



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 252 OF 2023

Laxman Sukhdev Ovhal

Age: 38 years, Occu.: Service,
At present R/o. Mauli Nagar,
Pangari Road, Beed, Dist.Beed,
Permanent R/o.2817, Alamprabhu Road,
Laxmi Nagar Bhoom, Tq.Bhoom,
District Osmanabad.

....Applicant/
Revision Petitioner
(Original Accused)

Versus

1. The State of Maharashtra
Through the Police Station Officer,
Police Station Georai, Tq.Georai,
District Beed.
2. The Investigating Officer,
Anti-Corruption Bureau,
Division Beed.

.....Respondents

.....
Advocate for Applicant : Mr.G.D.Kale h/f. Mr. Dnyaneshwar B.Pokale
APP for Respondent no.1 : Mr.S.M.Ganachari
Respondent no.2 is served.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 04 MARCH, 2026

PRONOUNCED ON : 05 MARCH, 2026

JUDGMENT :

1. Revisionist/original accused against whom crime has been registered for offence under Sections 7 and 12 of the Prevention of



Corruption Act, is hereby challenging order passed by learned Special (ACB) Judge, Beed on application exh.6 in Special (ACB) Case No.46 of 2022 rejecting application for discharge under Section 227 of the Code of Criminal Procedure.

2. Learned counsel for the revision petitioner pointed out that, accused is working as Talathi. That, he was holding additional charge of village Hirapur. That, complaint came to be lodged against him that he raised demand of bribe of Rs.15,000/- for carrying out mutation entry on the strength of partition deed. Learned counsel pointed out that, there is false implication. That, there is no demand as well as acceptance and as essentials for attracting charges were not available and Investigation Officer ought not to have chargesheeted accused. He further took this Court through the complaint lodged by one Santosh Kisan Chavhan and would point out that in fact mutation entry was already effected on 28-09-2020 i.e. prior to the complaint and therefore, entertaining of such complaint itself is illegal. He further pointed out that, said mutation entry is already confirmed by the Circle Officer and therefore, there was no question of putting up any demand of illegal gratification.



3. He next submitted that, case of prosecution is that there was demand of bribe by a private individual namely Nitin Gavhane, but there is nothing to connect present revision petitioner with said Nitin Gavhane so as to accept the case of prosecution that demand was raised through said private person. Learned counsel pointed out that, though attempt was made by investigating machinery to record conversation, the actual conversation between complainant, said private person and accused was not clear. That, there was no clarity of any demand of bribe being raised.

4. He next submitted that, even in the pre-trap panchanama as well as post-trap panchanama, there is no whisper of earlier demand of Rs.10,000/- and therefore, main story of prosecution of illegal gratification to the tune of Rs.5,000/- has no foundation.

5. Learned counsel took this Court through the statement of complainant, statement of private person and would submit that none of the ingredients of the charges are found in the statements of these witnesses. Lastly, he found fault and criticized the judgment and order passed by the learned trial Court rejecting the application and on this count, he took this Court through observation of the



learned trial Court, more particularly, paragraph 16. For above reasons, it is his submission that there was no material in the chargesheet to frame charge. That, with such material on record, it is his submission that, making revision petitioner to face trial would amount to injustice and make him unnecessarily face ordeal of trial and for above reasons, he urges to allow the revision.

In support of his submissions, he relied on the decision of this Court in the case of *Shivaji Dattatraya Davbhat v. State of Maharashtra, 2021 SCC OnLine Bom.6117*.

6. Learned APP while opposing above prayers would point out that immediately after demand, complaint has been lodged and initial demand was of Rs.15,000/-. That, complainant had paid Rs.10,000/- in advance but when there was again demand of remaining Rs.5,000/-, he had approached ACB Office, who on complaint, issued summons to panchas, He pointed out that, demand verification was done, its panchanama is on record. That, conversation between complainant, accused and private person is on record. Therefore, there is strong evidence of both demand as well as acceptance. He pointed out that, there is statement of shadow pancha. That, script of conversation is part of chargesheet. With



such material, it is his submission that there is a good case of prosecution and therefore, learned trial Court has committed no error whatsoever in rejecting application and according to him, order of the learned trial Court is perfectly valid in the eyes of law.

7. After considering the above submissions and on going through the papers, here, it is a case of discharge by invoking Section 227 of the Code of Criminal Procedure.

Before entering in the merits of the case, it would be appropriate to give brief account of judicial precedent to be kept in mind while dealing with application for discharge under Section 227 of the Code of Criminal Procedure.

It is fairly settled position that, at such stage, Court dealing with such application is merely expected to determine existence of *prima facie* material for proceeding to frame charge and make accused persons face trial. Material gathered during investigation is expected to be sifted with limited purpose to find out whether there are sufficient grounds to proceed against accused. Neither in-depth analysis nor meticulous analysis of evidence is expected at such stage. Thus, the only duty of Court is to ascertain whether there is *prima facie* material suggesting existence of essential ingredients for



the offences, which are alleged to be committed.

Above position has been time and again reiterated since the cases of *State of Bihar v/s Ramesh Singh (1977) 4 SCC 39*; *Union of India v. Prafulla Kumar Samal and Another (1979) 3 SCC 4*, and a decade back in the cases of *Sajjan Kumar v. Central Bureau of Investigation (2010) 9 SCC 368*; *Amit Kapoor v. Ramesh Chander and another (2012) 9 SCC 460*; *State of Tamil Nadu (By Inspector of Police Vigilance and Anti-Corruption) v. N.Suresh Rajan and Others. (2014) 11 SCC 709*; *Asim Shariff v. National Investigation Agency (2019) 7 SCC 148*; and *Ram Prakash Chadha v. State of Uttar Pradesh (2024) 10 SCC 651*.

In the case of *P. Vijayan v. State of Kerala, (2010) 2 SCC 135*, the Hon'ble Apex Court has held that “*Judge is not a mere post office to frame charge but the judge should exercise his judicial mind and discretion to determine whether a case for trial has been made out by prosecution*”. It was further clarified that the Judge should be satisfied that the evidence produced by the prosecution before the Court discloses grave suspicion that the accused has committed the crime.

Based on these aforesaid, the Supreme Court laid down the following principles -



“1. If two views are possible and one of them gives rise to suspicion only as distinguished from grave suspicion, the Trial Judge would be empowered to discharge the accused.

2. The Trial Judge is not a mere Post Office to frame the charge at the instance of the prosecution.

3. The Judge has to merely sift the evidence in order to find out whether or not there is sufficient ground for proceeding. Evidence would consist of the statements recorded by the Police or the documents produced before the Court, it is to be noted here that the Judge has to merely sift the evidence on record and not go in depth of it in order to decide an application for discharge.

4. If the evidence, which the prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, 'cannot show that the accused committed offence, then, there will be no sufficient ground for proceeding with the trial.'

5. It is open to the accused to explain away the materials giving rise to the grave Suspicion.

6. The Court has to consider the broad probabilities, the total effort of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This, however, would not entitle the Court to make a roving enquiry into the pros and cons.

7. At the time of framing the charges, the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution, has to be accepted as true.

8. There must exist some materials for entertaining the strong suspicion which can form the basis for drawing up a charge and refusing to discharge the accused”



Similar views are taken by the Hon'ble Apex Court in the cases of *State of Karnataka v. M.R.Hiremath (2019) 7 SCC 515*; *State of Tamil Nadu v. N.Suresh Rajan (2014) 11 SCC 709* and *Dilawar Balu Kurane v. The State of Maharashtra (2002) 2 SCC 135*.

8. Keeping in mind the above legal principles, case in hand i.e. chargesheet is taken up for limited sifting of documentary evidence.

Investigation commenced on receipt of complaint from Santosh Kishan Chavan dated 15-10-2020 wherein he stated that there was land in the name of his father in Gat No.102. There was partition of said land between him and his brother and for giving effect to the same, he had approached accused Talathi of the village and he carried 7/12 extract, partition on bond paper, Aadhar Card etc. According to him, for giving effect to partition, Talathi raised demand of Rs.15,000/- and further directed complainant to meet one Nitin Gavhane. According to him, when he approached said private person, he was told that work will not be done unless demand is met and therefore, in presence of Talathi, said private person accepted Rs.10,000/- and directed to bring remaining Rs.5,000/-. Therefore, complainant approached ACB and lodged report on the strength of



which ACB authorities seem to have initially undertaken exercise of demand verification in presence of panchas namely Shamim Tadvil and Mohit Pawar during which conversation between complainant, said private person and accused was recorded and its panchanama was drawn. This was followed by laying the main trap and even conversation at the time of main trap between complainant, present revision petitioner/accused and private person was got tape-recorded and its transcript is already part of chargesheet.

Therefore, here, *prima-facie* at this stage, there is a complaint followed by pre-trap and post-trap panchanama as well as recording of conversation between both accused and complainant in presence of shadow pancha. Statements of complainant and shadow pancha are also part of chargesheet.

9. Learned counsel for revision petitioner would submit that conversation is not clear and statements of complainant and shadow pancha do not carry material regarding demand or acceptance. His next limb of objection is that there is no sanction.

In the light of above discussion, documentary evidence and more particularly, tape-recorded conversation, it cannot be said that essential ingredients for demand and acceptance are not available.



Issue about clarity, non-availability of demand or acceptance are matter of trial. Likewise, issues of acceptance and validity of sanction cannot be gone into at this stage.

Resultantly, there is no force in the submission that there is no material to frame charge or to proceed with trial so as to qualify for discharge. Learned trial Court having rightly considered the material in the form of chargesheet, it has committed no error whatsoever. There being no merits in the revision, the same deserves to be dismissed. Accordingly, following order is passed :

ORDER

Criminal Revision Application is dismissed.

(ABHAY S. WAGHWASE)
JUDGE