



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 965 OF 2004

Manoj Shankar Deshpande
Age: 36 years, Occupation: Service
at present under suspension,
Residing at Sangvi, Prathamesh
Apartment, Shitole Nagar, Pune – 411 027. ... Appellant

Versus

The State Of Maharashtra
At the instance of Anti Corruption Bureau, Pune ... Respondent

Mr. Rajiv Patil, Senior Advocate a/w. Mr. Sameer Singh, Mr. Ojas Kocharekar
i/b. Mr. Nikhil Kulkarni for the Appellant.
Mr. Balraj B. Kulkarni, APP for the Respondent-State.

CORAM : M. M. SATHAYE, J.

RESERVED ON : 19th SEPTEMBER 2025

PRONOUNCED ON : 7th NOVEMBER 2025

JUDGMENT:

1. This Appeal is filed by sole Accused challenging the judgment and order dated 23/07/2004 passed by Special Judge under Prevention of Corruption Act, Pune in Special Case No. 14 of 2002. By the said impugned judgment and order, the Appellant is convicted under section 7 of the Prevention of Corruption Act, 1988 ('PC Act' for short) and is sentenced to suffer rigorous imprisonment for a period of one year and six months and to pay fine of Rs.2000/- and in default suffer further rigorous imprisonment for three months. The Appellant is also convicted under section 13(1)(d) r/w. 13(2) of PC Act and is sentenced to suffer rigorous imprisonment for a period of one year and six months and to pay fine of Rs.2000/- and in

default suffer rigorous imprisonment for three months. The substantive sentences are directed to run concurrently.

2. The case of the prosecution in short is as under.

2.1 The Complainant (Baban Maruti Bamble) used to carry out fishing business along with other villagers in Manik-Doh Dam. The villagers had formed a co-operative society for carrying out fishing. Complainant was member of the said society. The fishermen used to get grants from government for various purposes related to fishing. The Complainant had approached Assistant Fisheries Development Officer, Junnar and had contacted the Appellant for filing Application for grant of subsidy of Rs.3000/-. On 25/04/2001, the Complainant met the Appellant and made inquiry about subsidy. Appellant informed that the application for grant of subsidy is sanctioned, but Appellant will not release the amount unless bribe of Rs.1500/- is paid. Since the Complainant was not carrying such huge amount, he returned. On 14/05/2001, the Complainant again went to the office of Appellant at Junnar and informed that he is not in a position to pay bribe of Rs.1500/- for getting subsidy and requested to reduce the amount. The Appellant did not budge and told that bribe of Rs.1500/- will have to be paid, otherwise he will not hand over Demand Draft (DD) of subsidy. The Complainant then informed the Appellant that he would bring the amount on the next visit.

2.2 On 16/05/2001, the Complainant went to the office of Anti-Corruption Bureau (ACB) at Pune and narrated the complaint. The complaint was reduced to a writing and the Police inspector (PI) of ACB decided to lay a trap. On the same day, two Panchas were called from the office of Social Welfare Department of Pune. They were introduced with

each other. The complaint was explained to them. Panchas read the complaint and signed thereon. The PI thereafter explained the characteristics of anthracene powder and necessary instructions were given. Banknotes worth Rs.1500/- were taken from the Complainant. They were smeared with anthracene powder. Its characteristics under ultraviolet lamp were explained and necessary instructions for executing the trap was given. Pre-trap Panchnama was drawn. The signal for calling raiding party was decided and the Complainant alongwith two Panchas and Investigating Officer went to Junnar office of Appellant. The Complainant and Panch No.1 went to the office of Appellant and other members of the raiding party followed them by keeping safe distance.

2.3 The Complainant contacted the Appellant, opened the talk. The Appellant then demanded the bribe, whereupon, the Complainant took out the anthracene smeared notes worth Rs.1500/- from the pocket of his shirt using his right hand and handed over the same to the Appellant, who accepted the said amount and counted the notes with both hands. The Appellant put the said amount in the drawer of his table, and thereafter handed over the DD of Rs.3000/- to the Complainant and got a receipt executed. Thereafter, the Complainant came out from the office and gave the agreed signal. The raiding party along with Panch No.2 rushed inside the office of Appellant and caught him. The bribe amount was attached from the drawer. On examination, the notes were found tallying with numbers mentioned in pre-trap panchnama. Hands of the Accused were examined under ultraviolet lamp. The notes were found shining blue. The paper on which notes were kept in the drawer was also found shining blue. Post-trap panchnama was drawn. Offence came to be registered and Appellant was arrested. Charges were framed against the Appellant. The Appellant pleaded

not guilty and demanded to be tried.

3. The defence of the Appellant as appearing from the cross-examination of witnesses and from his statement recorded under section 313 of the Criminal Procedure Code, 1973 ('Cr.PC.' for short) appears to be that the amount of Rs.1500/- was accepted by the Appellant towards pending licence fees for carrying out fishing in Manik-Doh dam with the help of 'Odhap' net and this amount was legally recoverable. The Appellant had stated under question/answer no.33 of his statement under section 313 of Cr.PC. that the government had given fishing contract for 5 years to brother of the Complainant, which was cancelled and the security amount was seized and order was issued to recover the amount of pending contract. That therefore the Complainant was annoyed. That the Complainant and his brother were doing fishing in the dam without valid licence and therefore the Complainant's boat was seized by the government and therefore the Appellant has been falsely implicated.

4. The prosecution examined four witnesses. Prosecution Witness (PW) No.1 is Complainant-Baban Maruti Bamble. PW-2 is Nasir Rajmohammad Shaikh, who is Panch No.1 who had accompanied the Complainant to the office of the Appellant at the relevant time. PW-3 is Mohan Bapusaheb Phadtare who is the sanctioning authority. PW-4 is Ganpat Vithoba Nikam who was Police Inspector (PI) with ACB Pune at the relevant time and who was the Investigating Officer (IO).

SUBMISSIONS

5. I have heard learned Senior Advocate Mr. Rajiv Patil for the Appellant and Mr. Balraj B. Kulkarni, learned APP for the State.

6. Mr. Patil, learned Senior Advocate appearing for the Appellant submitted that the case of the prosecution is impossible to be accepted. As the PW-2 Panch witness has admitted that for a period of one and half hours the talk was going on between Complainant and Appellant regarding the licence. The DD of subsidy amount was found clean and not shining blue. He submitted that obviously the DD was released and handed over to the Complainant without any exchange of anthracene smeared bank notes and therefore, it cannot be said that the Appellant attempted to obtain any undue advantage while performing public duty. He submitted that fishing is done by a fishing party of about 8 to 10 persons, for which licence fee was Rs.200/- per person and since the said amount was pending, that amount was paid in cash. He submitted that no person in his right sense would demand receipt for bribe amount. PW-1- Complainant in his cross-examination has admitted that he demanded 'receipt' of Rs.1500/- paid during the trap on which the Appellant had responded that the Complainant should bring remaining Rs.500/- and then he would issue receipt. He submitted that the fact that DD of aforesaid amount was not found tainted with anthracene powder has been admitted by PW-4 – IO also. It is therefore submitted that obviously the DD was already released to the Complainant and the transaction of payment of Rs.1500/- took place later in point of time about which there is substantial doubt as to reason for which the amount was paid. He submitted that the Appellant himself had informed about grant of subsidy. He submitted that the Complainant has admitted that his net was seized and his licence had expired. He submitted that aforesaid admissions coupled with the case of the defence that Complainant had reason to hold grudge against the department for cancelling his brother's contract and for seizing of Complainant's boat, was sufficient to conclude false implication of the Appellant. He relied on following judgments in support of his case:

(a) Sita Ram v. The State of Rajasthan [(1975) 2 SCC 227]

(b) Shri Sardarkhan Rahimkhan Pathan v. The State of Maharashtra [(1982) 1 Bom CR 319]

7. On the other hand, Mr. Kulkarni, learned APP for the State, supported the impugned judgment and order. He submitted that the demand, acceptance and sanction are duly proved. He submitted that the Complainant has supported the case of demand of bribe. He submitted that if the Complainant had no licence, then how subsidy was released in his favor, requires consideration. He submitted that the sanction was properly accorded and it is not disputed. He submitted that since the Complainant was not holding valid licence, the Appellant demanded bribe for releasing subsidy. He submitted that the Appellant made representation after delay of 8 months, putting up theory of accepting Rs.1500/- towards licence fees, which is nothing but an afterthought. That this theory of accepting Rs.1500/- towards licence fees is not proved by defence by examining any witness. That it is also not proved that the amount of licence for about 8 to 10 persons was pending @ Rs.200/- per person. He submitted that assuming the said theory as valid, there is process for applying for licence renewal and a government officer cannot simply accept cash for such renewal. He submitted that the presumption under section 20 of PC Act and section 114 of Indian Evidence Act is in favor of the prosecution. He submitted that the judgments of **Sita Ram and Shri Sardarkhan Rahimkhan Pathan (Supra)** are distinguishable on facts.

REASONS AND CONCLUSIONS

8. I have carefully considered the rival submissions. I have perused the depositions of prosecution witnesses. I have also perused the impugned judgment and the statement of Appellant recorded under section 313 of

Cr.PC.

9. PW-1 – Complainant has stated in his examination-in-chief that on the date of the trap on 16/05/2001, he went to the office of ACB Pune, lodged complaint, when two Panchas were summoned, the complaint was explained to them, the banknotes of Rs.1500/- were taken from him and smeared with anthracene powder and procedure for conduct of trap was explained. He stated that the raiding party including the Complainant, Panchas and IO reached the market yard at Junnar at 3.15 PM. That he and PW – 2 went to the office of the Appellant. The Appellant asked them to wait. So, they sat on the bench in the verandah. After some time, Appellant called them inside. Appellant asked if the Complainant brought the amount of bribe. The Complainant then told that he has brought the amount of bribe. Appellant then told the Complainant to bring the revenue stamp of Rs.1/-. Appellant and PW-2 came outside the office. The members of raiding party were present there. The Complainant told that he has come out to get the revenue stamp. The Complainant and PW-2 again went back to the office of Appellant along with revenue stamp. The Appellant then prepared receipt by affixing revenue stamp. Complainant's signature was obtained on the copy of the receipt. Appellant then took out cheque/DD from the cupboard and again asked if the Complainant had brought the amount. The Complainant then took out the amount of Rs.1500/- from pocket of the shirt using his right hand. Appellant then took the said amount from Complainant. Appellant then counted the notes and put them in the drawer. Appellant then handed over the cheque/DD (of subsidy amount) to the Complainant. The Complainant accepted the cheque/DD and put it in the pocket of the shirt.

9.1 PW-1 has further stated that the Complainant then came out of the

office and gave agreed signal. Other members of raiding party came inside the office and asked the Complainant to wait outside. The Complainant was again called inside after about half an hour. Complainant's hands and pocket of the shirt were checked which were found shining blue under UV lamp and the amount of bribe was missing from the pocket of the Complainant. The sealed envelope containing bribe amount was opened in the Court. The Complainant identified the notes and the receipt.

9.2 PW-1 in his cross-examination admitted that he has good relations with his brother Natha Dattu Bamble. That the said Natha had obtained fishery contract for a period from 1997 to 2001. That his fishing net is of Odhap make. That minimum 10 persons are required to operate Odhap net. That licence fee for one person is Rs. 200/- and that contract of Natha was terminated in March 2001. However, even thereafter he carried fishing activity in Manik-Doh Dam. That all persons who used to carry out fishing in Manik-Doh Dam were informed that they must obtain licence. That after 01/04/2001, he had no licence to carry out fishing. That peons from the Junnar office had seized boat and net belonging to Natha and Dattu. They had gone to Junnar office and requested for release of boat and net which was released. That they had assured to obtain licence of fishing. On the assurance, the boat and net were released. That he knew one person called Rafiq Babumiya Shaikh, who carried out fishing in Chakasman Dam.

9.3 PW-1 further admitted that on 16/05/2001, when Complainant and PW-2 went to the office of Appellant, the work of distribution of licence for Manik-Doh Dam and Chakasman Dam was in progress. That when Complainant and PW-2 went inside the Appellant's office, Rafiq Babumiya Shaikh was sitting in front of Appellant. That they could hear his conversation. That on the said day, Rafiq Babumiya Shaikh paid the amount

of licence fees and obtained licence. Within the period of 45 minutes, when they were with Appellant, they were talking about licence and Complainant told the Appellant that he had come for obtaining licence. That the Appellant counted the banknotes with both his hands. That the Complainant and PW-2 demanded receipt for the amount and the Appellant told him to bring another Rs.500/- and thereafter receipt will be issued. In cross-examination, PW-1 admitted that he kept DD (subsidy) in left side pocket of his pant.

10. PW-2 Panch has stated in his examination-in-chief initially about reading of complaint, preparation of trap and accompanying the raiding party to Junnar office. He has stated that by about 3.15 pm, they reached Junnar office. He and Complainant went to the office of Appellant. The Appellant was present in the office. The Appellant asked Complainant to wait outside. He and Complainant sat on a bench. After about half an hour, Appellant called them inside. Appellant then asked Complainant if he had brought the amount. Complainant replied that he had brought the amount. The Appellant asked the Complainant to bring Rs.1/- revenue stamp. He and Complainant came outside the office for purchasing Rs.1/- revenue stamp where they met other members of raiding party. Then they went inside the office with Rs.1/- revenue stamp. Appellant offered them chairs and prepared receipt. Appellant obtained signature of Complainant on the receipt as well as on a carbon copy. The Appellant then asked to pay the amount. Complainant then took out the amount of bribe from shirt's pocket with his right hand and handed over the same to Appellant who accepted it and counted the notes with both his hands and put the notes in the drawer. The Appellant then handed over the DD to the Complainant. The Complainant received the DD and put it in the pocket of his pant.

10.1 PW-2 further stated that the Complainant went out and gave signal to the members of raiding party. The raiding party came inside the office. The Police inspector introduced himself and asked PW-2 where the amount was kept. PW-2 told him that it is kept in drawer. Police then examined the hands of the Appellant and bluish shining was observed on the fingers of right hand. The bribe amount was taken from the drawer. The numbers on the banknotes were tallied with pre-trap panch number. The banknotes were examined under UV lamp and were found shining bluish. During the seizure of banknotes, complainant was standing outside office. He was then called inside and his hands and clothes were examined which were found shining bluish. The DD was found with the complainant.

10.2 In cross-examination, this witness PW-2 has admitted that at 3.30 pm when he and complainant entered the office of Appellant, one mohmedan person was sitting inside the office and during a period of about 1½ hours, the talks between complainant was going on and they were in progress. The conversation between complainant and Accused-Appellant was regarding licence, fishery business, receipt and Odhap net. That the DD which was found with the complainant was found not shining bluish when examined under UV lamp. He admitted that complainant was required to use both the hands for folding the DD.

11. PW-3 sanctioning authority has admitted in cross-examination that the complainant was not holding licence for fishing on the day of trap and it was the duty of the Appellant to insist with the complainant to obtain licence before getting any benefit. He admitted that as per rules at the relevant time, the licence fee was Rs.200/- per person and for Odhap net, minimum 8-10 persons are required. He admitted that in February 2002, Accused Appellant had made representation contending that he had obtained

Rs.1500/- from the complainant towards licence fees and complainant had left the office saying that he would bring remaining amount of Rs.500/-.

12. PW-4 Investigating Officer has stated about reducing the complainant's complaint in writing, calling the Panchas, explaining them trap procedure and recording pre-trap panchnama. He has stated that at about 3.15 pm, the jeep carrying raiding party halted at Junnar market. The complainant and PW-2 then went to the office of the Appellant and PW-4 and other Panchas and other members of raiding party waited outside. At about 4.30 pm, complainant and PW-2 came outside the office to inform that they have come out for buying revenue stamp of Rs.1/-. Both of them went inside the office of the Appellant with revenue stamp. At about 5.00 pm, complainant came out and gave signal. Immediately, PW-4 and Panch No. 2 and members of raiding party went inside the office of Appellant. Complainant was asked to wait outside. PW-2 pointed towards Appellant and informed that he has accepted bribe amount which is kept in the drawer. PW-4 then introduced himself. Appellant was frightened and trembling. Appellant disclosed his name. The hands and clothes of PW-4 and other members of raiding party were examined. No bluish shining was noticed. Hands of Appellant were examined. Bluish shining was observed on his fingers and palms. PW-2 took out the amount of bribe from drawer. Numbers on the banknotes were examined and tallied with pre-trap panchnama. Complainant was called inside the office. His hands and clothes were examined. Bluish shining was observed on fingers of complainant and on the pocket of his shirt. In the left pocket of Complainant's pant, the DD of Rs.3000/- (subsidy amount) was found. The bribe amount was not available with the complainant.

12.1 In cross-examination, the PW-4-Investigating Officer admitted that the

DD was examined under Ultraviolet light and bluish shining was not found on it. This witness has stated in cross-examination that Appellant prepared receipt for obtaining signature of the complainant and thereafter handed over the DD to complainant. Thereafter, the Appellant demanded bribe amount and complainant handed over the same. He has also stated that Appellant then gave DD to complainant who rolled it and kept it inside the pocket of shirt. He admitted that this information is given by PW-2 and complainant. He admitted that during the period when complainant and PW-2 were in the office of Appellant for one and half hours, no third person had entered or come out of the office of Appellant.

13. From the aforesaid statements made in examination-in-chief as well as admissions in the cross-examination, one thing is sure that the DD of Rs.3000/- of subsidy amount was not found smeared with anthracene powder. Therefore, the case of the prosecution that after the bribe amount was paid to the Appellant, the DD of subsidy amount was given is not possible. If sequence of events as claimed by the prosecution is considered, then if the bribe amount was taken out by Complainant from his pocket, given to the Appellant who counted it with both hands and kept it in drawer and thereafter handed over the DD of subsidy amount to complainant, then the anthracene powder on the hands of both the Appellant as well as the complainant would have come in contact with DD and it would have been found tainted. However, the DD has been found clean, therefore the amount of subsidy was released by Appellant before accepting amount of Rs.1500/- for sure.

14. The Complainant has stated that he placed the DD in the pocket of his shirt. In cross-examination he admitted that it was kept in the pocket of his pant. The PW-2 Panch has however stated that the DD was kept in the

pocket of the pant of the complainant.

15. In any case, whether the DD was kept in the pocket of shirt or pocket of pant of the complainant, according to prosecution, complainant placed it after paying bribe amount which was smeared with anthracene powder. Therefore, the case of the prosecution about sequence of events is not believable at all.

16. The question therefore that remains is for what purpose the amount of Rs.1500/- was accepted by the Appellant. The complainant has admitted in his cross-examination (which admission is considered by the Trial Judge and is reproduced in paragraph 16 of the impugned judgment in vernacular) that when he paid Rs.1500/- to the Appellant, Appellant counted it and complainant demanded receipt for the said amount, whereupon Appellant informed that the complainant to get another Rs.500/- and take receipt of Rs.2000/-. This admission of complainant is absolutely fatal. No person in his right senses would demand a receipt for bribe amount. Assuming that such receipt is demanded, no government officer would ask for some more money to be paid and then issue a consolidated receipt for bribe amount. This admission of the complainant creates more than reasonable doubt in my mind, about the case of the prosecution, that the amount was accepted as bribe especially when the subsidy amount DD is found to have been released and handed over to the complainant, before even touching the alleged bribe amount. At the cost of repetition, it is necessary to be noted that the DD of the subsidy amount has been found clean without any trace of anthracene powder.

17. The complainant has admitted that his brother Natha was having the fisheries contract which was cancelled. He has further admitted that Natha's net and boat was seized by the department, which was released on their assurance to renew licence. He has also admitted that the fishing team working on Odhap net consists of 8 to 10 persons and licence fee per person was Rs.200/- at the relevant time. All these admissions point to a situation strongly suggesting that the amount of Rs.2000/- was to be paid towards licence fees of the fishing team of about 10 persons for which admittedly discussion was going on between complainant and Appellant for a long period of time, during the time of incidence. So far as the purpose of accepting Rs.1500/- is concerned, demand for receipt thereof and a further instruction to get Rs.500/- additionally so that receipt can be issued raises serious doubts about purpose. The benefit of such doubt will have to be given to Appellant.

18. The perusal of the impugned judgement shows (paragraph 19) that the learned Trial Judge was conscious of the argument made by learned counsel for the Accused that the DD of subsidy amount was found clean and not tainted with anthracene powder. The learned Trial Judge has however not at all considered the same. The learned Judge has found that the defence raised by the Appellant about filing of representation after 7 to 8 months was an afterthought and it is held that there is nothing on record to show that 9 to 10 persons had given amount of Rs.200/- each to the complainant for payment of licence fees. For this reason the learned Trial Judge has refused to believe that Rs.1500/- was paid by complainant for legal remuneration towards licence fees. What is material to note is that whether the case of payment of legal remuneration is believable or not is one thing; however the serious doubt created by admission of the

complainant that he demanded receipt for payment of Rs.1500/- is another thing.

19. In my view, the aspects of complainant's admission and DD having been found clean, having been handed over before even touching the anthracene powder smeared banknotes creates strong doubt against the case of the prosecution which ought to have been considered by the Trial Judge.

20. In these circumstances, the benefit of doubt must be given to the Appellant and therefore this is a fit case to interfere. Accordingly, the Appeal succeeds and following order is passed.

(A) Criminal Appeal No. 965 of 2004 is allowed.

(B) Judgment and order dated 23/07/2004 passed by Special Judge under the Prevention of Corruption Act, Pune in Special Case No. 14 of 2002, convicting and sentencing the Appellant, is set aside. The Appellant is acquitted of all the charges.

(C) The Appellant is directed to execute P.R. Bond in the sum of Rs.15,000/-, within a period of two months, under Section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 437A of Cr.PC.) to ensure his appearance in case an appeal is preferred.

(M. M. SATHAYE, J.)