2026:BHC-AUG:48965

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 246 OF 2019

The State of Maharashtra,
Through Anti Corruption Bureau,
Jalna, District Jalna. … Applicant

Versus

Ganesh Ramsingh Shinde,
Age : 55 Years,
R/o. Lingewadi, Taluka Bhokardan,
District Jalna. … Respondent
[Ori. Accused]

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Mrs. A. S. Mantri, APP for the Appellant-State.
Mr. Pratik A. Bhosle, Advocate for the Respondent.

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CORAM : ABHAY S. WAGHWASE, J.
Reserved on : 08.10.2026
Pronounced on : 15.10.2026

ORDER :

1. As a result of judgment and order of acquittal dated 28.07.2017 passed by learned Special Judge, Jalna in Special [PCA] Case No. 4 of 2013, acquitting-accused from charges under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 (PC Act), the State hereby seeks leave to question the said acquittal.

2. Learned APP pointed out that, PW2 approached ACB and gave complaint that accused, a clerk in the Bhokardan Tahsil Office,

demanded bribe of Rs.2000/- for issuing caste certificate of children of complainant. That, trap was planned by engaging pancha. Necessary instructions were given and procedure was explained to complainant and shadow pancha. That, verification of demand was got done to ascertain demand and thereafter main trap was laid and it was successful. That, witnesses have deposed to that extent. She pointed out that though complainant turned hostile, there is evidence of shadow pancha PW3, however, learned trial court failed to appreciate the said evidence. That, there was valid sanction also, but there is non-consideration of such evidence and moreover, accused is acquitted and therefore, State has a good case in appeal. Consequently, she prays to accord leave.

3. Per contra, learned counsel for the respondent, while justifying the acquittal, would point out that, essentials like demand and acceptance are not proved. That, complainant has not supported and shadow pancha has given vital admissions in cross and his evidence is also full of material improvements. For above reasons, he supports the judgment of acquittal and prays to refuse leave.

4. Perused the papers. PW1 seems to be the sanctioning authority, whereas PW2 is the complainant, PW3 is the shadow pancha and

PW4 is the Investigating Officer. Complainant's evidence is at Exhibit 22 and in chief para 3 he deposed that, after his complaint, pancha was called and he and pancha were asked to go for verification of demand. But in chief itself he stated that, after meeting accused, he asked accused as to what has been done about his papers, after which accused said that work would be done and except this, there were no talks with accused. In para 5 of his chief, he stated that during the main trap, when they met accused, he asked that he has brought the money, after which accused said to him to paste the currency on his forehead and thereafter they went to a hotel. That, time accused demanded money and he handed it over to accused and gave signal. In para 6 he deposed that, after accused was taken to ACB office, police prepared panchanama, but thereafter he does not remember anything. Consequently he was declared hostile.

While under cross at the hands of APP, he answered that, accused asked him about money by making gesture of hand and that accused counted the bribe amount and kept it in his pocket.

However, while again under cross at the hands of defence, he admitted that both the times he himself raised the issue of money before accused.

Therefore this witness is partly supporting prosecution and partly supporting defence. Consequently, he is unworthy of credence.

5. As regards to shadow pancha PW3 is concerned, he is examined at Exhibit 25. In para 2 and 3 of his chief, he stated about verification of demand being done and complainant asking accused about his papers, upon which accused said that Rs.1000/- would be required for each file and thus, Rs.2000/- for two files would be required, and that unless Rs.2000/- is paid no work would be done. Thereafter recorded conversation was heard by the Investigating Officer and then main trap was planned, regarding which he deposed in para 5. According to him, while in the hotel, accused asked complainant whether he has brought money or not, i.e. Rs.2000/-, and complainant said that he has brought it and thereafter complainant took out money and gave it to accused.

But while under cross, he admitted in para 9 that, at the instance of Investigating Officer, complainant *suo moto* opened the issue about bringing money. In para 10 of cross, he admitted that as per script of conversation Exhibit 28, complainant suo moto, without any demand by accused, raised the issue of money. He also further admitted that, conversation between complainant and accused, of

which he deposed before the court, is not finding place in the transcript Exhibit 28, and he also admitted that the conversation between accused and complainant, as deposed by him in court, had not taken place in his presence.

6. Consequently, in the light of above evidence, firstly, complainant himself has not supported prosecution. Secondly, he himself has, prior to any demand, opened the issue of money, of which even independent shadow pancha admits. Though shadow pancha deposed about demand by accused, he in cross has admitted that the transcript Exhibit 28 is silent about any demand by accused. Resultantly, there is weak evidence on the point of demand itself. When initial demand itself is not proved beyond reasonable doubt, case of prosecution collapses. No fruitful purpose would be served by according leave. Hence, following order :

ORDER

I. Leave is refused.

II. The application is dismissed.

[ABHAY S. WAGHWASE, J.]

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