



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 526 OF 2011

The State of Maharashtra,
through ACB, Ahmednagar.

... Appellant-State

Versus

Navnath Dipa Vetel
Age 48 years, R/o Block No. 17,
Room No. 246, Police Headquarter,
Ahmednagar.

... Respondent
[Orig. Accused]

WITH
CRIMINAL APPLICATION NO. 1151 OF 2024
IN CRIMINAL APPEAL NO. 526 OF 2011

Navnath Deepa Vetel
Age 65 Years, Occu. Nil,
R/o. 1707, Shriram Colony,
Alamgir Road, Bhingar,
Ahmednagar,
Taluka and District Ahmednagar.

... Applicant

versus

The State of Maharashtra

... Respondent

.....
Mrs. Saie Swapnil Joshi, APP for the Appellant-State in Criminal
Appeal No. 526 of 2011 and Respondent in Criminal Application No.
1151 of 2024.

Mr. Satej S. Jadhav, Advocate for the Respondent in Criminal Appeal
No. 526 of 2011 and Applicant in Criminal Application No. 1151 of
2024.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 09.03.2026

Pronounced on : 11.03.2026

JUDGMENT :

1. Appellant-State hereby takes exception to the judgment and order of acquittal dated 24.12.2010 passed by learned Additional Sessions Judge, Ahmednagar in Special Case No. 4 of 2006 acquitting present respondent from charge under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 [PC Act].

2. In brief, prosecution was launched against present respondent on the premise that, when complainant approached accused, a constable posted at District Special Branch, Ahmednagar, for issuance of passport by tendering application, accused allegedly demanded Rs.200/- bribe. An amount of Rs.100/- was paid upfront and before payment of remaining amount, complainant approached ACB and gave complaint Exhibit 12 on the basis of which ACB authorities planned and executed trap by engaging pancha. After alleged successful trap, accused was apprehended, booked for above provisions of the PC Act and finally tried by learned Additional Sessions Judge, who by impugned order acquitted the accused. Feeling aggrieved by the same, State has come up in appeal.

3. Learned APP would point out that prosecution has established its case beyond reasonable doubt. That, as many as four witnesses were examined by prosecution. That, evidence of PW1 and PW2 on the point of demand as well as acceptance has remained unshaken and undisturbed. Thus, according to her, both *sine qua non* for bringing home the charge were very much available in the evidence and were also duly proved.

4. Learned APP however expressed concerned on the grounds of acquittal i.e., firstly, on the ground of demand not proved and secondly, non application of mind by the sanctioning authority. Elaborating on this, she would take this court through the evidence of PW1 complainant as well as PW2 shadow pancha and also the panchanama, and would submit that throughout and consistently it has come that there was demand of bribe of Rs.100/- in presence of independent witness i.e. shadow pancha. That, there was corroboration to the testimony of complainant, however, according to her, learned trial court has entertained doubt about the bonafides of complainant and in the backdrop of some previous crime registered against father of complainant, entire story of prosecution is doubted on the point of motive for putting up demand. She pointed out that, learned trial court has held that there was no work pending, however,

evidence of complainant and shadow pancha on demand and acceptance has not been comprehended and appreciated. She pointed out that, observations of trial court about inability of complainant to see due to his weak eye-sight are out of place in the evidence on record.

5. As regards to sanction is concerned, she pointed out that, said authority had verified and studied all investigation papers received by him and thereafter had accorded sanction. On the point of sanction, she seeks reliance on the judgment of this Court in the Case of ***Dashrath v. State of Maharashtra*** reported in 2025 INSC 654 and criticizes the trial court's judgment on the point of sanction, and ultimately prayed to interfere by allowing the appeal.

6. Learned counsel for respondent-original accused would defend and justify the order of acquittal. According to him, here, there was no motive to put up demand by way of bribe. According to him whatever work complainant had, was already done and even sanctioning authority and Investigating Officer have admitted to that extent. Thus, according to him, when there was no work pending on the day of trap, there was no question of demand of bribe. He would also take this Court through the evidence of PW1 and PW2 i.e.

complainant and shadow pancha, and would submit that witnesses are not consistent. That, there is no corroboration to the evidence of complainant who is interested witness and is looked upon as an accomplice. That, they are inconsistent on the actual events which ensued in the office of accused. That, demand itself was not proved and on this count he took the court through the evidence of PW1 and PW2 and would point out that, from the same it is clear that there was no demand and allegations to that extent are doubtful.

7. As regards to acceptance is concerned, it is his submission that defence of accused since inception has been of false implication by planting currency by taking disadvantage of weak eye-sight of accused. That, it has come in the evidence of both, complainant as well as shadow pancha that, it is complainant who had handled the receipt book as accused had weak eye-sight. That, said receipt book was admittedly kept in the drawer. Even tainted currency was recovered from the drawer by pancha No.2 and therefore, there being possibility of planting, advantage of the same has been extended to the accused by the trial court for having probabalized the defence.

8. As regards to sanction is concerned, he would take this court through the chief as well as cross of PW4 sanctioning authority and

would point out that this witness has admitted that on relevant day, file of complainant was already processed and was sent for further processing to Passport office at Pune with copy to the SP Office. Therefore, on the day of trap, there was no work pending with accused so as to attribute motive of demand. That, sanctioning authority has not considered such aspect before according sanction and therefore, he justifies findings of trial court on this count.

9. Lastly he submitted that, with such quality of evidence, the view taken by the trial court cannot be said to be erroneous so as to interfere in appeal. He also pointed out that law is settled that when two views are possible, the one favouring the accused has to be adopted, more particularly when on complete appreciation of evidence, trial court itself has recorded acquittal. For above reasons, he urges to dismiss the appeal for want of merits.

10. This being an appeal, brief account of the evidence before trial court is required to be thrown light upon. Prosecution has examined in all four witnesses to establish its case. The status and role of these witnesses and the sum and substance of their evidence can be summarized as under :

11. PW1 complainant is examined at Exhibit 12 wherein he has stated that he was a student of B.Com 3rd year and as he wanted to accompany his father's friend namely Gani Bhai to Dubai, he applied and on 21.12.2005 when he allegedly went with Demand Draft and bonafide certificate, it is his testimony that, accused demanded Rs.200/- from him and on being asked, "for what", accused allegedly said that same would be required to be paid to avoid coming again and again. When complainant expressed his inability to pay so much amount, accused allegedly asked him to pay Rs.100/- that day and to pay remaining Rs.100/- later on and to collect the receipt. Accordingly, he paid Rs.100/-. As complainant was not willing to pay bribe, he approached ACB and lodged complaint Exhibit 12. He testified about independent panchas being called and being introduced to him, he narrating his grievance and complaint to them and thereafter one of the pancha being instructed to accompany him. In para 4, he narrated the events. According to him, while he and pancha approached accused, and on being asked about his passport file, accused started searching it and thereafter accused handed him over the receipt book and asked him to find his receipt for himself. Thereafter, receipt was pointed out, upon which accused allegedly detached it from the receipt-book. Thereafter, according to complainant, he told accused that he is going, upon which accused

allegedly told him to go after two to three days. Thereupon he again allegedly asked accused as to where he should go, upon which accused told him to go to Kotwali Police Station. Thereafter, there was said to be demand of Rs 100/- which was given by complainant and accepted by accused who kept it in the drawer and thereafter complainant came out and relayed signal.

Cross examination of this Witness commences from para 5 onward. In initial cross, he admitted about receipt of passport but he did not go to Dubai. He answered that he did not inform Gani Bhai about accused demanding him bribe of Rs.200/. He denied filing case at the instance of Gani Bhai. However, he admitted that on 23.11.2005, raid was effected on the gambling house which was in his father's name. He denied that Gani Bhai, his father and he himself had thereafter decided to file cases against police officials. He again admitted that he did not go abroad till date. Rest is all denial.

In para 9 he has answered that, when he approached accused, accused had asked him by saying, 'bola kay?', on which he had told him that he had applied for getting passport and he had come to collect receipt, upon which accused had handed over receipt book and asked him to find out his own receipt, which he searched. However,

he denied further suggestions that he was asked to take the receipt-book from the drawer and further keep it back there in the drawer. He is unable to state where receipt book was kept when raiding party arrived. He admitted that he did not see the drawer. Again, rest is all denial.

12. PW2 shadow pancha, at Exhibit 16, in initial chief stated that, while working in Agricultural Department, he and other pancha were asked to attend ACB Office, and accordingly when they visited, they were introduced to complaint and they heard his story about applying for passport and public servant demanding Rs.200/-, and Rs.100/- being paid in advance. That, he went through the complaint filed by the complainant and then caused signature over it. In para 2 he narrated the events of procedure undertaken by ACB office for application of anthracene powder to the currency and he and complainant being given necessary instructions and he was asked to be watchful of the conversation between complainant and accused and thereafter he and complainant visiting the office of accused. According to him, around 2.00 p.m. after entering the office, complainant initially sought permission of the accused to come inside the office and then complainant told that he had applied for passport and he is in need of receipt. According to him, accused said 'OK' and

as his eye-sight was weak, he handed over receipt book to complainant and to trace out his receipt which was accordingly done by complainant and thereafter accused had torn the receipt, handed it to complainant, who kept it in the pocket and then complainant again informed accused that he is going, upon which accused inquired whether amount is brought and to give it. Complainant removed Rs.100/- and kept it in front of accused who accepted it and kept it in the right side drawer and then, when complainant asked him whether there is any problem, he was told by accused that inquiry would be conducted by Kotwali Police Station. Thereafter, when complainant left, this witness also stood up and after going out of the office, complainant relayed the signal followed by arrival of raiding party and apprehension of accused.

In cross, he admitted that his statement was not recorded on 23rd and rather it was recorded on 25th. He was asked by defence counsel whether Abdul Gani Shaikh was present there, and this witness initially answered 'yes', but then corrected himself and said 'no'. He further answered that another person was with Bhalkar who was middle aged. Thereafter, to every suggestion, this witness has virtually expressed his inability to remember. He also admitted that when they initially went to the office of accused, he was busy in his

official work and when they entered, it was asked by accused about the nature of work with him. He admitted that, when complainant inquired about passport receipt, accused said that he will see. He admitted that in the panchanama, location of receipt book is not mentioned. He expressed his inability to remember whether after issuing receipt accused asked complainant to keep the receipt book in the drawer. He admitted that when raiding party came and asked about the whereabouts of money, he told that it was in the drawer. Thereafter he is unable to state whether accused was asked to remove the currency from the drawer.

13. PW3 in the Investigating Officer and in his chief he stated all the events since receipt of complaint from PW1 till apprehension of accused and he being chargesheeted.

While under cross, he admitted that work of passport was with office of SP, District Special Branch. He admitted that, application of complainant dated 22.12.2005 Exhibit 27 was already sent to the Passport Office, Pune as per communication Exhibit 29 and on the same day it was also sent to the concerned police station for verification. He identified communication Exhibits 34 and 35 which are communications received from DIG, ACB Office not to allow

interference of Shaikh Abdul Gani Shakkarbhai in official work. He admitted that, in the instant case, Abdul Gani Shaikh had instigated complainant to submit application for passport, however rest all suggestions are denied by him.

14. PW4 is the sanctioning authority.

15. Learned APP would submit that, findings and observations of trial court are beyond evidence on record. Whereas, learned counsel for accused would specifically point out that, complainant had no work, but only because action was initiated against Shaikh Gani, i.e. friend of complainant's father, complainant was induced to cook story of demand of bribe for passport. That, in fact complainant never intended to travel abroad. It is his specific case that, here, there was no motive as, including complainant, Investigating Officer has admitted that his work was already done and nothing was left with accused to prompt him to put up demand of bribe.

16. On above lines, if evidence of prosecution is appreciated, it does emerge that complainant has himself admitted that he had already received passport, and that he never traveled abroad till date. Investigating Officer has also admitted that work of passport was with

the office of SP. That, application dated 22.12.2005 tendered by accused Exhibit 27 was already sent to passport office, Pune, and other copy to police station for processing. Even sanctioning authority has answered that, he was not informed before issuing draft sanction dated 23rd that accused had already sent the file to the concerned police station. This shows that, work for which there was said to be demand of bribe, was already over. If this is so, indeed a doubt arises as to what was the motive available with accused to demand and even for complainant to pay bribe. Consequently, here, on the date of alleged trap, work of complainant was already beyond the means and resources of accused.

17. Here, specific defence put forth is that of planting money. On these lines if evidence is put to scrutiny, it is emerging that both, complainant and shadow pancha, are cross examined wherein they have admitted that accused handed over receipt book to complainant to find his receipt himself as he had vision problem. Shadow pancha has candidly admitted that accused was not in position to see and therefore he asked complainant to trace his receipt and thereafter when the receipt was pointed out, it was allegedly detached and handed over to complainant and thereafter, it is alleged that, tainted currency was accepted and kept by accused in the drawer.

Complainant has admitted that currency was kept in the drawer. Shadow pancha is unable to remember such chronology which took place after alleged conversation between complainant and accused. Resultantly, as there is no denial by shadow pancha to the suggestions put by learned counsel for defence, there is no corroboration to the evidence of complainant on the point of acceptance. This shadow pancha is unable to state whether currency and receipt book were taken out from the drawer or not.

18. The second pancha, who was said to have accompanied the raiding party and was the witness to the removal of tainted currency from the drawer, is not examined. In the light of both, complainant and shadow pancha, admitting vision problem of accused, and when there is evidence suggesting currency being kept and recovered from drawer, then possibility of thrusting or planting cannot be ruled out. It is cardinal principle of law that prosecution has to prove its case beyond reasonable doubt. The moment doubt creeps in and when it is reasonable, its benefit goes to accused. This is precisely what has happened here and therefore, there being doubt about motive, aspect of demand as well as acceptance has come under shadow of doubt.

19. The second point which went against prosecution in trial court is the sanction. Learned trial court has held sanction to be invalid on the ground of non application of mind and said findings are criticized by the prosecution before this Court. Resultantly, evidence of sanctioning authority is required to be revisited.

20. PW4 sanctioning authority is examined at Exhibit 36 and he has deposed that, he had received investigation papers and draft sanction from ACB, Ahmednagar. According to him, he perused the report along with entire investigation papers, understood the same, applied his mind and came to the conclusion that there is evidence to prosecute the accused and thereafter he perused the draft, thought it necessary to make some corrections in one para of draft sanction order and accordingly, he accorded sanction Exhibit 37.

While under cross, he admitted that duty of accused was only to sell application for Rs.20/-, examine the documents and demand draft and send it to police station in whose jurisdiction accused resided and other copy to be send to Passport Office at Pune. He admitted in cross that he was informed that accused demanded Rs.100 to send the file for further processing, but according to him, it was not informed to him whether before issuing draft sanction dated

23rd, on 22nd itself accused had sent file to concerned police station. He admitted that copy Exhibit 27 was inclusive of documents which were sent to him and he candidly admitted that it did appear to him that file was already sent to Passport Office, Pune and on same day, copy was also sent to Kotwali police station.

21. From above testimony of sanctioning authority, as pointed out, it is emerging that this authority has also received documents comprising of processed papers which were already dispatched to both, Passport Office at Pune as well as concerned police station. If this was admitted, then as pointed out, on the day of main trap dated 23rd December 2005, there was no work with accused and rather it was already processed and forwarded to the concerned office. If this was the situation, then, as rightly held by the trial court, this authority ought to have refused to accord sanction by noting that there was no motive or work of complainant to offer bribe or for accused to accept the same. Therefore, there are reason to hold that there is no complete application of mind to the entire documents received by this sanctioning authority.

22. To sum up, here, there was no motive or work pending with accused so as to demand bribe. There is no evidence about initial

demand and upfront payment of Rs100/-. Defence case is of thrusting and accused to be having vision problem i.e. weak eye-sight and both, complainant and shadow pancha, are admitting complainant doing the work of tracing his receipt form the receipt book handed over to him by accused because accused could not see properly. Complainant has admitted in cross that amount was kept in drawer. Therefore, possibility of thrusting cannot be ruled out. As stated above, while according sanction, there is no study of entire documents and had it been done so, conclusion of sanctioning authority would have been otherwise.

23. For above reasons, and also bearing in mind the principles while dealing with appeal against acquittal, and also taking into account that this Court is precluded from taking distinct view than the one taken by trial court, appeal fails. Hence, the following order :

ORDER

- I. The Criminal Appeal is dismissed.
- II. Pending Criminal Application also stands disposed off.

[ABHAY S. WAGHWASE, J.]