



Judgment

Cr.APPEAL-372-2016

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

CRIMINAL APPEAL NO. 372 OF 2016

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Central Bureau of Investigation,
ACB, Nagpur.

...

APPELLANT

- - V E R S U S - -

Shriram Maroti Niranjane,
R/o. Durgapur Colliery No.3,
WCL Chandrapur.

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RESPONDENT

Mr. P.K. Sathianathan, Advocate a/b Mr. Dev M. Mehta, Mr.
D.R. Vyas, Advocate for the CBI/Appellant.

Mr. P.D. Meghe, Advocate a/b Mr. A.D. Dubey, Advocate for the
Respondent.

CORAM : M.M. NERLIKAR, J.

DATE : DECEMBER 17, 2025.

ORAL JUDGMENT :

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Heard the learned counsel for the appellant and the respondent.

2. The complainant, Ramesh Nanaji Belekar, had applied for voluntary retirement (VRS) in May, 2004. The accused, a public servant handling VRS-related work, allegedly demanded Rs.4,000/- from the complainant for facilitating his VRS, gratuity, and provident fund (PF) claims. Owing to his financial condition, the complainant initially expressed inability to pay. After the complainant received Rs.1,00,000/- towards gratuity, Rs.2,36,000/- towards VRS, and approximately Rs.2,50,000/- towards PF between September and October 2004, the accused allegedly renewed his demand. On 02/11/2004, the accused allegedly threatened that non-payment would create obstacles in release of PF. He ultimately reduced the demand to Rs.3,500/-, asking the complainant to pay on 03/11/2004 at his residence.

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3. Unwilling to pay bribe, the complainant approached the C.B.I. and lodged a written complaint. A trap was arranged on 03/11/2004. Phenolphthalein-treated currency notes totalling Rs.3,500/- were handed to the complainant during the pre-trap proceedings. At about 8.30–8.45 a.m., the accused allegedly arrived at the complainant's residence, reiterated the demand, and accepted the tainted money with his right hand, placing it in his shirt pocket. On receipt of the pre-determined signal, the trap team apprehended the accused. Sodium-carbonate tests showed positive reaction on the accused's right-hand fingers and on the inner pocket of his shirt. The tainted notes recovered from his pocket tallied with the pre-trap memorandum. Post-trap panchanama was drawn, and after completion of investigation and grant of sanction, charge-sheet was filed. The trial Court has framed charge at Exh. 3 against the accused for the offence punishable under Prevention of Corruption Act, 1988 (for short "PC Act"). The accused denied the allegations, asserting that the amount received represented

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repayment of a private hand loan and that the complaint was false.

4. The prosecution has examined 5 witnesses, while the defence has examined 1 witness. After appreciating the evidence the Trial Court has acquitted the respondent for an offence punishable under Sections 7, 13(1)(d) r/w 13(2) of PC Act.

5. The learned counsel appearing for the appellant submits that the prosecution has proved, beyond reasonable doubt, the demand and acceptance. He further submits that the accused was caught red-handed by recovering tainted currency notes. He further submits that there was demand of Rs.3,500/-, and the panchanama was drawn to that effect. There is nothing in the cross-examination to shatter the case of prosecution, though elaborately cross-examination was taken by the defence. He further submits that P.W.-1 has specifically deposed about

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the entire incident. The demand was made from the very inception, when P.W.-1, the complainant, has filed an application for VRS. There were consistent demands by the accused, and therefore, as a last resort, he agreed to pay an amount of Rs.3,500/-, after settlement. On 02/11/2004, the complainant lodged a complaint with the CBI, which was accordingly reduced into writing and is recorded at Exh.-16. There was a specific demand of Rs.3,500/- by the accused for sanctioning pension amount of the complainant and it has specifically come in the evidence of P.W.-1 that accused has initially demanded Rs.4,000/-, but after settlement, he agreed for Rs.3,500/-, reducing Rs.500/-. So far as P.W.-2 [Arvind Shankar Dahate], the panch witness, he has supported the prosecution case, and his version is consistent so far as demand and acceptance by the accused. Both the witnesses P.W.-1 and P.W.-2 are consistent so far as the demand and acceptance by the accused is concerned. He has specifically deposed that accused has demanded amount of Rs.3,500/- in the form of

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“Jaldi Karo aur 3500/- रुपये दो”. After acceptance of the amount, signal was given, and accordingly, the raiding party came there and hands of accused was caught, and thereafter, accused has confessed that he has committed crime and he be excused. The C.B.I. was not responsible for placing the amount on table, and accordingly, the accused took the amount and kept it on table. He further submits that P.W.-2 specifically deposed that Panch No.2 counted the notes and placed them on the table, totaling Rs.3,500/-. Thereafter, necessary procedure was followed, wherein the fingers of the accused was dipped in the solution, and the solution turned pink. Even the shirt was seized and when the shirt was dipped in the solution, the solution turned purple. Accordingly, sanction was accorded by the Competent Authority, and after taking into consideration the entire record, sanction was granted. All the witnesses supported the case of prosecution, and therefore, the prosecution has duly proved the demand as well as acceptance, and therefore, he submits that the Trial Court has committed

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gross error in not appreciating the evidence properly and came to a wrong conclusion by considering the minor contradictions and omissions. The contradictions and omissions do not go to the root of the matter, and therefore, the Trial Court ought to have ignored them. Lastly, he submits that appeal be allowed.

6. On the other hand, the learned counsel appearing for the respondent has vehemently submitted that the respondent-accused is working as Mines Superintendent with the Sub-Regional Office, Durgapur Rayatwari Collieries (DRC), No.3. The case of the prosecution cannot be believed for the simple reason that the complainant has already received his pension, and the amount was deposited in his account. When the work of pension was already completed, there was no occasion for the accused to demand any money, nor any reason for the complainant to pay the same. All the retiral benefits were paid before the alleged demand was made. He also submits that it was the consistent stand of the accused that the amount which

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he received of Rs.3,500/- is the loan amount which he had paid to the complainant. Initially the accused has paid Rs.5000/-, however, out of which Rs.1,500/- was paid and Rs.3,500/- was remained, as the complainant has received his retiral benefits, therefore, he was unwilling to pay the remaining amount of Rs.3,500/-. It appears from the evidence that the complainant was annoyed by the fact that the accused was demanding an amount of Rs.3,500/- by going to his grocery shop, and the demand was made in presence of customers. Accordingly, the complainant was displeased with this act of the accused, and therefore, a false trap has been led. There are several contradictions and omissions and the complainant has changed his version from time to time by stating that the accused initially demanded Rs.3,500/- when the application for VRS was filed, however, in the earlier part of evidence, it has come on record that he has demanded Rs.4,000/-, and after settlement, the amount was reduced to Rs.3,500/-. This itself shows that the complainant was not consistent, and therefore,

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his evidence cannot be believed. He further submits that, according to the evidence, the complainant was supposed to come on the next day, i.e., tomorrow morning at around 8 - 8:30 a.m., however, in the cross-examination, it came on record that the accused has told him to come in the morning on 03/11/2004. It has also come on record that on 02/11/2004, at about 5:00 p.m., he had given the ring to the accused from the CBI Office, Nagpur, however, in the second breath, he has said that it did not happen that he made a phone call to the accused while writing his report, therefore, these are material contradictions which are required to be taken into consideration. He further submits that so far as the VRS application is concerned, it has come on record that the complainant had submitted the application to the clerk, Shri Bageshwari, therefore, he submits that it cannot, even by the stretch of imagination, be said that the work was with the accused. Since the sanctioning authority was the General Manager, there is no question of the accused giving assurance

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to the complainant to sanction the pension. He further submits that, so far as the evidence of P.W.-2 is concerned, it does not inspire confidence, as it has come in his evidence that CBI asked accused to keep the amount on table, and accordingly, the accused took out the amount and placed it there. On the contrary, P.W.-1 deposed that one member from CBI party took out money and documents from the shirt pocket of accused and kept them on sofa. Therefore, this very aspect goes to the root of the matter in order to dis-believe these two witnesses. Whether these witnesses are to be believed or not is the question, and if the evidence of these two witnesses is considered, then under such circumstances these witnesses cannot be believed. Therefore, he lastly submits that the prosecution has utterly failed to prove the demand as well as acceptance, and therefore, he submits that there is no merit in the appeal and the same be dismissed.

7. Upon perusal of the record so also after hearing both

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the sides, the prosecution to bring home the guilt of the accused has examined as many as 5 witnesses. P.W.-1 [Ramesh Nanaji Belekar] (Exh.15), is the complainant, P.W.-2 [Arvind Shankar Dahate] (Exh.21), is Panch, P.W.-3 [G.Sitaraman S. Ganeshan Ayyer] (Exh.-29), is the Senior Personnel Officer at Durgapur Rayatwari Collieries (DRC), P.W.-4 [Taquir Ahmed Abdul Rashid] (Exh.38), is the Sanctioning Authority and P.W.-5 [Khalik Baig s/o M.S. Baig] (Exh.40), is the Inspector of Central Bureau of Investigation, who participated in the trap. Whereas the accused in his defence has examined DW-1 [Rahul Shriram Niranjane] (Exh. 51), son of the accused who accompanied him on the date of the incident.

8. Upon perusal of the evidence of PW-1 he has deposed that he was working as Khalasi in Durgapur Rayyatwari Colliary No. 3 and after completion of 23 years of service due to his ill health he decided to take voluntary retirement. Pursuant to same, he retired on 26.07.2004. After

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receiving the gratuity amount the accused came to his house and demanded Rs. 4,000/- for sanctioning VRS however he was unable to pay the same therefore, he left. After receiving the amount from retirement, again the accused came to his house and reiterated his demand. When he portrayed his inability to pay, the accused threatened him saying that he will face problem in receiving the amount of Provident Fund. He deposed that the accused used to stand in front of his grocery shop and demand money in presence of customers and seeing his conduct, he went to the CBI Officer, Nagpur on 02.11.2004 where his complaint was reduced in writing (Exh. 16). Thereafter, Shri. Nimje enquired whether he will speak with the accused on phone which was agreed by him. He contacted the accused through the phone of CBI Office and enquired about the demand amount to which the accused stated that he will give him concession of Rs. 500/- and he should pay Rs. 3,500/- to him and he was asked to come tomorrow morning between 8:00 to 8:30 a.m.

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9. It has also come on record that on 03.11.2004, CBI team arrived from Nagpur to Chandrapur and after completing pre-trap formalities, they went to his house. After reaching home, PW-2 was given a lungi to wear and at about 8:30 to 8:45 a.m. accused along with his son came to his house. They saluted each other and he offered them to take a seat to which the accused replied that he has no time to sit as he has to go outstation and to hand over the money to him immediately. PW-1 offered him tea however he refused stating he has no time. PW-1 insisted for tea and accordingly they sat on the sofa. The accused asked him to hand over the amount till preparation of tea, and accordingly he went to his bedroom and brought the amount which was handed over to him. As soon as the accused accepted the amount with right hand and kept it in left side shirt pocket upon a pre-determined signal, the raiding party rushed inside the house and caught hold of the accused. One of the member from the raiding party took out money and documents from the shirt pocket of the accused and kept it on

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Sofa. The necessary formalities were completed including testing the fingers and shirt of the accused in the solution so also tallying the serial numbers of the currency notes recovered from the accused.

10. Another witness, PW-2 the panch who was with PW-1 at the time of incident has deposed that his Regional Manager had asked him and Ramesh Atram to report to CBI Office, Nagpur on 03.11.2004 at 4:45 a.m. Accordingly they reported to the CBI Office where they were introduced to 7-8 employees including the complainant. Shri. Nimje read over the complaint of Shri. Belekar to which they affixed their signature. The complainant produced two currency notes of Rs. 1000/- each and three notes of Rs. 500/- each in denomination and the procedure of pre-trap was explained to them. After reaching the house of the complainant, he provided him lungi to wear. Thereafter, at about 9:30 a.m. accused alongwith one other person came to the house of the complainant who saluted them.

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After initial greeting the accused told the complainant “Main Apke Gharpe Barbar Sadhe Nau Baje Pahuja, Jaldi Karo Aur Rupaye 3500 Do”. The complainant asked him for taking tea to which he refused stating that he is in a hurry and to pay the amount immediately. The accused also enquired about him and he was introduced as complainant’s relative. Thereafter, complainant took out the amount by right hand from his shirt pocket and handed over the same to the accused which was accepted and kept by him in his shirt pocket. He has also deposed that prior in time the complainant requested to reduce amount from Rs. 4,000/- and accused told him that he has reduced the amount of Rs. 500/- After accepting the amount the raiding party rushed inside and caught hold of the accused. Accused told them that he committed crime and he be excused. The officer asked the accused to keep the amount on table and the accused took out the amount and kept it on table. After completing of formalities, panchamas at Exh. 24 and Exh. 25 were prepared in his presence and accused was arrested (Exh.

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11. Pw-3 has deposed that he was working serving as Senior Personal Officer and working on the cases of voluntary retirement and the benefits after retirement. The accused was working with them and it was duty of accused to prepare pension case. The complainant was working with them who later opted for VRS. The pension proposal was prepared by the accused which was referred to him. PW-2 approved the said proposal and sent it to Account Section.

12. PW-4 is the sanctioning authority who accorded the sanction (Exh. 39). PW-5 has deposed in his chief examination that he was posted as PI (CBI), Nagpur in 2004. On 02.11.2004, he was informed by his superior Shri. Nimje that they had to go tomorrow for confidential work. Accordingly, on 03.11.2004 he was introduced to two panchas and complainant. He has stated that the said complaint was registered by Shri. T.S. Bose as FIR

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at Exh. 41 bears his signature. After explaining pre-trap procedure, on the say of Shri. Nimje , complainant has produced two notes of Rs.1000/- each and three notes of Rs. 500/- each in denomination. After that they went to the house of the complainant at about 9:00 a.m. At around 9:30 a.m. two person came on motorcycle and at 9:45 a.m. the complainant gave his pre-determined signal. After that the raiding party rushed inside and caught hold of accused. Upon completion of formalities, Shri. Nimje took out the amount from the accused and kept it on the table then the panchanamas and seizure report were prepared.

13. Now so far as the cross-examination of aforesaid witnesses are concerned PW-1 has admitted that on 28.05.2004 he had handed over his application for voluntary retirement to clerk Mr. Bageshwari and the final order was passed by the Head Office, Nagpur on 26.07.2004 thereby allowing his VRS application. The work of gratuity and provident fund was

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allotted to K. Anantrao and within one month from his retirement he received gratuity amount. He stated that accused had demanded Rs. 3,500/- on the day when he made an application for VRS and he did not inform about demand of bribe by the accused to his higher authorities. Further, he admitted that Shri. Nimje recorded his statement and marked portion A in his statement is false. PW-2 in his cross-examination has admitted that his statement was recorded by Shri. Nimje and marked portion A in his statement is not correct and he cannot assign any reason why CBI has written the same. He further stated that he cannot assign any reason why it is not mentioned in his statement before CBI that accused asked about his identity. PW-3 in his cross-examination has admitted that complainant has not made complaint against the accused for sanctioning VRS.

14. From the above it appears that there are several contradictions and omissions in the testimonies of the aforesaid

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witnesses which goes to the root of the matter as at one hand PW-1 stated that the accused demanded Rs. 4,000/- after the amount of retirement was received by him and on the other hand he states in the cross-examination that Rs. 3,500/- was demanded from him when the application for VRS was made. Therefore, the initial demand itself is doubtful. Also one more major contradiction that has come on record in relation to initial demand is that in examination in chief he has deposed that he called the accused from the phone of CBI and the accused gave him a concession of Rs. 500 thereby reducing the bribe amount to Rs.3,500 however, in the cross-examination he has refused the same by stating "It did not happen that while writing of my report, I rang to the accused". PW-1 has deposed that one of the member of raiding party took out the money and documents from the shirt pocket of accused and kept it on Sofa which has not been corroborated by other witnesses as they have deposed that Shri. Nimje took out the amount and kept it on the table. Also, in both the testimonies of PW-1 and PW-2 it

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has come on record that their statements were recorded by Shri. Nimje and the portion marked as A in their statement is not true. So far as omissions are concerned, PW-2 has deposed in his evidence that panch No. 2 has counted the currency notes which the PW-1 failed to state. Even PW-2 has deposed that the accused told that he has committed crime and he be excused for the same however, PW-1 has not corroborated the same in his evidence. PW-2 has stated that accused said “Main Apke Gharpe Barbar Sadhe Nau Baje Pahuja, Jaldi Karo Aur Rupaye 3500 Do” which does not find a place in the evidence of PW-1. Further, in the evidence of PW-2 two major omissions have come on record that though he has deposed that the accused had asked about his identity however, the same has not come in his statement and he has not deposed about testing of left hand fingers of the accused in the solution of Sodium Carbonate.

15. Under Section 313 of Cr.P.C. in the written statement of the accused he has stated that during the summer of 2004,

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he had given Rs.50,000/- as hand loan to Shri Mohd. Barik for marriage of his daughter which was returned within a month. The complainant was aware about the same and as he was in need of money he also requested the accused to give him a hand loan of Rs.5,000/-. At that time, he had brought Shri Mohd. Barik with him since the accused was not having that much amount with him so he told the complainant to come back after 2 – 3 days. Subsequently, the complainant took the amount of Rs.5,000/- from him in presence of his wife and son. Out of the said amount, the complainant returned an amount of Rs.1,500/- in the month of June, 2004, and an amount of Rs.3,500/- was outstanding against him and hence he used to demand the same. He was evading return of the amount and on one occasion he assured that he would return the amount on 02/11/2004, however, on the same day, when he was at home during lunch time he received the call from the complainant and he was asked to come on the next day, i.e., on 03/11/2004 at 09:30 a.m. to take the money. Hence, he along with his son

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reached the complainant's house on 03/11/2004 at about 09:00 a.m. Upon reaching the house, he saw one person wearing a Lungi who was sitting inside his house. The complainant insisted him to have tea, however, the accused said that he was in a hurry as he had to go to deposit fees of his son. Thereafter, the complainant went inside, came out in a hurry and put the currency notes inside his pocket and went out. In the meanwhile, some persons came in the hall and one of them asked me, *"Do you have money in your pocket?"* to which the accused replied in affirmative. Thereafter, the accused was asked to take out the money and keep it on table. The accused though stated that "this is amount of hand loan Shri Belekar has now returned the said amount to me.", but the same was in vain as they replied, "We will see that later on. Firstly, you take out and keep the amount on the table." Later, I was informed that they were CBI personnel and action is being taken against him in connection with acceptance of bribe. The accused in his defence has also examined his son DW-1 who has corroborated

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the version of the accused and deposed that in the year 2004 he was in 12th standard and the complainant came to his house for money. His father gave him Rs. 5,000/- in cash. After a month, the complainant returned Rs. 1,500/- to his father however he failed to repay the remaining amount. On 3.11.2004 his father informed that they had to go to collect the outstanding amount. They accordingly went to the house of complainant and after casual greetings, the complainant asked his father for tea however he refused stating that they had to go to his school. Thereafter, the amount was handed over to his father after which 2-3 persons came and enquired from his father. His father replied that he accepted the amount of hand loan.

16. In view of the above, the accused has taken a consistent stand that he had given a loan of Rs. 5000/- to the complainant out of which he had returned Rs. 1500/- however, he failed to return Rs. 3,500/- and hence he used to demand the return of the said amount. On 03.11.2004 he alongwith his

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son went to the complainant's house to take the outstanding amount and even when he was caught hold by the officers of the CBI he had informed that "this is the amount of hand loan". The same is corroborated by the testimony of DW-1 his son who went alongwith him to the complainant's house on the date of incident and nothing has come on record to disbelieve his testimony. After going through the entire oral as well as documentary evidence, it is alleged that after the accused got caught red handed, it appears that his statement was not recorded so as to explain the circumstances for which he had accepted the amount. In absence of recording of his statement, though it is not fatal, but in the interest of fair investigation an opportunity ought to have been granted to the accused in order to explain why he accepted the amount. It was expected from the Investigating Officer to record the statement and to get the explanation. Therefore, defence of accused/respondent appears to be more probable.

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17. There is one another glaring factor in this case, that the alleged demand was made after the complainant had received his pension and there was no occasion for the accused to demand any money for processing VRS application as already the complainant stood retired on 26.07.2004 and he had also received his dues. The complainant has deposed that the accused has threatened that if the amount was not paid then it will cause problem in receiving provident fund however, in the cross-examination the complainant has himself stated that work of gratuity and provident fund was allotted to one K. Anantrao meaning thereby the accused did not deal with the same. Further, PW-1 has himself admitted that the application for VRS was submitted to Shri. Bageshwari which shows that the accused had no occasion to either deal with the work of complainant or demand money to complete the said work.

18. The learned Counsel for the Appellant has argued that even if there is no prior demand by the public servant still

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if he simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the PC Act. So as to substantiate the same, reliance is placed on the judgment of the Apex Court in the case of Neeraj Dutta Versus State (Government of NCT of Delhi) (2023) 4 SCC 731 on paragraph no. 88.4 (d). However, even if the initial demand is kept aside still there are major contradictions and omissions in the testimonies of the witnesses which makes the prosecution story doubtful. The defence taken by the accused seems probable which is further supported by the testimony of DW-1. Considering the above discussion and after appreciating the entire evidence in its true perspective, the prosecution has failed to prove the guilt of the accused beyond reasonable doubt and therefore I am not inclined to interfere in the judgment of acquittal dated 09.12.2014 passed by the learned Special Judge, Chandrapur in Special (CBI) Case No. 20/2004. Hence, the Appeal is **dismissed**.

[M. M. NERLIKAR, J]