



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 60 OF 2015

The State of Maharashtra

...Appellant

Versus

Gauram Sandu Bhalerao,
Age 49 years, Occu. Govt. Service,
R/o. Kankavatinagar, Cooperative
Surgar Factory, Kannad, Dist. Aurangabad

...Respondent

- Mr. N. R. Dayama, APP for the Appellant/State
- Ms. Monica Bagwe h/f Mr. C. P. Sengaonkar & Mr. V. A. Bagadiya,
Advocate for the Respondent

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : FEBRUARY 12, 2026
PRONOUNCED ON : FEBRUARY 20, 2026

JUDGMENT :

1. In this appeal by State, there is challenge to judgment and order of acquittal dated 16.06.2014 passed by learned Special Judge in Special Case No.32/2009 acquitting the accused from charges under Sections 7, 13(1)(d) read with Section 13(2) of Prevention of Corruption Act.

2. Anti Corruption Bureau, Aurangabad ('ACB') received complaint from PW1 that, he had approached Taluka Inspector of Land Records Office ('TILR') for measurement and issuing consequential map.



That, he had approached surveyor Shri. Kolte, who allegedly told him, file has already been sent to Phulambri office. There, on inquiry, he was again told to meet Shri. Kolte and Shri. Bhalerao (i.e. present Accused), who were dealing with the said work. Accordingly, he claims to have approached present accused to provide him measurement map and for doing the same, it is alleged that, there was demand of Rs.5,000/-. As he was willing to pay bribe, he filed complaint Exhibit 20 with ACB Office, Aurangabad. Verification of demand was done and main trap was laid by involving complainant and shadow panch PW2 and after demand was raised and it was complied, necessary signal was relayed followed by apprehension of accused and on completion of investigation, accused was chargesheeted and tried vide above case, which, on trial, ended up in acquittal. Precisely, the said impugned judgment is the subject matter of present Appeal.

3. Learned APP pointed out that, case of prosecution is rested on evidence of four witnesses. He pointed out that, there is no denial that, accused was working in TILR Office and as such, a public servant. That, when complainant approached him for measurement map, he assured to manage it but subject to payment of Rs.5,000/-. That, there is evidence of complainant to that extent. Further, learned APP pointed out that, prior to laying down main trap, verification was got done and



only on getting convinced, main trap was planned and even successfully executed by involving shadow panch. That, they both are consistent. That, in presence of PW2, there was demand of bribe and on its payment by complainant, it was accepted and thus, according to him, essentials for attracting charges are very much available. He pointed out that, bribe amount was admittedly recovered from possession of accused and above all, there are traces of anthracene powder at the hands of accused signifying acceptance and thus, according to learned APP, there was strong and convincing evidence.

4. He next submitted that, here, in the light of above demand and acceptance being proved, learned Trial Court ought to have employed Section 20 of Evidence Act for drawing presumption but instead learned Trial Court failed to do so and has rather disbelieved prosecution story by accepting the version of defence witness.

5. He lastly submitted that, sanction also was valid, it being after due application of mind, however, in spite of availability of convincing evidence to that effect, he would submit that, there is error committed by Trial Court in appreciating above evidence and, therefore, he questions sustainability and maintainability of above impugned judgment and order. For above reasons, he urges to allow appeal.



6. In answer to above, learned Counsel for Respondent original accused would support the order of acquittal by pointing that, here, prosecution has miserably failed to prove initial demand. She pointed out that, said verification of demand was got done through telephone allegedly used by complainant but the same is not proved by placing on record actual conversation or by way of CDR to demonstrate said conversation.

7. As regards to demand is concerned, she would strenuously submit that, at the first count, there was no work with accused to either carryout measurement or to issue measurement map. That, in fact, he was mere clerk in record section and, therefore, was not competent to carryout measurement or issue map as demanded by complainant. She pointed out that, in fact, complainant had put up illegal demand of issuing measurement map by deliberately showing there to be encroachment and as such, it is her submission that, there cannot be illegal gratification for illegal work. That, moreover, demand itself was not proved.

8. She further pointed out that, PW1 and 2 are not consistent. According to her, PW2 was a crucial witness but he turned out to be habitual panch witness having worked in previous cases with ACB and, therefore, his testimony was unworthy of credence and was rightly



discarded by Trial Court. She also pointed out that, complainant was made to go through the papers before stepping into witness box. That, this was also against spirit of criminal jurisprudence and that, witnesses are expected to depose on their own memory and not to refer papers of prosecution before adducing evidence. Thus, for above reasons, she submits that, when very foundational fact of demand itself are not proved, it being settled position that, mere recovery is not sufficient, the case of prosecution was rightly disbelieved by learned Trial Judge.

9. She further pointed out that, even otherwise, there was no pending work of accused as prosecution's own evidence shows that, complainant had already received the measurement map and there is admission to that extent by complainant and even by sanctioning authority. Therefore, for above reasons also, according to her, case of prosecution rendered doubtful and consequently justifies the order of acquittal.

10. In the light of above submissions, evidence on record is visited and appreciated.

11. PW1 Samadhan, who is examined at Exhibit 17, stated that, he has ancestral land Gut no. 267. On 06.05.2008, he paid charges for measurement of the land with TILR, Kannad and on 23.07.2008, Shri.



Kolte and present accused Bhalerao came for measurement, they carried out measurement and prepared sketch map and left. So, on 17.06.2009, he claims to have approached Kolte for copy of measurement map but it was allegedly told that, file has been sent to office of Phulambri and on visiting office at Phulambri one Khosar directed him to accused and then he claims to have duly approached and asked for urgent copy of measurement. He further stated that, accused told him, it being work of measurement, it cannot be done in Rs.1,000 – Rs.1500 but told that, it would require Rs.4000-5000 and thereby raised demand of Rs.5,000/-. As he was not willing to pay bribe, he approached ACB office. He further deposed about panchas being called and verification of demand of bribe being done over mobile phone of accused and allegedly asked him about the work of measurement map but accused told him that, he has been transferred to Sillod and further said that, work will not be done unless amount is paid. Then he narrated about visiting ACB office again on 07.07.2009 and on suggestion of ACB officer he again made telephone call to the accused. Upon which, accused told him that, he has gone out for admission of his daughter. He claims that, at that time, he switched on the speaker of his mobile and their conversation was heard by panchas and ACB officer. That, he was called at Sillod to pay Rs.4,000/- and to receive copy of map. According to him, again on 08.07.2009 during is visit to ACB office,



it was again asked to give call on mobile phone of accused and he claims to have asked accused whether he should come to collect copy and accordingly, accused asked him to come Sillod that too alone. He deposed that, he told him that he had arranged the amount and he would come to office. Then he deposed about procedure undertaken by ACB officer for laying the trap, application of anthracene powder, giving necessary instructions to him and panchas and in paragraph 13 he narrated the events that took place in the office of accused at Phulambri i.e. after greeting accused, he took them for tea in a hotel, he and panch accompanied him, accused placed order of tea and when complainant requested for issuing copy of measurement map, accused allegedly told that, certified copy is ready and the same is taken in the TILR office Phulambri and when complainant told him that, he is in dire need of copy, accused told him that, he had called him yesterday itself and further asked whether amount agreed has been brought and thereafter they again left and accused was told that, he would come by 04.00 pm. Around 03.30 pm near Bhokardan Naka they met accused, they again went hotel for tea and he stated that, he requested accused that, he has brought Rs.4,000/- and he may give certified copy of measurement map. Accused told him to pay and that he would get certified copy. Accordingly, tainted currency was given and accepted.



12. While under cross, he admitted that, he had received copy of measurement map after the report. He answered that, after the report till arrest of accused, he did not tender application for getting certified copy. He is unable to state whether he was aware that, he would not get certified copy from the office of Sillod. He admitted that, he had not lodged complaint against Kolte. He admitted that, he did not filed application for re-measurement. He is unable to state whether application Exhibit 25 bears his signature or not. He admitted that, his supplementary statement was recorded. He admitted contents in portion mark 'A' in his supplementary statement. He answered that, in his presence amount was not removed from pocket of accused.

13. PW 2 – Hemant, shadow panch, who is examined at Exhibit 31 deposed about visiting ACB office, being introduced to complainant, he causing signature over the complaint and there, on instructions of ACB officer, complainant having telephonic talk by keeping the speaker on. According to him, complainant asked accused about the measurement map and after saying that, he is going to Kannad to come tomorrow at 09.00 am, accused asked complainant to arrange Rs.4,000/- for him and Kolte and that he would arrange copy of map. After the talks, bribe verification panchnama Exhibit 32 came to be drawn. He also deposed about telephonic conversation between complainant and



accused on the next day and while hearing the conversation after mobile of complainant was put on speaker, there were initial talks between accused and complainant, wherein, complainant said that, it was not possible for him to meet that day as he was busy in admission of his daughter and to come at next day at 11.00 am. Again in paragraph 4 he deposed about telephonic conversation between complainant and accused on the next day during which accused asked complainant where he was, upon which complainant told that he at Phulambri and he would be at Sillod in half hour and accused asked him to come Sillod and, therefore, ACB officer laid trap. He deposed about the procedure of application of anthracene powder. Regarding the main trap, he deposed in paragraph 8 that, after approaching accused at TILR Office, Sillod they all sat on one bench, after which, complainant asked accused what he has done about the copies of measurement upon which accused told that copies are in the office of Phulambri and when complainant expressed his dire need, accused allegedly asked whether he brought Rs.4,000/- as per their telephonic talk and complainant affirmed about bringing the amount, however, complainant further said that, he would pay only after receipt of measurement map. Then they had tea and accused went back to his office. In paragraph 9, he stated that, at around 3.45 pm they again came back at Bhokardan Naka and again went for tea and when again complainant asked about copies, accused



told him he would get the copies of measurement only if amount is brought and it is paid. This was followed by complainant removing the bribe and handing to the accused followed by relay of signal.

In cross, this witness has admitted that, he does not remember when first demand was made by complainant. He admitted that, when accused was arrested that time he had not copy of measurement and on that day they were not knowing whether the copy was. He further admitted that, he does not remember the time when first complainant had telephonic conversation. He admitted that, said conversation between complainant and accused was not recorded. He also admitted that, call records of complainant were not checked.

14. On analysis of above evidence, here, as pointed out, firstly, actual work of measurement was done by Kolte and present accused is shown to have merely assisted him. Sanctioning authority has admitted in cross that, accused had no concern with the process of measurement or process of issuance of measurement map. Complainant himself has admitted that, he has received the copy of measurement map. Therefore, from such evidence, as pointed out, it is clearly emerging that, there was no work with present accused, who was a mere a clerk in the record.



15. The line of cross of PW1 by defence clearly shows that, he has not applied for copy of issuance of measurement map. He, in fact, admitted that, Kolte, who actually carried out measurement, had already told him that, file after measurement has already been sent to Sillod office. Case of prosecution also that, present accused merely assisted in the measurement. For said reasons, as pointed out, it is doubtful whether complainant had any work with present accused rather suggestions are given to him that, as complainant realized that, in the measurement map, there was no encroachment, he seems to have approached present accused but in fact he was mere clerk in the record section and has no business to do with issuance of measurement map.

16. As regards to demand is concerned, from the testimony of complainant, it is emerging that, he and his uncle initially after meeting surveyor Kolte and on his information that file is already sent to Phulambri office, they both went there and accused allegedly made demand of Rs.4,000/- to Rs.5,000/- for said work. At this point of time, complainant's uncle was the crucial witness because alleged first demand was in presence of his uncle but unfortunately he was not witness. Complainant's evidence shows that, for verification of demand first call was made by him in presence of panch and ACB officer and to that extent, he has deposed in paragraph 6 and that day, accused



allegedly told to call him to tomorrow but further said that, work will not be completed unless amount is paid. Witness stated that, he assured to arrange the amount and disconnected the phone and thereafter he left the office and he himself went home. Therefore, on this day, there was no demand verification done. In paragraph 7, he deposed about second visit to ACB office at 10.30 am and again at the instance of ACB officer called on mobile and again on during such talk, accused merely told he is busy in admission of his daughter and to come tomorrow at Sillod. Witness stated that, their such conversation was heard by ACB officer and panch. He further stated that, he was called at Sillod to pay Rs.4,000/- and to receive copy and he again went home. Even on this day no demand verification panchnama was drawn. Then in paragraph 8 he deposed about conversation between him and complainant on 08.06.2009 and this time, he claims to have asked accused on phone where he should come to collect copy and was duly asked to come at Sillod and not to bring anyone and this time complainant himself seems to have offered bribe by saying that, he told accused that, he has arranged amount and he would come to office.

Therefore, before demand, there is offer. Again on the day of main trap regarding which he narrated in paragraph 14 he stated that, when he, panch and accused went inside the hotel, he requested accused



saying that, he has brought Rs.4,000/- and he may give certified copy. Therefore, on the day of main trap also prior to any demand, there seems to be offer of bribe from complainant. In cross he is unable to state whether their conversation is recorded or not. PW 2 has candidly admitted that, there was no recording of alleged telephonic conversation. As pointed out, neither conversation nor CDR are finding place in charge-sheet. Resultantly, the aspect of very demand has come under shadow of doubt.

17. Consequently, even if there is recovery of tainted currency from possession of accused, same is rendered insignificance as complainant himself has admitted that, initial conversation of demand was not recorded. Further, as pointed out, on two occasions there was offer from complainants' side first i.e. before demand raised by accused.

18. PW 2 shadow panch has admitted in cross that, he has acted as panch in previous four to five cases. In fact, he is a crucial witness for prosecution and he is looked upon independent witness. It is only on his corroboration, value is ascribed to the testimony of complainant, who is interested party. Therefore, in the light of above, no credence can be placed on the testimony of PW2.

19. Here, accused had also adduced evidence of witness named



Mansub Bhingare at Exhibit 18, who testified that, he too work in TILR office. He narrated the procedure for measurement, its time, procedure of measurement on payment of fees and its mode. He stated that, Taluk Inspector decided, who should measure the land and on his written order, measurement surveyor conducts measurement after issuing notice. He further deposed that, after survey is done, three copies are drawn, first two copies remained in the file, while third is tendered to the party. He further deposed about he to be aware of measurement of present complainant and in his case, measurement was done by surveyor Kolte, upon which, he himself drew map and it was handed over to the applicant by him. He identified office copy at Exhibit 24.

In his cross, he admitted that, accused was working as a record keeper and a person in need of copy of record, only has to approach accused for that much purpose.

Therefore, the above witness has fairly stated that, work was already done by surveyor Kolte and complainant had already received copy and he himself had issued map to the complainant. He does not whisper about any role attributed to present accused except that he work as record keeper, meaning thereby, neither accused was responsible for carrying out measurement nor was responsible for issuing map.



20. To sum up here, though there is recovery and there is valid sanction, prosecution story shows that, complainant had no work pending with accused and rather accused was not competent to issue measurement map, which was the job of Kolte and he had already completed the same. Motive is therefore, rendered doubtful. There is no credible evidence of PW2, who is crucial witness and he is not reliable as he is shown to be a stock panch to ACB.

21. For above reasons, when demand itself has not been proved beyond reasonable doubt, rest of the exercise gone futile. Hence, the order:

ORDER

Criminal Appeal stands dismissed.

(ABHAY S. WAGHWASE, J.)

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