2026:BHC-AUG:53369

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.331 OF 2015

Vasudha Bhagwanrao Ukhalkar,
Age : 51 years, Occ : Nil,
R/o Civil Hospital, Parbhani,
Tq. & Dist. Parbhani.

...Appellant/ accused

-VERSUS-

The State of Maharashtra.
Through Police Inspector,
Nanalpeth Police Station,
Parbhani, Tq. & Dist. Parbhani.

...Respondent

…

Shri Shailesh S. Chapalgaonkar and Shri Prahamesh M. Borde, Advocates for the the appellant/ accused.
Shri A.A.A. Khan, APP for the respondent/ State.

…

CORAM : SUSHIL M. GHODESWAR, J.

Reserved on : 26 October 2026
Pronounced on : 31 October 2026

JUDGMENT :-

1. The appellant is challenging the impugned Judgment and Order dated 19.03.2015 passed by the learned Special Judge, Parbhani in Special Case (ACB) No.2/2012. By the aforesaid Judgment and Order, the learned Special Judge has convicted the appellant for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988 and sentenced to undergo

rigorous imprisonment for one year and fine of Rs.1000/- and in default, to further undergo rigorous imprisonment for three months. The appellant/ accused is also convicted for the offence punishable under Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 and sentenced to undergo rigorous imprisonment for one year and fine of Rs.1000/- and in default, to further undergo rigorous imprisonment for three months. Both the sentences were directed to run concurrently.

2. Being aggrieved by the aforesaid Judgment and Order, the Appellant has approached this Court by filing the present Appeal under Section 374 of the Code of Criminal Procedure.

3. The prosecution case is as under:-

(a) The Complainant/ PW-2 Hamidullah Fakir Mohammad Khan was working as a labourer in the Agricultural University, Sub-Centre, Osmanabad. He had certain health issues and therefore, he was on medical leave from 16.10.2010. Since he was to join duties on 14.07.2011 and he was on medical leave for a long period, a fitness certificate was issued by one Dr. Soni. The said certificate required the countersignature of the Civil

Surgeon along with his official seal.

(b) Therefore, on 11.07.2011, at about 11:00 a.m., the complainant had been to the Civil Hospital, Parbhani. The appellant/ accused was working as a Clerk in the office of the Civil Surgeon, Civil Hospital, Parbhani. She was subordinate to the Civil Surgeon and was assisting him in his official work. PW-2/ complainant met the appellant, handed over the certificate issued by Dr. Soni and requested her to obtain the countersignature of the Civil Surgeon. It is the case of PW-2 that the appellant allegedly demanded Rs.1,800/- for issuing the medical certificate for a period of nine months. In the compelling circumstances, the complainant paid Rs.1500/- to the appellant and requested to prepare the certificate. At about 04:00 pm, when the complainant requested to give the certificate, the appellant told to give the remaining Rs.300/-. At that time, the complainant was not having the money.

(c) Since PW-2/Complainant was not willing to pay the remaining amount, he reported the matter to the Anti-Corruption Bureau and met PW-5 Vijay Dongre, DySP. The complaint lodged by PW-2 came to be reduced into writing. PW-5

accordingly summoned two Government panchas from the office of the Deputy Superintendent of Land Records, Parbhani. The Complainant and the panchas assembled at the office of the Anti-Corruption Bureau. PW-5 introduced the panchas to the Complainant and also gave demonstration regarding the use of anthracene powder under an ultraviolet lamp. After giving necessary instructions regarding the trap, the pre-trap panchnama came to be prepared.

(d) Accordingly, the trap team proceeded to the Civil Hospital. The Complainant/ PW-2 along with PW-3 (Prashant Bhole) the shadow panch, went to the first floor of the Civil Hospital. The appellant asked PW-2 whether he had brought remaining Rs.300/- or not. The Complainant replied in the affirmative and handed over the amount of Rs.300/- to the Appellant. The appellant allegedly accepted the amount and kept it in her purse, which was placed in a steel cupboard. Thereafter, the complainant came out and gave the predetermined signal to the police. The Anti-Corruption Bureau team immediately apprehended the appellant and enquired with her as to where she had kept the amount. The amount was accordingly recovered

from the purse kept in the steel cupboard. Thereafter, the necessary panchnama came to be prepared and the offence was registered.

(e) After completion of the investigation, the charge-sheet came to be filed. Before filing the charge-sheet, the sanction order was obtained from PW-4 (Dilip Patil), the Sanctioning Authority. The appellant pleaded not guilty and claimed to be tried. The learned Special Court accordingly framed the charge at Exhibit-5 against the Appellant. In order to prove its case, the prosecution examined as many as six witnesses, namely, PW-1 Dr.Lalman Dagdu Narole, Civil Surgeon, PW-2/ complainant, PW-3 Prashant Bhole (shadow panch), PW-4 Dilip Patil (sanctioning authority), PW-5 Vijay Dongare (DySP ACB) and PW-6 Subhash Rathod (retired Resident Medical Officer).

(f) After hearing the parties, the learned Special Judge vide the impugned judgment and order dated 19.03.2015 convicted and sentenced the appellant as recorded herein above.

4. The learned counsel for the appellant submitted that PW-1/Civil Surgeon has admitted that the amount was accepted

by the appellant in discharge of her official duties and that the amount demanded by her was towards the fees required to be deposited by the applicant for obtaining the medical certificate. The amount of Rs.300/- accepted by the appellant was seized by the prosecution. The appellant immediately gave her statement after the trap at the spot itself. The said statement is at Exhibit 56 on page 108 of the paper-book. As per the said statement, the amount of Rs.300/- accepted by the appellant was towards the fees prescribed by the Civil Surgeon for issuing the medical certificate, and she had also issued a receipt for the said payment. She has stated that she accepted the amount at the instance of the Civil Surgeon and used to hand over the said amount to him. The learned counsel for the appellant submitted that the Civil Surgeon (PW-1) has candidly admitted in his cross-examination that he had instructed the appellant to charge Rs.50/- for issuing a certificate for one month and an additional amount of Rs.50/- for each additional month if the certificate was required for a period exceeding one month.

5. The learned counsel for the appellant further submitted that there is an omission regarding the alleged demand

of Rs.1,800/- and Rs.1,500/-. PW-2/ complainant claims to have stated before the police, while his statement was being recorded, that at the time of verification, Madam had told him that "you have to give Rs.1,500/- and again you will have to give Rs.300/-". However, the said fact is not mentioned in his statement. There is also an omission regarding the alleged conversation that when the complainant went to the office of the appellant along with the shadow panch, Bhole, the appellant asked him whether, he had brought the remaining amount, to which he replied in the affirmative. The said fact is also not mentioned in his statement. He further submitted that, as per the Civil Manual, in respect of the issuance of medical certificates, the fees collected are distributed in the proportion of 40% to the Civil Surgeon and 60% to the State.

6. The learned advocate further submitted that even if the evidence of PW-3, the shadow panch, is considered, the prosecution cannot be said to have established its case against the appellant. The said witness has admitted in his cross-examination that when he accompanied the complainant to the appellant, the complainant requested the appellant to issue the certificate on the

following day. The appellant told him that the Civil Surgeon would not be available on the following day and, therefore, asked him to come on 13.07.2011 with the amount and collect the certificate. The shadow panch has further stated that the complainant requested the appellant to issue the certificate on the same day itself, however, the appellant asked him to come on 13.07.2011 as the Civil Surgeon would not be available. He has also admitted that the complainant had consumed liquor on 11.07.2011 and had similarly consumed liquor on 13.07.2011.

7. The learned counsel for the appellant also assailed the sanction order on the ground that it was issued in a casual manner and without application of mind. PW-4, the Sanctioning Authority, who issued the sanction order, has stated that it was not necessary to mention the reasons in the sanction order and that it was also not necessary to state the reasons for arriving at the conclusion to grant sanction. In that view of the matter, the learned counsel submitted that the Sanctioning Authority had not independently applied its mind while issuing the sanction order and that the sanction was granted in a casual manner.

8. Lastly, the learned counsel for the appellant also

referred to the evidence of PW-5 Vijay Nagorao Dongre, Deputy Superintendent of Police, Anti-Corruption Bureau, Parbhani. He pointed out that PW-5 admitted that, at the time of verification, the complainant had not stated that the appellant had told him that "you have given Rs.1,500/- and you have to give another Rs.300/-". He has also stated that the appellant used to accept the amount at the instance of Dr.Narwade, the Civil Surgeon, and used to hand over the same to him. He further admitted that he had not made the Civil Surgeon an accused in the case. He also submitted that, after examining the hospital manual and the relevant register, he was satisfied that the explanation given by the appellant was true and correct.

9. In view of the aforesaid submissions, the learned counsel for the appellant submitted that the prosecution has virtually failed to prove its case beyond reasonable doubt. Neither the demand nor the acceptance of illegal gratification has been established, nor has the prosecution established the validity of the sanction order. He, therefore, prayed for allowing the present Appeal.

10. *Per contra*, the learned A.P.P. strongly opposed the

present Appeal. According to him, the witnesses are trustworthy and their evidence inspires confidence. There is no reason as to why they would depose against the appellant. The prosecution has thus fully established its case beyond reasonable doubt. Therefore, the learned Trial Court has rightly passed the impugned Judgment and Order after properly appreciating the evidence on record. The learned A.P.P., therefore, prayed for dismissal of the present Appeal.

11. Before adverting to the aforesaid submissions of the parties and before evaluating the evidence on record, it would be useful to refer to the legal provisions and the principles laid down by the Hon'ble Supreme Court relating to offences under the Prevention of Corruption Act, 1988. In ***Neeraj Dutta v. State (Government of NCT of Delhi)***, **(2023) 4 SCC 731**, the Constitution Bench of the Hon'ble Supreme Court has reiterated that proof of demand and acceptance of illegal gratification by a public servant is essential to establish the guilt of the accused under Sections 7 and 13(1)(d) of the Prevention of Corruption Act, 1988. The demand and acceptance can be established either by direct evidence or by circumstantial evidence. Mere recovery

of the amount, in the absence of proof of demand and acceptance of illegal gratification, would not be sufficient to establish the guilt of the accused.

12. In the present case, the appellant has not disputed the fact that she accepted the amount of Rs.300/-. However, it is the specific case of the appellant that the said amount was accepted towards the fees prescribed for issuance of the medical certificate and that she had accepted the same at the instance of the Civil Surgeon. It is worth to refer to clause 5 of the impugned Judgment and Order, wherein it has been stated that the muddemal property, namely, three currency notes of the denomination of Rs.100/- each, totalling Rs.300/-, be returned to the Investigating Officer for being credited to the State after expiry of the appeal period. The amount was directed to be credited to the State. Even the appellant claims to have issued a receipt in lieu of the payment of Rs.300/-. The explanation offered by her immediately after the trap discloses that the amount received by her was towards the fees paid by the applicant for obtaining the medical certificate.

13. In such circumstances, the prosecution was required

to establish beyond reasonable doubt that the amount demanded and accepted by the appellant was not towards any prescribed fees and that no such fees were payable in the office of the Civil Surgeon for issuance of the certificate. However, the case in hand, as borne out from the evidence on record, discloses that the office of the Civil Surgeon used to collect fees and issued receipts towards such payments. In that view of the matter, the amount received by the appellant cannot, without further evidence, be considered as illegal gratification. Moreover, it has been admitted not only by the Civil Surgeon but also by the Investigating Officer that the amount was being collected at the instance of the Civil Surgeon and in accordance with the hospital manual, wherein the fees were prescribed.

14. In view of the aforesaid discussion, the prosecution has failed to establish that the amount of Rs.300/- accepted by the appellant was towards illegal gratification and not towards the prescribed fees for issuance of the medical certificate. The evidence on record, particularly the explanation offered by the appellant immediately after the trap, the evidence of the Civil Surgeon and the admission of the Investigating Officer regarding

the collection of fees as per the hospital manual, creates a reasonable doubt about the prosecution case.

15. In the aforesaid circumstances, the prosecution has failed to establish the essential ingredients of the offences charged against the appellant beyond reasonable doubt. The appellant, therefore, deserves to be given the benefit of doubt. Hence, the following order:

ORDER

(a) The Criminal Appeal is allowed.

(b) The impugned judgment and order of conviction and sentence passed by the learned Special Judge, is hereby quashed and set aside. Consequently, the appellant/accused is acquitted of the offences for which she was convicted.

(c) The bail bond, if furnished by the appellant, stands cancelled and the surety, if any, stands discharged.

(d) The record and proceedings be sent to the concerned Court.

kps (SUSHIL M. GHODESWAR, J.)