



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO.82 OF 2024

The State of Maharashtra,
Through Police Station Officer,
Shivaji Nagar Police Station,
Tq. & Dist. Beed.

... Applicant

Versus

Usha Haribhau Rathod,
Age : 29 years,
R/o. Gurukul Nagar, Beed.
Dist. Beed.

... Respondent.

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Mrs. Saie S. Joshi, APP for Applicant – State.
Mr. Pratik A. Bhosle, Advocate for Respondent.

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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 09 APRIL 2026
PRONOUNCED ON : 16 APRIL 2026

ORDER :

1. State hereby seeks leave to challenge the judgment and order dated 08.12.2023 passed by learned Special (ACB) Judge, Beed in Special (ACB) Case No.20 of 2015 by which present respondent stood acquitted.

2. Prosecution was launched against present respondent a Talathi, on allegations that, he had demanded illegal gratification from complainant Vikas to give effect to the decree on the strength of mutation entry. As complainant was not willing to pay illegal

gratification, he approached Anti Corruption Bureau and gave complaint, on the strength of which, PW4 carried out investigation and charge sheeted accused. Trial was conducted, but learned trial Judge reached to a finding that prosecution failed to prove demand as well as acceptance, and thereby, acquitted the accused. Hence, the instant leave application.

3. Learned APP apprised this Court about the above factual background of the prosecution case and would submit that there was both demand as well as acceptance. However, learned trial Court has failed to consider and appreciate the same. Minor variances are given undue importance. That, core of the prosecution case was substantiated. That, there was valid sanction, but still such point is answered against the prosecution. That, prosecution has a good case on merits in appeal, and hence, she urges for grant of leave.

4. In answer to above, learned counsel for respondent - original accused would support and justify the acquittal as according to him, prosecution primarily failed to establish the very demand followed by the acceptance. It is pointed out that, sanction was also not by competent authority.

5. After hearing the above submissions and on going through the record, admittedly, it is the case of prosecution before

the trial court that, the complainant, who had obtained a decree from civil court, had approached accused to mutate names of his family members in the revenue record. According to prosecution, to do such needful, bribe of Rs.15,000/- was demanded and on receipt of complaint to that extent, trap was planned and executed.

6. Learned trial Court on complete appreciation, has recorded a finding that, initial demand has not been proved, resultantly, evidence is vitiated.

7. It is noted thereupon that, according to complainant, demand was made on 09.03.2015 and to that extent he and panch witness have also deposed. However, hand-written complaint as well as typed complaint carries distinct date i.e. 07.03.2015. Allegations of exact date of demand are thus vague and are contrary in complaint as well as in deposition.

8. Second aspect which renders the prosecution case on demand is the pre-trap panchanama. According to PW3 Baburao, the Anti Corruption Bureau had called him on 07.03.2015. Therefore, the moot question is when the complaint was itself shown to be subsequent in point of time i.e. on 09.03.2015, how can there be a call to the panch two days prior the very complaint.

9. Even the evidence of PW1 complainant does not clarify

exactly when for the first time demand was raised. He contradicts himself by giving a different date of the demand than the date which is appearing at his instance which is complaints at Exhs. 49 and 50.

10. Another major blow which prosecution seems to have suffered in the trial Court is that, in the written complaint Exh.49 and 50, amount of demand is shown to be Rs.15,000/-, but both, complainant and shadow panch, quote figure as Rs.5000/- being paid to accused.

11. It seems that, trial Court has recorded a finding that prosecution failed to prove that complainant had any work with the accused at all. Complainant has in his cross examination admitted it was a Circle Officer, who was competent to accord sanction to mutation entry, and therefore, as pointed out, doubt arises about any work with accused. Moreover, according to prosecution, demand was made 2 to 3 days after 25.12.2014, but Exh.51 which is a copy of very decree is shown to be received on 31.12.2014. Such aspects also creates doubt about work with accused.

12. As regards to acceptance is concerned, the currency is shown to be found in the purse, which is kept on the counter of the xerox center. Therefore, there is every possibility of planting the money. Moreover, it has emerged on analysis before the learned trial

Court that even when it was the case of prosecution that there was exchange of currency and papers, there was no anthracene on papers.

13. Therefore, on above several counts, case of prosecution is rendered doubtful on the point of demand as well as acceptance. With such quality of evidence on record, no fault or infirmity can be attributed to the trial Court, and moreover, no good point being raised to accord leave, the same deserves to be refused. Hence, the following order is passed :

ORDER

- (i) Leave is refused.
- (ii) Application for Leave to Appeal by State is rejected.

(ABHAY S. WAGHWASE, J.)