



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 395 OF 2012

The State of Maharashtra
Through PSO City Police Station,
Dhule

.... Appellant

Versus

Shri Ashok Daga Bachhav
Age: 36 years, Occu.: Stenographer in
Assistant Charity Commissioner Officer,
Dhule, District Dhule.

....Respondent

.....
APP for Appellant : Mr. P. P.Dawalkar
Advocate for Respondents : Mr. Joydeep Chatterji

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 21 APRIL, 2026

PRONOUNCED ON : 24 APRIL, 2026

JUDGMENT :

1. State hereby challenges judgment and order dated 30-11-2011 passed by learned Additional Sessions Judge, Dhule in Special Case No.44 of 2009 acquitting the present respondent from charge under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 (PC Act).

PROSECUTION CASE IN BRIEF

2. PW1 complainant had filed application with the office of Charity Commissioner Dhule to issue true copy of Form "F". During



his visit to the office of Assistant Charity Commissioner (for short, "ACC office") on 31-07-2009, he approached accused, who was working a Clerk there, to know about the status of his application, upon which accused told him that he was required to pay Rs.300/- to obtain true copy of said certificate. On bargain, figure was brought down to Rs.200/-. As PW1 complainant was not willing to give bribe, he approached ACB office and gave complaint Exhibit 21 on the basis of which, investigation was carried out and he was chargesheeted and finally tried by learned Additional Sessions Judge, Dhule, but he came to be acquitted. Hence, instant appeal.

SUBMISSIONS

On behalf of appellant State :

3. According to learned APP, prosecution has proved its case beyond reasonable doubt. That, there was clinching and trustworthy evidence on the point of demand as well as acceptance. That, complainant and shadow pancha were consistent and lending support to each other both, on the point of demand as well as acceptance. That, even sanction was valid and accorded after due application of mind. However, according to him, learned trial Court erred in recording a finding that there was no work with accused at all and



thereby raised doubt about motive to put up demand of illegal gratification. According to learned APP, even when there were anthracene traces and shining to the hands of the accused and it was so reflected in the panchanama, learned trial Court erred in recording a finding that panchanama was silent about traces and shining of anthracene powder. Thus, according to him, the judgment is perverse being contrary to the record.

4. Lastly he submitted that, when there were traces of anthracene powder, learned trial Court ought not to have held that recovery was from the rack and not from the person or accused. For above reasons, he questions the legality and sustainability of the judgment and prays to interfere by allowing the appeal.

On behalf of respondent/accused :

5. Learned counsel for respondent/accused, while justifying the order of acquittal, would point out that prosecution has miserably failed to bring home the charge. According to him, neither demand nor acceptance is cogently proved and moreover, there are variances and inconsistencies in the testimonies complainant, shadow pancha and Investigating Officer on multiple counts. Lastly he submitted that admittedly, there is no evidence about initial demand, and recovery



being from rack of which there is admission from independent pancha, case of prosecution was rightly discarded by learned trial Court.

ANALYSIS

6. Re-appreciated the entire evidence as expected to be done in appeal. Prosecution has rested its case on the evidence of in all four witnesses, i.e. PW1 complainant at Exhibit 20, PW2 shadow pancha at Exhibit 25, PW3 Investigating Officer and PW4 sanctioning authority at Exhibits 32 and 37 respectively.

7. It seems to be the case of prosecution that accused, who was working as stenographer, was trapped by Anti Corruption Bureau (ACB) on alleged demand and acceptance of Rs.200/- from complainant PW1 for issuing certified copy of Form "F". According to prosecution, said demand was raised on 31.07.2009 and main trap was laid on 01.08.2009.

8. In his testimony, PW1 complainant claims that on 31.07.2009, he approached accused and requested him to issue copy of Form "F", upon which there was said to be demand of Rs.300/- but on bargain, it was brought down to Rs.200/-. Therefore, on 01.08.2009 PW1 complainant approached ACB, who planned trap and drew pre-trap



panchanama. In paragraph 4 of his examination-in-chief, he narrated the events that took place in the office of ACC regarding he initially asking accused about certificate and accused demanding Rs.200/- which he handed down and thereafter he relayed signal.

But in cross, he has admitted that, he had tendered application for certified copy on 24.07.2009 with a lady clerk and she had endorsed on his application Exhibit 22 as “received”, but he is unable to reproduce her name. He admitted that said lady clerk had asked him to come after two to four days. In further cross he admitted that accused handed over copy of document to him which was kept ready, obtained his signature on counter receipt with copy of driving license, He also candidly admitted that at such time, there were no talks between him and accused in respect of payment of money till he received copy of form “F”.

9. PW2 also deposed about visiting ACB office, meeting complainant, hearing his story, signing over the complaint, preparation of pre-trap panchanama and accompanying complainant to the office of ACC. In para 3 of his chief, he narrated the events about accused being approached by complainant for form “F” and complainant being asked to wait and then accused allegedly asked



whether amount of Rs.200/- was brought and it was handed over by complainant and accepted by accused.

However, in cross, PW2 shadow pancha has admitted that staff of ACB office were required to spend four to five hours in the office of Assistant Charity Commissioner and they had traced tainted currency from a rack two and half hours after entering ACC office. Thus, recovery is not from possession/person of accused.

10. PW4 sanctioning authority has candidly answered in cross that it was not the official duty of accused to accept fees for certified copies, to prepare or to issue the same. He admitted that application allegedly tendered by complainant was not on his behalf or any member of Mahila Bachat Gat.

11. On careful consideration of the material, on the point of demand, PW1 has deposed in paragraph 4 that, when he and pancha came to ACC office and met accused and complainant asked accused about certificate, accused told that it is already prepared and signature of superior is already obtained, and further asked complainant whether amount of Rs.200/- is brought as per his directions. He further deposed that, accused demanded Rs.200/- which was taken out from the shirt pocket and accused accepted it



with his right hand and kept it in his right pant pocket after which signal was relayed. Even in cross para 6, such events are brought on record by giving suggestion that accused handed over copy of document to him and obtained his counter signature. He merely answered that there were no talks between him and accused till he received the copy on 01.08.2009. But as stated above, witness has already stated that immediately on visiting accused, there was demand.

12. PW2 shadow pancha, in his chief para 3 has narrated the events that took place in the ACC office. That, after approaching accused, he asked complainant to wait, and this witness also deposed that accused questioned complainant whether he brought Rs.200/- as demanded and further said that he has just obtained signature of superior. Thereafter, complainant took out two currency notes and handed it to accused, who accepted it in his right hand. Nothing damaging is brought in the cross of this witness.

13. Therefore, as submitted by learned APP, there is both, demand as well as acceptance, and both witnesses, i.e. complainant and shadow pancha are unanimous to that extent and therefore *sine qua non* for attracting the charges are available in the prosecution evidence.



14. Further, as pointed out, there is a stray admission by pancha in para 10 that the amount was taken by ACB officer from a rack. Complainant has not stated anything to that extent. Moreover Investigating Officer in paragraph 7 of his cross was also asked about this, but he flatly denied, refusing that it was recovered from rack. Resultantly, stray answer by shadow pancha should not be given undue importance.

15. The another point which seems to have prevailed and weighed on the trial court is that, spot panchanama/main trap panchanama to be silent on the point of traces of anthracene powder on the fingers of accused, regarding which learned trial court has made observations in para 31 that, shining of anthracene powder could have been noticed on the fingers of complainant as well as accused. In the light of such observations if panchanama at Exhibit 26 is visited, one comes across noting therein that there were anthracene traces to the hands of accused and therefore, findings and observations of trial court are apparently shown to be contrary to the record and hence perverse.

16. To sum up, here, prosecution indeed had proved that there was demand and acceptance. Merely because accused was not assigned any duty, that by itself would not be relevant ground to raise suspicion about demanding bribe. The High Court of Delhi, in the



case of *Ved Prakash Maurya v. State of Delhi* MANU/DE/9696/2025 also held that, “... a person may not actually be in a position to perform the work for which a bribe is allegedly demanded cannot, by itself, exonerate him, since the offence under the PC Act is attracted by the very act of demanding illegal gratification, irrespective of whether the public servant is capable of doing the work”.

17. Therefore, here, essentials like demand and acceptance being proved beyond reasonable doubt, prosecution case ought to have been accepted by the trial court but it apparently has failed and therefore, this is a fit case to interfere as there are perverse findings which are contrary to the record and there is failure to appreciate the evidence as required. Hence, following order :

ORDER

- I. The appeal is allowed.
- II. The impugned judgment and order dated 30-11-2011 passed by learned Additional Sessions Judge, Dhule in Special Case No.44 of 2009 is hereby quashed and set aside.
- III. The respondent/accused Ashok Daga Bachhav is hereby convicted for offence punishable under Sections 7 as well as Section 13(1)(d) punishable under Section 13(2) of the Prevention of Corruption Act (as it stood prior to amendment vide Amendment Act 01 of 2014).



IV. **For offence under Section 7** of the Prevention of Corruption Act, the respondent/accused is sentenced to undergo simple imprisonment for **six months** and to pay fine of Rs. 5000/- (Rupees Five Thousand only) and in case of default to pay the fine amount, to undergo further simple imprisonment for 15 days.

V. **For offence under Section 13(1)(d) punishable under Section 13(2)** of the Prevention of Corruption Act, the respondent/accused is sentenced to undergo simple imprisonment for **one year** and to pay fine of Rs.10,000/- (Rupees Ten Thousand Only) and in case of default to pay the fine amount, to undergo further simple imprisonment for 30 days.

VI. The respondent/accused shall undergo the substantive sentence of imprisonment **concurrently**.

VII. The respondent/accused is entitled to the benefit of set off under Section 428 Cr.P.C.

VIII. The respondent/accused shall surrender before the trial court within a period of six weeks. Bail bond of the accused stands cancelled.

[ABHAY S. WAGHWASE, J.]

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