



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

CRIMINAL APPEAL NO. 112 OF 2013

The State of Maharashtra
Through Roshan Babarao Gawande
Age : 22 years, Occu.: Contractorship,
R/o. Building No.11, Flat No.217,
Hadapsar, S.V.Nagar, Pune.

....Appellant

Versus

Ram Raghunathrao Suryawanshi
Age: 27 years, Occu.: service,
Junior Engineer, Maharashtra State
Electricity Distribution Company Ltd.,
Branch Jewali, R/o. Balsur,
Tq.Omerga, District Osmanabad.

.....Respondent
(Ori. Accused)

.....
Ms.Vaishali Dama, APP for Appellant
Mr. Joydeep Chatterji, Advocate for Respondent

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 10 JUNE, 2026

PRONOUNCED ON : 11 JUNE, 2026

JUDGMENT :

1. State questions judgment and order of acquittal dated 04-05-2012 passed by learned Special Judge, Omerga, District Osmanabad in Special Case (AC) No.5 of 2009 by which present respondent was tried for offence under Sections 7, 13(1)(d) read



with 13(2) of the Prevention of Corruption Act.

BRIEF FACTS OF THE CASE

2. Prosecution was launched against present respondent on receipt of complaint from PW2 complainant, who reported ACB that, he was a Contractor for rendering work of electrical connections. One Mahesh Electrical and Telecom received work-order from IDEA Cellular Ltd. Company for whom he rendered work as a Contractor. After receiving test report, he approached accused, a Junior Engineer, for inspection of the material and requested him to carryout inspection and issue report of the material, however, accused demanded bribe of Rs.3,000/-. Therefore, on 18-12-2008, he approached Anti Corruption Bureau (ACB) and gave complaint on the basis of which trap was planned, executed and accused was apprehended. After registration of crime and on completion of investigation, he was chargesheeted and tried vide Special Case No.5 of 2009 by the Special Court, Omerga. The trial ended up in acquittal and hence, appeal by State.

SUBMISSIONS

On behalf of appellant State :

3. Learned APP apprised the Court about the story of prosecution



in the trial Court and would submit that, on the strength of evidence of five witnesses, prosecution had proved the case and charges beyond reasonable doubt. She pointed out that, prior to main trap, exercise of drawing pre-trap panchanama was undertaken followed by laying main trap. That, on confirmation of demand, main trap was laid. That there was both demand as well as acceptance and therefore, essential ingredients for attracting the charges were very much available in the prosecution evidence, but the same has not been properly appreciated.

4. She further submitted that, before launching prosecution, sanction from sanctioning authority was obtained, who after due application of mind, accorded the same. However, even the same has not been correctly appreciated by the learned trial Court. Learned APP attributes acquittal to failure to consider and appreciate the evidence in correct perspective and hence, she prays for indulgence at the hands of this Court by allowing the appeal.

On behalf of Respondent Accused :

5. Per contra, learned counsel for accused, who justifies the order of acquittal, would submit that prosecution has failed to prove the charges beyond reasonable doubt. According to him, in this case,



no demand verification was done. That, complainant and shadow pancha are not consistent and they are not lending support to each other and are rather at variance on material counts. He further pointed out that, here, even sanction was not valid as apart from non-application of mind, there was use of draft as well as indulgence of subordinates in preparing sanction order and such aspects were rightly taken into account by learned trial court while holding sanction to be invalid. Thus, he justifies the order of acquittal and prays to dismiss the appeal for want of merits.

ANALYSIS OF EVIDENCE ADDUCED BEFORE TRIAL COURT

6. As regards to sanction is concerned, prosecution seems to have examined PW1 Shashikant Bhalchandra Puranik, who was working as Chief General Manager, Technical Establishment, M.S.E.D.C.L. and he in his evidence at exh.19 claims to have studied the documents and concluded with observation that there is evidence to launch prosecution and accorded permission vide exh.20.

While under **cross-examination**, he has admitted about receipt fo draft sanction being supplied with covering letter i.e. with list exh.21. He admitted receiving photocopies of documents and not originals and admitted of not calling original for tallying it with original documents. He admitted that, he has directed his



subordinate for preparing sanction order after perusing the documents and he has signed the sanction order which was prepared by subordinate.

In view of above answers in cross-examination, it is apparent that there is not only use of draft but even sanctioning authority has not independently applied its mind and has rather engaged and relied on his subordinates in preparing sanction order and thereafter, causing signature on it. That apart, the appointment letter of accused, which is gathered by the Investigating Officer and was part of record before trial court, was under the signature of Joint Secretary and this witness PW1 Sanctioning Authority was Chief General Manager and he in cross-examination admitted that he never worked as Joint Secretary. Therefore, even sanction does not seem to have been accorded by competent authority. When sanction is invalid, entire trial gets vitiated.

Therefore, no fault can be found on the part of trial Court for holding sanction to be invalid and there to be non-application of mind by the Sanctioning Authority.

7. Now, it is to be seen whether there is demand and acceptance. Again evidence of PW2 complainant and PW3 shadow pancha is of importance and moreover, PW2 complainant, being interested



witness, there has to be corroboration from PW3 shadow pancha and therefore, to ascertain the same, evidence of PW2 complainant and PW3 shadow pancha is put to scrutiny.

8. **PW2** Roshan Gavande, complainant is examined at exh.22 and in his substantive evidence, he has stated that, for issuance of inspection report of material, when he approached accused, a Junior Engineer, there was demand of Rs.3,000/- and so he approached ACB. He further deposed about all steps taken by the Investigating Officer in arranging panchas, giving necessary instructions, giving necessary demonstration and asking complainant and shadow pancha to proceed to office of accused. In his examination-in-chief, he has stated that he and shadow pancha visited the office of accused, who had come on Motorcycle at 02:00 p.m. After which he and pancha entered the office. He deposed that, accused sat on the chair and he took out Rs.3,000/- and gave accused, which he claim was demanded as bribe. His such deposition shows that there was no demand. What he is deposing about demand is in past tense and is with reference to previous demand and not on the day on which he when accompanied by shadow pancha had visited the office of accused. Therefore, apparently there was no demand. Again in



examination-in-chief, he has stated that, he kept the currency note on the table in front of accused and thereafter, he went out and gave signal. Again while under **cross-examination**, he has admitted that, he has kept the amount on table and he came out of door of office and gave signal. He even admitted in cross-examination that when he kept amount on table, by that time, even pancha no.1 was near the door of the office. He again admitted that, after ACB Officers entered in the office, he told that he had kept the amount on table and again admitted about keeping currency note on the file. Therefore, they both are not party to the acceptance also as currency was kept on the table.

9. **PW3** Govind Sakharam Phulware, shadow pancha, who is examined at exh.44 in examination-in-chief stated about he being summoned to ACB office, being introduced to complainant, signing the complaint and Investigating Officer issuing necessary instructions and giving demonstration and panchanama exh.46 being drawn. In paragraph 2 of his examination-in-chief, he stated about events that took place on the day of visit to office of accused and according to him, he and complainant entered office of accused and after 10-15 minutes, complainant came outside and relayed the signal and thereafter, when Dy.S.P. came, he claims to have narrated that



accused is the same person and prior to that, complainant had kept Rs.3,000/- on the table glass and accused pushed that amount in the documents. In further examination-in-chief, he again deposed that, when Investigating Officer asked him what happened at that time, he narrated that after entering the office, complainant wished accused saying that he had come on previous day, where accused had been and what happened about the report of inspection of material, upon which accused had allegedly replied that report was ready but it was in the house. He deposed that, accused asked as to whether complainant has brought the amount and complainant replied that he brought Rs.3,000/- and kept that amount on table as per directions of accused.

Such is not the story of complainant himself. Be it so, while under **cross-examination**, even this witness has answered that it did not so happen that accused accepted the amount by his hand and kept it in the file and that he did not inform Police about accused accepting money with right hand and keeping it in the file. He also denied it happening that accused took the money from table and kept it in the file or he informing about it to the Police about accused pushing the currency with right hand and kept it in the documents. Therefore, even this witness confirms that there was no acceptance of



currency by accused.

Learned APP would submit that, anthracene traces were detected to the hands of accused, but both above witnesses have stated that amount was kept on the table and thereafter, beneath the file by the complainant himself. Both witnesses are repeatedly confirming about amount being kept on the table. Therefore, even aspect of acceptance comes under shadow of doubt. Law is fairly settled that mere demand is not sufficient and there has to be acceptance followed by it, here, it is not so.

SUMMATION

10. To sum up, here, no demand verification is got done prior to laying trap and mere pre-trap panchanama is drawn. Secondly, sanction is not by a competent person and moreover, there is total non-application of mind by the said authority and he is bare signatory to the sanction order prepared by subordinate. Thirdly, prior to demand, complainant seems to have placed tainted currency on the table of accused, which both i.e. complainant and shadow pancha unanimously confirmed. Therefore, with above quality of material, it cannot be said that case of prosecution is proved beyond reasonable doubt.



11. Perused the judgment under challenge. Learned trial Court has correctly appreciated the available evidence on record and has committed no error whatsoever in refusing the case of prosecution as proved. There being no merits in the appeal, the same deserves to be dismissed. Accordingly, following order is passed :

ORDER

Criminal Appeal stands dismissed.

(ABHAY S. WAGHWASE)
JUDGE

SPT