced the informant to believe that he had influence in matters of recruitment. It thus concluded that the offence under Section 7 stood proved, answered the relevant point for determination in the affirmative, and convicted the accused accordingly. Hence, the present appeal.

8. Heard Mr. Shirpurkar, learned Counsel for the appellant, and Mr. Hulke, learned Additional Public Prosecutor for the respondent–State.

9. Learned Counsel for the appellant contends that the complainant (PW-1) has categorically deposed that the accused was not known to him prior to the alleged incident. It is submitted that, as per the complainant's testimony, the person who had approached him had introduced himself as "Sharad Targe," and during his cross-examination by the learned APP, the complainant specifically stated that the appellant present before the Court was not the person who had met him or demanded money. Despite such unequivocal evidence, the trial Court failed to record any finding regarding the identity of the accused. It is

argued that no Test Identification Parade was conducted, although the complainant was admittedly unfamiliar with the accused, thereby rendering the prosecution case doubtful. According to the appellant, some other person may have misused his name, and the trial Court failed to examine this crucial aspect in its proper perspective.

Learned Counsel further submits that the appellant had no role whatsoever in the recruitment process in question, which is an admitted position on record. PW-3 and PW-4 have also acknowledged these facts during their depositions. It is urged that the incident allegedly occurred on 31.05.2006, whereas the complaint came to be lodged only on 08.12.2006, indicating false implication. It is further contended that the sanctioning authority did not apply its mind while granting sanction under the Prevention of Corruption Act, 1988. However, the primary submission pressed into service is that the complainant himself has exonerated the appellant by stating before the trial Court that he was not the person involved in the alleged crime, thereby vitiating the conviction. In support of his contention he relied on the judgments of the Hon'ble Supreme Court in (i) B. Jayraj Vs. State of A.P., (2014) 13 SCC 55, (ii)

Satish Kumar Kajal Vs. State Central Bureau of Investigation, 2022 SCC Online Bom 465 and (iii) Judgment of this Court in Criminal Appeal No. 447/2012 Bhaurao Chauhan Vs. State of Maharashtra.

10. Per contra, learned Additional Public Prosecutor for the State submits that in view of the complainant's categorical deposition before the trial Court that the appellant was not the person who demanded bribe from him, there remains no material to connect the appellant with the alleged offence. The learned Addl.P.P. fairly states that, in light of such testimony, no substantive argument can be advanced to sustain the appellant's conviction.

11. Before adverting to the aforesaid submissions, it is necessary to first undertake a careful examination of the evidence placed on record by the prosecution. The appreciation of such evidence is essential for determining whether the foundational facts alleged by the prosecution stand established, and whether the subsequent submissions advanced by the learned Counsel can be tested against a reliable evidentiary framework. It is only after such scrutiny that the court can appropriately evaluate the rival contentions and arrive at a just and reasoned conclusion.

12. PW-1 Shilratan Mohan Gongle, the informant on whose alleged information the entire trap proceedings originated, specifically stated in his examination-in-chief that:

"the accused present in the Court is not the person who met me outside the police headquarters, Chandrapur" and

"the person who told his name as Sharad Targe and who met me on the next day with Nikhare is not the accused present in the Court."

In cross-examination by the A.P.P., PW-1 categorically denied the suggestion that the accused was the same person who approached him or disclosed his name as Sharad Targe. The witness further denied that he was unable to identify the real culprit due to lapse of time and also denied having compromised the matter. This failure of identification by the very informant strikes at the root of the prosecution case.

13. Absence of Independent Corroboration from Panch Witness (PW-2) : Panch Witness PW-2, Maroti Nikhare, made several admissions in cross-examination that weaken the prosecution version: No audio-recording of conversation between PW-1 and the alleged person was done

either during verification or trap. He did not hear the conversation on the phone and could not say what was spoken from the other side. Call records of PW-1's mobile phone were never checked in his presence. He admitted inability to identify any person connected with the ACB or the accused after the lapse of years. His statement was recorded 15–20 days after the incident, not immediately. These admissions show that the alleged demand attributed to the accused was not independently verified and the evidentiary value of PW-2's testimony is severely diminished.

14. Contradictions Between PW-1 and PW-2 on Material Aspects: There exist significant inconsistencies between PW-1 and PW-2 regarding: the place of alleged meetings, the sequence of events, the person who initiated conversations, and the exact words allegedly spoken by the person named "Sharad Targe". PW-1 admits that many facts deposed in court were not mentioned in his original statement, including the name of the alleged friend "Gedam," the details of the conversation with the accused, and the instructions received from the ACB. These contradictions render the prosecution's narrative doubtful.

15. Absence of Test Identification Parade: PW-4 (Investigating Officer) admitted in cross-examination that: No Test Identification Parade was conducted to fix the identity of the person who allegedly impersonated “Sharad Targe.” Given that PW-1 does not identify the accused in court, failure to conduct TIP assumes significant importance and operates in favour of the accused.

16. Investigative Lapses Admitted by the Investigating Officer (PW-4): PW-4 made the following important admissions: Call details of the mobile phones were never obtained, though the entire prosecution case depends upon mobile conversations. He did not inquire whether more than one person with the name “Sharad Targe” existed in the Police Department. He admitted that supplementary statements were prepared much later and did not remember the flaws pointed out by the Superintendent of Police during scrutiny of the investigation. He admitted that no father’s name of the person calling himself “Sharad Targe” was ever verified. These deficiencies create doubt about the fairness and reliability of the investigation.

17. Verification and Trap Not Resulting in Acceptance of Money: Both PW-1 and PW-2 consistently state that: The alleged person refused to accept money, No acceptance of bribe took place, And the trap concluded in failure. Under settled law, mere demand without acceptance must be proved beyond reasonable doubt; in the present case, even the alleged demand stands on shaky footing due to identification failures and contradictions.

18. Informant's Statement (Exh.22) Shows Overwriting and Omissions: PW-1 pointed out overwriting in the date of his statement (Exh.22) and deposed that: He did not state several important facts during recording, though they appear in the prosecution narrative. No signatures of panchas or of himself were taken on the date mentioned. This further reduces the reliability of the foundational document of the prosecution.

19. The most significant aspect emerging from the prosecution evidence is the categorical failure of PW-1, the informant, to identify the accused. PW-1 is the originator of the complaint and the person allegedly contacted by an individual introducing himself as "Sharad Targe." In his

examination-in-chief, PW-1 unambiguously stated that the accused present in Court was **not** the person who met him near Police Headquarters, Chandrapur, nor the one who identified himself as "Sharad Targe." In cross-examination, he reiterated this position and denied all suggestions regarding lapse of memory or any compromise. When the principal witness disowns identification, and when demand of money is attributed solely to a person whose identity remains unestablished, the entire foundation of the prosecution case becomes doubtful.

20. The evidence of the panch witness, PW-2 Maroti Nikhare, further weakens the prosecution version. PW-2 admitted that there was **no audio recording** of the alleged conversation between PW-1 and the person claiming to be "Sharad Targe," either during verification or during trap proceedings. He also conceded that he himself did not hear the conversation over the phone and was unable to say what the person on the other end had stated. He admitted that the **call records were never verified**, and his own statement was recorded after a considerable delay of 15–20 days. These admissions diminish the reliability of PW-2 as an independent corroborative witness and indicate that the alleged demand

was never objectively verified by the investigating agency. When the essential element of "demand" rests on weak and uncorroborated testimony, the benefit of doubt must necessarily go to the accused.

21. There are several material contradictions and omissions in the depositions of PW-1 and PW-2, which further erode the credibility of the prosecution. PW-1 admitted that several facts stated in Court did not find place in his earlier statement, such as references to a friend named "Gedam," details of conversations with the alleged person, and specific instructions received from the ACB. PW-2 similarly admitted that he had not mentioned key details in his statement, such as the questions asked by the alleged police constable. These discrepancies are not minor but go to the root of the prosecution narrative, creating inconsistencies in the very sequence of events, the alleged demand, and the nature of the meetings. The presence of overwriting in Exh.22, the informant's foundational statement, further casts doubts on the fairness and accuracy of the investigation.

22. Another important aspect operating in favour of the accused is the admitted fact that no Test Identification Parade (TIP) was

conducted. The Investigating Officer (PW-4) admitted that no such exercise was arranged. In a case where the identity of the alleged offender is central and where the informant explicitly denies identifying the accused failure to conduct TIP is a grave omission. TIP is especially crucial when the accused was unknown to the complainant and the prosecution case hinges on the identity of the person who impersonated a police officer and allegedly demanded money. The absence of such a vital investigative step renders the prosecution's attempt to fix identity wholly unreliable.

23. The testimony of PW-4, the Investigating Officer, discloses several investigative lapses that seriously affect the integrity of the prosecution case. PW-4 conceded that no call detail records were obtained, although the prosecution case rests heavily on alleged telephonic conversations. He also admitted that he did not ascertain whether more than one person named "Sharad Targe" was working in the Department, nor did he verify the father's name of the individual claiming that identity. The officer also accepted that supplementary statements were recorded much later and that he could not recall the

specific defects pointed out by the Superintendent of Police during scrutiny. These omissions and lapses not only indicate a defective investigation but also create a reasonable possibility that the accused has been wrongly implicated.

24. Another material circumstance emerging from the evidence is that the alleged public servant never accepted any money. Both PW-1 and PW-2 consistently stated that the person who claimed to be "Sharad Targe" refused to accept the money on the ground that he doubted the identity of the accompanying person. The trap, therefore, concluded in failure. It is settled law that both demand and acceptance must be proved beyond reasonable doubt for conviction under the PC Act. In the present case, not only has acceptance taken place, but even the alleged demand is rendered doubtful due to failure of identification and lack of corroboration. Thus, the essential ingredients of the offence remain unproved.

25. On a cumulative consideration of the evidence, it is apparent that the prosecution has failed to establish a consistent, credible, and legally

sustainable case against the appellant. The material deficiencies in the prosecution case include:

1. Non-identification of the appellant by the complainant;

2. Contradictions in the statements of the complainant;

3. Absence of a Test Identification Parade (TIP);

4. Lack of corroboration from the panch witness;

5. Non-production of call records; and

6. Admitted lapses in the investigation.

These deficiencies, taken together, give rise to multiple reasonable doubts regarding the prosecution case. It is well settled that the prosecution is required to prove its case beyond reasonable doubt. In the present matter, the prosecution's version appears doubtful and improbable on material particulars.

26. In *B. Jayaraj v. State of Andhra Pradesh* (supra), the Hon'ble Supreme Court held that when the complainant does not support the prosecution case and disowns the allegations made in the complaint, the complaint cannot be relied upon as evidence of the alleged offence.

Further, in the absence of independent corroboration such as witnesses present at the time of the alleged transaction or proof of demand the evidence of the complainant alone cannot sustain the allegations.

27. In the present case, the complainant has specifically stated in the deposition that the appellant is not the person who demanded money, and the identification of the appellant has been denied. Therefore, on a comparison of facts, the present case is on an even stronger footing than the cited authority. Consequently, the offences punishable under Sections 7 or 13(1)(d)(i)(ii) and Section 20 of the PC Act, 1988, are not made out against the appellant.

CONCLUSION

26. From the analysis of the prosecution evidence, it is clear that the essential elements of the alleged offence; particularly the identity of the accused, the demand of illegal gratification, and the acceptance of money; have not been proved beyond reasonable doubt. The star witness does not identify the accused, the independent panch witness does not corroborate the prosecution case, the investigation is marred by significant lapses, and the trap ended without acceptance of any bribe.

These circumstances, viewed together, create substantial and reasonable doubt regarding the involvement of the accused. In such a situation, the accused is entitled to the benefit of doubt, and the prosecution cannot be said to have established its case with the degree of certainty required under criminal law.

Consequently, the appeal is allowed. The impugned judgment and order dated 11.05.2018 passed by the learned Additional Sessions Judge, Chandrapur in Special ACB Case No. 5 of 2009 is hereby set aside. The appellant is acquitted of the charges of offence punishable under section 7 of the Prevention of Corruption Act, 1988. His personal bond and surety bond are discharged. The fine amount, if deposited shall be refunded. A copy of this judgment along with the record of trial Court be forwarded to the trial Court.

[NIVEDITA P. MEHTA, J.]