



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.200 OF 2014
WITH
CRIMINAL APPLICATION NO.1064 OF 2026

The State of Maharashtra,
Deputy Superintendent of Police,
Anti Corruption Bureau,
Ahmednagar.

... Appellant.

Versus

Allabaksh Appalal Sayyad,
Age : 60 years, Occu : Divisional Engineer,
Telecom, Class-I [Rural],
South Office, Ahmednagar,
Originally R/o. B.C. No. 10,
Killa, Belgaon, Karnataka State,
At present R/o. Telecom Quarters,
Savedi, Ahmednagar.

... Respondent.
(Orig. Accused)

.....

Mr. P. P. Dawalkar, APP for Appellant – State.

Mr. Swapnil Joshi a/w. Ms. Priyanka Deshpande & Mr. Ojas
Deshpande i/b. M/s. J.P. Legal Associates for Respondent.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 30 MARCH 2026

PRONOUNCED ON : 06 APRIL 2026

JUDGMENT :

1. The State hereby challenges the judgment and order dated 29.12.2012 passed in Special Case (ACB) Case No.6 of 2004, by which accused respondent herein came to be acquitted from charges under section 7, 13(1)(d) read with section 13(2) of Prevention of Corruption Act, 1988.

FACTUAL MATRIX

2. Anti Corruption Bureau, Ahmednagar entertained a complaint given by PW1 Pravin, who claimed that, he was serving as a Manager in a firm M/s. Sai Enterprises, who was awarded a contract of laying cable, and said work was completed in 2003. The work completed was worth Rs.7,10,000/- approximately and therefore, PW1 complainant claims that, he submitted bill for the completed work. It is his case that, out of the above amount, he prepared first bill for 85% of the amount and the second was prepared for 15% of the amount, and it were duly sent to Sub Divisional Engineer, Telecom, who, signed and forwarded it to accused, who was working as Divisional Engineer, Telecom at Ahmednagar. It is his case that for clearing above bill, accused demanded Rs.25,000/- as bribe. Rs.15,000/- were paid on 30.04.2003 and remaining was to be paid later on. After consulting his employer, PW1 complainant approached Anti Corruption Bureau and lodged complaint at Exh.38. On the basis of which, Anti Corruption Bureau planned trap and claims to have successfully executed. After investigation, accused person was duly charge sheeted and tried, but prosecution did not find favour from the learned Special Judge, Ahmednagar, who, acquitted the accused. Hence, the appeal.

SUBMISSIONS**On behalf of Appellant :**

3. It is the submission of learned APP that, there is no dispute that accused was working as Divisional Engineer in Telecom Department, and as such, was a public servant. That, he had demanded bribe for clearing bill tendered by PW1 complainant on behalf of his company for the work rendered for laying wire. It is pointed out that, for clearing the said bill, there was demand of Rs.25,000/- and upfront payment was made to the tune of Rs.15,000/-, but on receipt of complaint, Anti Corruption Bureau Authorities planned trap by arranging panchas. According to him, pancha, who was in the company of the complainant, had initially verified the demand, which was raised during talks on telephone. Thus, according to him, demand was proved. That, both these witnesses also unanimously stated about the acceptance of currency and pocketed by him. Consequently, he submits that there is both, demand as well as acceptance. He pointed out that, even learned trial Court held sanction to be valid, and therefore, all essential ingredients for attracting the charges were available. However, according to him, in spite of so, accused is acquitted on the basis of minor inconsistencies and variances. He pointed out that, learned trial Court erred in recording a finding that there was no work

pending, and as such, there was no motive to put up demand. It is pointed out that, even trial Court erred in holding that no bills were tendered by PW1 complainant. According to him, here, very Investigating Officer has not been examined and rather his typist is examined. Thus, for above reasons, he criticizes the judgment and order of acquittal and prays to allow the appeal.

On behalf of Respondent :

4. Leaned counsel for respondent accused would justify the order of acquittal by pointing out that, prosecution failed to prove both demand as well as acceptance. According to him, there was reasonable doubt over acceptance as according to complainant currency was accepted inside the cabin, but he contradicts himself in cross by admitting that payment was received outside the cabin. That, moreover, there was no bill tendered by PW1 complainant, and therefore, there was no question of sanctioning or clearing the same. According to him, defence has succeeded in probabilizing its case of thrusting and even learned trial Court believed the same. For above reasons, he urges to dismiss the appeal for want of merits.

5. Heard. Perused the record. Re-appreciated the evidence. Though prosecution has examined four witnesses, in the light of nature of charge, evidence of complainant (PW1), shadow panch

(PW2) and Investigating Officer (PW4) is crucial. Here, there is no challenge to finding of prosecution on the point of sanction and said point has been answered in affirmative in trial Court. Thus, it is now to be seen whether *sine quo non* like demand and acceptance has been cogently proved.

ANALYSIS OF EVIDENCE

6. Re-appreciated the evidence of PW1 complainant, who is examined at Exh.37 and during his testimony he gave details of his employment and about tendering two bills of 85% and 15%, respectively, towards work rendered worth Rs.7,10,000/-. On the point of demand, he deposed that he approached accused Divisional Engineer. However, it is pertinent to note that he has not stated when exactly he approached accused because he merely stated that Divisional Engineer demanded Rs.25,000/- as bribe for signing two bills. No details of such first conversation are stated by him in the evidence. Rather, directly in paragraph no. 3 of the examination-in-chief he deposed about discussing the matter with his owner and again approaching accused on 30.04.2003. Therefore, as stated above, when the first demand was made has not been stated by the complainant. Secondly, his testimony shows that on 30.04.2003, he claims to have met accused in his office, and that time, he claims that he paid Rs.15,000/-. But, there is no corroboration to his testimony.

In paragraph no. 4, he speaks that on 21.05.2003, he made telephone call to accused, but he states that accused questioned him regarding balance amount of Rs.10,000/- and therefore, at the instance of his employer, he lodged complaint (Exh.38). In paragraph no. 7 of the examination-in-chief, he stated that, he himself, his owner Birajdar, Accountant Jagtap and panch Pathak while were in the office of the ACB, he telephoned the accused, but from the mobile of Accountant Jagtap and suggested going for meals, but accused allegedly denied the same and rather accused said that, he would come to the residence of this witness and accordingly he came, witness claims that he himself, employer and Accountant Jagtap went in Tata Safari vehicle, where in presence of all discussion took place about the work. According to him, that time accused said to his employer Birajdar not to send this witness as he did not talk properly and rather sent Accountant Jagtap and thereafter everybody left.

While under cross, in paragraph no. 8 he admitted that, previously also he had worked with accused in connection with work of TCIL Ltd. at Bangalore and he had received bill worth Rs.80,00,000/-. He answered that he submitted first bill regarding 85% of the work. Thus, he contradicts himself about tendering second bill of 15% which he had stated in examination-in-chief. He accepted that Mahapurush had verified the work and recommended the

forwarding of bill. He is unable to state what happened on 27.03.2003. He also admitted that after tendering the bill in the office of accused, it was further forwarded for sanction to the office of Deputy General Manager. Omissions are brought in paragraph 9 about preparing remaining bill of 15%, about discussing with his employer regarding amount of Rs.25,000/-. He is unable to state whether on 30.04.2003, accused was not present at all in his office at Ahmednagar. He admitted that, he had talks with accused on the mobile of Jagtap. He admitted that he had talks with accused only once on mobile i.e. 21.05.2003. He answered that he was alone when he lodged complaint. He denied having second talks with accused on the mobile of Jagtap.

7. PW2 is the accountant Jagtap, who was also said to be in the company of PW1 complainant and he deposed at Exh.57. Even he gave details of the events that took place on 21.05.2003 and about going to ACB office. He also narrated about complainant using his phone for having conversation with accused and offer of complainant to go outside for meal being turned down and rather accused suggesting room of complainant. According to this witness, employer Birajdar told accused to forward bill submitted to him and accused suggested him to handover the balance amount of Rs.10,000/-. He deposed that, on next day, complainant again made telephone call to

the accused. On 27.05.2003 complainant received call from accused and complainant informing accused that he had called on 29.05.2003. This witness in paragraph no.3 deposed that he himself and panch Pathak then went to the office of accused and there accused asked whether amount is brought ? and he took out envelop and handed it accused, who accepted it, and thereafter relayed signal.

While under cross, he admitted that, unless bills are submitted they cannot be sanctioned or passed. He answered and admitted that he himself not tendered bill of 15% of the work done. He admitted that he never talked with accused persons and they were never in touch. However, when defence counsel confronted him CDR, he admitted that, according to him, there were telephonic calls with accused at 9:27 p.m.; at 8:20 p.m. and 8:43 p.m.. Omissions brought about accused telling employer Birajdar to handover the remaining amount of Rs.10,000/-. He is unable to state why he made call to accused on 12:27 p.m. that day i.e. on 29.05.2003.

8. Shadow panch is examined as PW3 at Exh.64 and in initial examination-in-chief, he deposed about going to ACB office, being introduced to complainant, clearing his bills, going through the complaint Exh.38, signing it and instructions being given by ACB office. According to him, on 22.05.2003, in his presence, PW2 Jagtap contacted accused on telephone questioning where they have to meet,

but according to him, accused replied that he was on tour and as such meeting was cancelled and accused said that he would meet after 2-3 days. They all went back. That, on 29.05.2003, he was again called by ACB office and that day procedure of application of anthracene powder took place and instructions being given by ACB office. Thereafter, he himself and Jagtap going to the office of accused. According to him, that time, accused asked him about complainant and Birajdar and PW2 allegedly told him that they have not come on account of demise of their relative. Then accused asked PW2 Jagtap whether amount is brought and Jagtap said he had brought it and then accused asked regarding the balance amount, upon which PW2 Jagtap said that Birajdar will talk to him and accused directed PW2 to handover the amount, which is brought and accordingly it was handed over and accepted.

While under cross, Exh.61 was confronted to him by defence counsel, he is unable to state whether Jagtap has contacted accused on his mobile handset. He admitted that, accused Sayyed was caught outside the cabin.

9. PW4 Gawate claims that he has done typing work in connection of Crime No.50/2003 and then deposed about Dy.S.P. noting complaint, carrying pre-trap panchanama, pre-trap and post trap panchanama. Resultantly, here, Investigating Officer, who has

carried out entire investigation, is not examined.

10. Thus, what is emerging from above evidence is that, complaint is lodged by PW1. As stated above, exact details and dates of initial demand of Rs. 25,000/- are not given by this witness. Secondly, he deposed that accused suggested his employer to pay the remaining amount through Accountant Jagtap and not through complainant. Therefore, apparently demand was made to employer Birajdar, but he is unfortunately not examined. Further, complainant has not accompanied shadow panch PW3. PW2 Jagtap claims that, complainant Dhepe used his mobile to have conversation with accused and according to complainant, he only had conversation once, but PW2 in cross examination on being confronted with CDR admitted that there were several calls from his phone to the accused that day.

11. It is emerging from the prosecution evidence that according to PW1 complainant, when he talked with accused regarding payment of remaining balance amount, and he suggested accused to come out for dinner, it was turned down by accused and rather accused came to the his room and there according to him accused suggested that payment should be through PW2 and not PW1. However, shadow panch gives a different story about complainant calling accused on mobile of Jagtap and accused stating

that he was on tour and thus meeting was cancelled. His version to that extent is distinct from PW1 and PW2 as neither of them has deposed in such manner. Therefore, witnesses are not consistent.

12. As regards to acceptance is concerned, according to complainant, amount was accepted by accused inside the cabin, but PW3 shadow panch is at variance because according to him, acceptance was made outside the cabin, therefore, as submitted, witnesses are not consistent.

13. Again as pointed out, it is emerging from the evidence of complainant that the bills which were sought to be cleared and for which there was alleged demand itself are shown to be cleared by the office of accused and witnesses admit that the same were forwarded to the office of Deputy General Manager. Again, PW1 does not seem to be aware whether the bills were at all drawn by him or tendered. Therefore, his testimony renders the case of prosecution further doubtful.

14. Last but not least here, though there is proper sanction, there is no evidence of Investigating Officer, and as such, the defence is deprived of the opportunity to prove material omissions and contradictions. Consequently, on all above counts, case of prosecution was doubtful, and therefore, with such quality of evidence, the only view that could be taken is that there is failure of prosecution to

prove the charges. There being no merits in the appeal. Hence, the following order is passed : -

ORDER

- (i) The Criminal Appeal is dismissed.
- (ii) The Criminal Application No.1064 of 2026 is disposed of.

(ABHAY S. WAGHWASE, J.)