2026:BHC-AUG:50921

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 614 OF 2016

Eknath Gorakh Thakkur,
Age : 57 years, Occupation : Talathi,
R/o : Plot No. 56, Laxminagar,
Deopur, Dhule. … Appellant
[Orig. Accused No.1]

Versus

State of Maharashtra … Respondent

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Mr. Joydeep Chatterji, Advocate for the Appellant.
Mrs. A. S. Mantri, APP for the Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 16.10.2026
Pronounced on : 22.10.2026

JUDGMENT :

1. Appellant, a convict for offence under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 (PC Act) vide judgment and order dated 29.09.2016 passed by learned Special Judge, Dhule in Special Case (ACB) No. 98 of 2010, has preferred the instant appeal questioning the said judgment and order of conviction.

PROSECUTION CASE IN BRIEF

2 In brief, case of prosecution in trial court was that, complainant lost his mother and there was land in her name. Including

complainant, there were three sisters also and these sisters had relinquished their share and rights and on the strength of relinquishment deed, complainant made application with Revenue authorities i.e. Tahasil Office, for removing sisters' names form 7/12 extract. According to prosecution, to do the said work, there was demand of bribe of Rs.5000/- and on negotiations, it was reduced to Rs.3000/-. Complainant approached ACB and put up his grievance, after which ACB authorities took steps of arranging panchas, planning trap and finally executing it. At the instance of accused no.1, accused no.2 accepted the bribe amount and accused persons were duly apprehended. Learned trial court acquitted accused no.2 but convicted appellant-accused no.1 alone for offence under Sections 7, 13(1)(d) r/w 13(2) of the PC Act.

SUBMISSIONS

On behalf of the Appellant-Convict :

3. Learned counsel would submit that there is false implication. According to him, prosecution failed to prove the charges beyond reasonable doubt. He would submit that, on the point of demand, prosecution witnesses i.e. complainant and shadow pancha are not consistent. Secondly, prosecution's evidence itself shows that, on the date of main trap, no work was pending, rather it was already done

and therefore there was no question of demanding bribe or accepting it. He pointed out that, here, admittedly case of prosecution was that bribe was accepted by accused no.2 on behalf of accused no.1, but learned trial court has, on complete evaluation of evidence, already acquitted accused no.2. He would also point out that, prosecution witnesses themselves admit that, accused no.1 did not take bribe and it was also not recovered from him. In fact, it was found to be kept on table by accused no.2. That, complainant's version is also not free from doubt as, according to him, he had not attached 7/12 extract (Exh. 40) along with the complaint, but contrary to it is the evidence of the Investigating Officer, who admits that copy of 7/12 extract was also accompanying the complaint. Thus, according to learned counsel, case of prosecution not being proved beyond reasonable doubt, and it being full of material omissions and contradictions, learned trial court ought not to have convicted accused no.1 appellant. For above reasons, he prays to allow the appeal by setting aside the impugned judgment.

On behalf of the Respondent-State :

4. Per contra, learned APP would submit that, demand by accused no.1 is categorically proved by prosecution beyond reasonable doubt and therefore learned trial court rightly convicted the appellant.

BRIEF ACCOUNT OF THE EVIDENCE BEFORE THE TRIAL COURT

5. It seems that, in support of its case, prosecution has adduced evidence of in all five witnesses, i.e. PW1 and PW4 are the sanctioning authorities, PW2 Sadashiv is the complainant, PW3 Dattu is the shadow pancha and PW5 is the Investigating Officer.

6. Re-appreciated the evidence. There is no challenge to the aspect of sanction and this was conceded by learned counsel for the appellant. Therefore, the only aspect that needs to be ascertained is whether charges are proved against accused no.1-appellant.

7. **PW2** Complainant's evidence is at Exhibit 38. He deposed about approaching accused no.1 Talathi with application for removal of his sisters' names from 7/12 extract on the strength of relinquishment deed. He deposed that, on 15.03.2010 first demand was made by accused no.1 to the tune of Rs.5000/- but it was reduced to Rs.3000/-. Then he deposed about second demand on 17.03.2010 and on that day, accused allegedly said that unless Rs.3000/- are paid, his work would not be done, and therefore he approached ACB and there, panchas were called and he and pancha were given necessary instructions and demonstration. In para 8 he deposed that, he and pancha reached Talathi office and there, he asked accused

whether his work was done. However, accused no.1 asked him whether he brought amount, and it was confirmed by complainant and further, accused asked him to come after half an hour and therefore he and pancha came back to the raiding party and after half an hour they again went to the office of accused. He deposed that, this time also he asked whether his work was done, upon which accused allegedly said that, had he paid money earlier, that time only his work would have been done. Then accused gave complainant copy of 7/12 extract and asked him to give money, upon which complainant removed amount from his left pocket with right hand and held it before accused no.1, but accused no.1 said to one person sitting near him, namely Gautam, to take the amount and accordingly complainant gave it to Gautam who accepted it, after which predetermined signal was given.

While under cross, he denied giving 7/12 extract (Exh.40) while lodging complaint. Then he is questioned about relinquishment deed and its notarization and whether his sisters made application and whether they were taken to the Talathi office. He denied meeting Circle Officer on 17.03.2010. He also denied he and his wife going to the office of accused no.1 on 18.03.2010. In para 15, he answered that, when he met accused at around 10.55 a.m., at that time, in the

office of accused no.1, one Prakash Mali was present and he was also present there when he came out to give predetermined signal. He answered that, before he removed amount from the pocket, accused no. 1 had given him 7/12 extract. In para 18, omission is brought on the point that, when he went to the office of accused no.1 and asked him whether his work is done, accused no.1 asked him whether amount is brought; that accused no.1 gave copy of 7/12 extract and told him to give money. He is unable to state why above material is missing from his statement. Thus, it is material omission. In para 22, he admitted that, accused no.1 has not accepted amount from him. He also answered that he does not know whether accused no.2 was knowing or not as to for what purpose money was given. He also answered that when raiding party came, accused no.2 removed the amount from his pocket and kept it on the table. Rest is all denial.

8. On visiting evidence of **PW3** shadow pancha, in initial chief, he deposed about visiting ACB office, being introduced to complainant, hearing his oral complaint, signing on the written complaint and ACB officer giving necessary instructions and giving demonstration. In para 5 he deposed that, he and complainant walked to the office of accused no.1 and there, complainant met accused no.1 and asked him whether his work was done, upon which said Talathi asked

complainant whether he had brought Rs.3000/-, upon which complainant said “yes”. In para 6, he deposed that, thereafter accused no.1 told him to wait for half an hour and that he would prepare 7/12 extract. In para 7, he deposed that again after half an hour when he and complainant went to the office of accused, complainant asked accused whether his work was done, but again accused asked complainant whether he brought Rs.3000/- and on that, complainant said “yes” and accused no.1 told complainant to give the said amount to one person who was standing there, and accordingly complainant gave amount of Rs.3000/- to that person who accepted it in his right hand and kept in his pocket, after which complainant gave pre-determined signal.

While under cross, he denied that complainant told him that accused gave him copy of 7/12 extract on 17.03.2010. He further answered that on 18.03.2010, one extract was shown to him in the ACB office which was given by accused no.1, but he answered that, complainant had not told the date on which 7/12 extract was given to him by accused no.1. He further answered that, ACB officer asked complainant as to when he got the 7/12 extract and complainant answered that on 17.03.2010 he had received the 7/12 extract. In para 14, he answered that when he and complainant first entered the

office of accused no.1, he did not ask to give amount that time. He also answered that, some villagers were present there during both the visits to the office of accused. He answered that, at the time of trap panchanama, inquiry was made with one person namely Prakash Mali. He also answered that, at that time wife of complainant was also present in the office of Talathi and that, when first time also they entered the office of accused, wife of complainant was present there. He again confirmed that during second visit also wife of complainant was present with him. He answered that 7/12 extract given by accused no.1 to complainant was also examined under UV light but no glittering was found over it. He answered that, after giving bribe amount, accused no.1 gave 7/12 extract.

9. Therefore, on minute scrutiny of above discussed evidence, here, there is material omission in the evidence of complainant regarding which there is admission from him that, after reaching the office of accused-appellant, when he was asked about the work, accused had asked whether amount was brought. This omission is proved through Investigating Officer also. This is material omission for the reason that, it is on the aspect of very initial demand, which essentially has to be proved.

10. Second feature of this case is that, though complainant claims that during second visit accused allegedly said to complainant that, had he paid earlier, his work would have been done, is not stated by his companion shadow pancha PW3 as his testimony is silent to such conversation between complainant and accused.

11. Yet another feature of this case is that, complainant and pancha witnesses are not consistent on the sequence of give and take of 7/12 extract and currency. According to complainant, accused no.1 initially handed over 7/12 extract and thereafter asked complainant to pay currency to accused no.2 Gautam. However, contrary to it, shadow pancha speaks that initially tainted currency was passed on and thereafter 7/12 extract was received. If such is the sequence, then obviously 7/12 extract must also carry anthracene traces, but shadow pancha admitted in cross that there was no glittering on the 7/12 extract.

12. Another aspect is that, in cross complainant answered that he did not tender 7/12 extract (Exh.40) with his complaint. However Investigating Officer confirms about complaint to be accompanied by 7/12 extract. The Investigating Officer has also admitted that he had collected the extract of Mutation Entry No. 396 dated 22.01.2010 in

presence of panchas and as per said extract, entry of relinquishment deed was already taken by the concerned revenue officer prior to lodging of the complaint by PW2. Shadow Pancha PW3 also, in cross para 9 answered that complainant told him that he met accused on 17.03.2010 but shadow pancha denied that complainant told him that accused also gave copy of 7/12 extract on 17.03.2010 itself. Shadow Pancha also admitted that complainant had not submitted 7/12 extract along with the complaint, however in further cross, he answered that ACB officer asked complainant as to when he got the 7/12 extract and complainant told that he had received it on 17/03/2010. Therefore, if this is so, then complainant has already received 7/12 extract prior to the main trap dated 18.03.2010. Therefore, doubt arises as to what was the occasion for complainant to give bribe when his work was already done.

13. Both, complainant and shadow pancha have admitted that when they went to the office of accused, at that time, other villagers were present. Shadow Pancha categorically admitted that one Prakash Mali was present throughout till pre-determined signal was given. Under such circumstances, this witness Prakash Mali ought to have been examined by prosecution, but he has not been examined.

14. It is also noticed that, complainant flatly denied that his wife was accompanying him to the office of accused. But contrary to it, shadow pancha confirms that on both the visits on the day of main trap, complainant's wife was accompanying complainant. However, she also does not seem to be examined.

15. Resultantly, to sum up, above all are the shortfalls in the case of prosecution. As stated above, complainant himself has deposed that on the first visit, accused no. 1 asked him whether he brought the amount, however it is proved to be a material omission. Hence, when initial demand itself is not proved, or rendered doubtful, case of prosecution cannot be said to be proved beyond reasonable doubt.

16. Perused the judgment under challenge. The above discussed aspects and features does not seem to be considered and appreciated by learned trial court. Crucial aspect of initial demand being found to be a material omission, learned trial court ought not to have accepted the case of prosecution as against accused no.1, more particularly when accused no.2, who had actually accepted the tainted currency, was acquitted and when shadow pancha has candidly admitted that accused no.2 was not aware and had no knowledge as to for what purpose amount was accepted by him. Above discussion also shows

that on the date of main trap dated 18.03.2010, there was no work of 7/12 extract with accused as it was already done on 17.03.2010 of which there is admission by PW3 shadow pancha. Resultantly, findings of the trial court as regards to accused no.1, who admittedly did not receive or had not accepted the bribe, ought not to have been held guilty. Hence, following order :

ORDER

I. The appeal is allowed.

II. The conviction awarded to the appellant Eknath Gorakh Thakkur by learned Special Judge, Dhule in Special Case (ACB) No. 98 of 2010 for offence under Sections 7, 13(1)(d) r/w 13(2) of the PC Act, on 29.09.2016 stands quashed and set aside.

III. The appellant Eknath Gorakh Thakkur stands acquitted of the offence punishable under Sections 7, 13(1)(d) r/w 13(2) of the PC Act.

IV. The bail bonds of the appellant stand cancelled.

V. Fine amount deposited, if any, be refunded to the appellant after the statutory period.

VI. It is clarified that there is no change as regards the order regarding disposal of *muddemal*.

[ABHAY S. WAGHWASE, J.]

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