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Form No. XXXII

Part 'A'**(Para 44 (i) of Chapter VI of Criminal Manual)**

	IN THE COURT OF ADDITIONAL SESSION JUDGE-2, NANDED, AT NANDED. Present : T.S. Solankar, (Date of Judgment: 14.07.2026) Spl. Case ACB No.07/2013
	Crime No. : 3040/2009 Offence punishable under Sec. 7, 12, 13(1)(d) read with Sec.13(2) of Prevention of Corruption Act, 1988. Police Station: Shivajinagar, Tq. Dist. Nanded.
COMPLAINANT/PROSECUTION.	State of Maharashtra, Through Police Station Shivajinagar, Nanded, Tq. Dist. Nanded.
REPRESENTED BY	Mr. R.N. Deshmukh, learned Spl.PP.
ACCUSED	1) Smt. Chandrakala @ Chanda Pralhad Rawalkar, Age:43 years, Occu. Service, R/o. Snehnagar, Nanded. 2) Gangaprasad Ramdas Patil, age 22 yrs., Occ. Service, r/o. Kolgaon (Bk). Tq. Bhokar, Dist. Nanded.
REPRESENTED BY	Mr. S.B. Pawar, learned advocate for accused no.1. Mr. Kapil Patil, learned advocate for accused no.2

Part 'B'**(Para 44 (ii) of Chapter VI of Criminal Manual)**

Date of Offence	05.12.2009
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Date of F.I.R.	15.12.2009
Date of Charge-sheet	05.04.2013
Date of framing of Charge	26.10.2017
Date of commencement of evidence	01.01.2018
Date on which Judgment is reserved	15.06.2026
Date of the Judgment	14.07.2026
Date of the Sentencing Order, if any	--

Accused Details

Rank of Accused	Name of accused	Date of arrest	Date of release on bail	Offence charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C.
1.	Smt. Chandrakala (Chanda) Pralhad Rawalkar.	15.12.2009	15.12.2009	Sections 7 r.w. 12 & 13(1)(d) r.w. 13(2) of Prevention of Corruption Act, 1988.	Acquitted	Nil	Nil
2.	Gangaprasad Ramdas Patil	15.12.2009	15.12.2009	Sections 7 r.w. 12 & 13(1)(d) r.w. 13(2) of Prevention of Corruption Act, 1988.	Acquitted	Nil	Nil

Appendix Part ‘C’ as per Para 44 (iii) of Chapter VI of Criminal Manual is appended at the end of the judgment and operative part of Order.

JUDGMENT

(Delivered on 14.07.2026)

The present accused are facing trial for the offences punishable under Sections 7 read with 12 & 13(1)(d) read with 13(2) of Prevention of Corruption Act, 1988. (hereafter being referred as to ‘PC Act’).

2. Facts giving rise to prosecution case :-

2.1. The informant-PW-1 was the employee of Nehru Yuva Kendra, Nanded. It is stated by him *vide* his complaint Exh.43 that, in the year 2009, one advertisement in respect of appointment of said post National Service Employee had published in News paper. Accordingly, he applied for the same. As per his merit, he received interview letter. After his interview at the Collector Office, Nanded, he was selected as a National Service Employee (राष्ट्रीय सेवा कर्मी). He then took training for a period of 15 days at Solapur. After completing his training through Nehru Krida Kendra, he was posted at Loha. It is further stated that, his job was to create awareness about the scheme of Government in the society. He was under the District Coordinator Office of Nehru Yuva Kendra and he used to receive Rs.2,500/- as a stipend per month. Said stipend was given by Nehru Yuva Kendra Nanded to him.

2.2 The complainant alleged that he did not receive stipend of Rs.5,000/- for the month of October and November, 2009 on 02.12.2009, the informant went to Nehru Yuva Kendra, Nanded and met District Youth Coordinator Officer, Smt. Chanda Rawalkar (A-1) and informed her that, he did not receive Rs.5,000/- stipend of 2 months yet. The complainant further told her that, he is in financial crunch, therefore, requested her to give his stipend immediately. However, accused no. 1 told him that, she has given him Rs.7,500/- stipend earlier and he not given he any amount. She further told him that, if he need cheque of Rs.5,000/-, then he has to pay Rs.3,000/-. The complainant said

to her that, he is doing his job properly. On the accused told him that, 'do whatever, if you gives her Rs.3,000/-, then I will issue cheque of Rs.5,000/-. (ते कांहीही नाही, तु जर मला ३,००० रु. देत असशील तर मी तुला ५,००० रु.चा चेक देते). Therefore, the complainant unwillingly said 'yes' to her. Then, the complainant asked her as to when said amount is to be given. To this, she replied, 'whenever you will manage Rs.3,000/-, then during day time give Rs.3,000/- in my office and get your cheque. (तुझे जवळ जेव्हा ३,००० रु.ची व्यवस्था होईल त्यावेळी दिवसभरात कार्यालयात ३,००० रु. आणून दे).

2.3 It is further alleged that, the complainant is not having any rivalry or personal transaction with accused. If he do not give money to her, then she will not issue cheque of Rs.5,000/- of stipend to him and he will suffer financial losses. Therefore, for the purpose of giving bribe amount of Rs.3,000/- he produced the same.

2.4 Accordingly, on 05.12.2009, he is going at Nehru Yuva Kendra, Nanded to ask cheque from Chanda Rawalkar (A-1). That time, if she demands and receive the bribe amount, herself or through other person, therefore, requested arrest and action. In this manner, he made in written complaint to ACB Office, Nanded.

2.5 Said information was given to PW-4 i.e. Dy. S.P. Sangram Sangle, Anti Corruption Bureau, Nanded, who directed complainant to reduce into writing his complaint. Accordingly, as per narration given by the complainant, said complaint was typed on the computer.

2.6 On the basis of complaint (Exh-43) given by the complainant, PW4 Dy. S.P. Sangram Sangle decided to verify the demand of bribe and to prepare pre-trap panchnama.

2.7 On 08.12.2009, Dy. S.P. Sangram Sangle called two panch witnesses namely Prof. Dr. Vinod Vishnupant Degaonkar and Devta Kishan Boinwad. The Dy. S.P. Sangram Sangle introduced both panch witnesses to the complainant and informed them that, the complaint made against public servant regarding demand of bribe and same has to be verified. Accordingly, on the instructions of Dy. S.P. Sangram Sangle, the complainant disclosed his name, age and address. The complainant also narrated orally his complaint to the panch witnesses. Panch witnesses heard the complaint.

2.8 Dy. S.P. Sangram Sangle handed over complaint dated 05.12.2009 for reading to the panch witnesses. The panch witnesses gone through the same. Said complaint was signed by the complainant and Dy. S.P. Sangram Sangle. The panch witnesses confirmed the content and signed on the complaint as well as the xerox copy of identity card Exh.44 and supplementary statement dated 05.12.2009 of complainant.

2.9 On the same day, Dy. S.P. Sangram Sangle decided to verify the demand of bribe in pursuance of complaint given by the complainant by visiting said public servant. Accordingly, it was informed that, for the purpose of verification, the complainant is going to meet public servant Smt. Chanda Rawalkar (A-1) in her office.

2.10 So also, it was informed that, whatever conversation is going to be happened during said visit to the accused, same shall be recorded in a cassette in a tape-recorder given with the complainant.

2.11 as per instructions of Dy. S.P. Sangram Sangle, Police constable Mudholkar took out one tape recorder and cassette from cupboard and played it in front of the panch witnesses and the complainant to confirm there was no existing recorded conversion.

2.12 After confirming there was no existing recorded voice in the tape recorder as per instructions of Dy. S.P. Sangram Sangle, police constable Mudholkar recorded voice statements of the complainant, panch no.1 Vinod Degaonkar, panch no.2 Devta Boinwad. In said recording, complainant spoke that, he is going to visit Government officer on 08.12.2009 in pursuance of his complaint dated 05.12.2009. The voices of panch no.1 and 2 shows that, they have shown their readiness act as a panch for said process.

2.13 Dy. S.P. Sangram Sangle informed panch witnesses that, before the complainant going to meet said public servant, the tape recorder was to be switched on and further it was to be kept in the pocket of college bag carried by the complainant.

2.14 Accordingly, Dy. S.P. Sangram Sangle gave instructions to both the panch witnesses and the complainant to meet accused no. 1 in her office at Jilha Nehru Yuva Kendra, Nanded and discuss on the aspect of stipend cheque. If said accused demands of bribe, then instructed complainant to confirm the date, time and place for receiving the amount by asking her.

2.15 It was also instructed to PW-2 Panch witness that, if accused inquires about he (PW-2) should tell that, he is the father of the complainant and should give answer by showing presence of mind. It was also instructed to PW-2 to carefully observe the conversation, and to watch whether accused demands bribe or how?. Further PW-2 was also instructed to tell him sequence of events and entire conversation taken place between the complainant and the accused no.1.

2.16 Further, panch no.2 Sau. Boinwad was also instructed to sit in Government vehicle of the Anti Corruption Bureau, Nanded. Accordingly, it was decided to take further action after returning back the complainant and the panch no.1 Shri. Degaonkar (PW-2) from Jilha Nehru Yuva Kendra, Nanded. Thereafter, instructions were given to panch no.2 to remaining trap laying party in Government vehicle. It was decided to complete remaining formality after return of complainant and panch witness PW-2. Accordingly, at about 3.40 the trap laying party left for spot of raid and stopped near Nanded Waghala City Municipal Corporation at 3.40. The complainant PW-1, panch witness PW-2 unboarded the vehicle. That time, Dy. S.P. Sangle switched on tape recorder and kept inside college bag of the complainant. When the complainant PW-1 and panch no. 2 returned back at about 4.16 p.m. that time, Dy. S.P. Sangle noticed that, the switch of recording was off. After reaching at ACB Office, Dy. S.P. Sangle made both panch witnesses, complainant PW-1 to hear the conversation recorded in said tape recorder. Accordingly, said transcript is from page no.37 to 49 of the charge-sheet. Thereafter, the cassette was kept inside plastic cover and pasting white paper. Dy.

S.P. Sangle and panch witnesses put their signatures and it was sealed in presence of panch witnesses.

2.17 Dy. S.P. Sangle asked panch no.2 to narrate whatever they saw, hear and happened in their presence and same was done. And, accordingly, it was confirmed demand of bribe on 08.12.2009 and panchnama in respect of that was carried out. Thereafter, the panch witnesses asked to come on next date i.e. 09.12.2009.

2.18 Accordingly, on 09.12.2009 the complainant-PW-1 and both panch witnesses went to ACB Office, Nanded. Dy. S.P. Sangle took search and found cash amount of Rs.3,044/-, one mobile of Nokia company having reliance company SIM card bearing 9021616062, one leather grab coloured packet and inside it ID card of Nehru Yuva Kendra and election ID card and one white coloured handkerchief etc. It was also found that the complainant was holding one Khaki coloured bag on his bag having different pockets containing lunch box and books. As per instruction of Dy. S.P. Sangle panch witness PW-2 took personal search of the complainant-PW-1 and assured that, no other articles are with him. An amount of bribe amount of Rs.3,000/- required for trap was kept aside and remaining Rs.40/-were returned back along with other articles.

2.19 The description of said 3,000/- rupees i.e. 1 currency note of Rs. 1000/-, 3 currency notes of Rs. 500/- and 5 currency notes of Rs.100/-. Said notes were kept on white paper. Then anthracene powder was applied with the help of cotton swap. After inspecting under ultra violet lamp light, greenish glow of anthracene powder was seen. Thereafter, said notes were kept on the left side of

shirt pocket of the complainant-PW-1. Thereafter, Dy. S.P. Sangle gave instruction to the complainant-PW-1 and panch witness-1 PW-2 and panch witness-2. Since, the trap laying party was proposing lay trap and wanted to use tape recorder and cassette, therefore, same was made available. It was played by Police Constable Mudholkar as per instructions of Dy. S.P. Sangle. Nothing was found. Thereafter, voice samples of the complainant-PW-1, panch witness PW-2 and panch witness-2 were recorded and necessary material required for trap was taken with them. The trap party contained total 9 members including Dy. S.P. Sangle. Accordingly, pre-trap panchnama Exh.60 was prepared in presence of both the panch witnesses and Dy. S.P. Sangle.

2.20 When the trap laying party went to lay trap, that time, the complainant-PW-1 and panch witness-1 PW-2 went to the office of accused no.1, that time, she was not present. Hence, they came back and went to ACB Nanded as per instruction of Dy. S.P. Sangle and accordingly, trap panchnama Exh.61 was prepared.

2.21 Again on 14.12.2009, as per instruction given by Dy. S.P. Sangle, since on 09.12.2009 the accused no.1 was not found in her office, therefore, in order to confirm the same, verification panchnama was decided to be carried out. It was also instructed that, the complainant is going to call accused no.1 through mobile number. Said mobile phone's conversation was also to be tape recorded. Thereafter, the cassette used on 09.12.2009, during trap proceeding was played and the conversation of the complainant PW-1 panch witness PW-2, panch no.2 was found. Thereafter, voice of the complainant PW-1, panch PW2 and panch no.2 came to be recorded.

2.22 As per instructions of Dy. S.P. Sangle at about 12.25 p.m. from mobile no. 9021616032 the complainant PW-1 called accused no.1 on her mobile no.9422859073. The speaker of the mobile phone was kept on. The complainant PW-1 asked as to whether the accused o.1 is there. However, a male person from the other end informed that, madam has gone nearby by keeping her mobile phone on table. Hence, no conversion was recorded out. Thereafter, at about 13.00 p.m. the complainant PW-1 called accused no.1 over mobile phone. The speaker of mobile phone was kept on and same was recorded in tape recorder. The tape recorder conversion is also part of Exh.62. After hearing entire conversion, police constable Mudholkar took cassette in his custody and it was sealed in presence of both panch witnesses and Dy. S.P. Sangle.

2.23 Dy. S.P. Sangle confirmed that, there is demand of bribe from the accused no. 1 to complainant PW-1 on account of giving cheque toward remuneration. Dy. S.P. Sangle confirmed demand of bribe on the basis of mobile verification and conversion recorded of accused no. 1 and the complainant. Accordingly, said verification panchnama was drawn from 11.15 till 14.30 p.m. Said panchnama was typed at ACB Office.

2.24 Then, the personal search of the complainant taken. Again as per the instruction of Dy. S.P. Sangle to the panch no.2, he took personal search of the complainant PW-1 and confirmed that no other articles are with him. Thereafter, an amount of Rs.3000/- which was kept in ACB Office earlier and sealed on 09.12.2009 was again produced, and checked under ultra-violet lamp light in closed room

and greenish glow was seen on it. Thereafter, said amount was kept inside right pocket of pant of complainant PW-1 by Shri. Perewad. Dy. S.P. Sangle again gave instructions which were taken by trap laying party members. Again tape recorder and cassette were produced and it was played. It was confirmed that no existing recording of voice inside it. Thereafter, the office of complainant PW-1 and both the panch witnesses were recorded. The necessary articles required for trap panchnama were taken with them. Said trap party contained total 10 members including Dy. S.P. Sangle. Said pre-trap panchnama Exh-63 was prepared from 14.45 to 15.45.

2.25 After finishing pre-trap panchnama Exh.63 Dy. S.P. Sangle and other trap laying party members proceeded into Government vehicles to Nanded Waghala Municipal Corporation, Stadium Office, Nanded near its entrance. At about 16.25 p.m. they reached in passage of Industrial Estate. The tape recorder was given to the panch witness PW-2. He was instructed to switch it on after keeping in the pocket of complainant PW-1. Accordingly, at about 16.30 p.m. the complainant PW-1 and panch PW-2 entered in the Neharu Yuva Kendra office through main entrance. The other trap laying party members and panch no.2 were watching from safe distance. The trap was laid at about 16.45 p.m. The complainant-PW-1 came near entrance of the office of accused no.1 and by removing white handkerchief from his pant pocket, wiped his mouth and by earning thrice gave intimation about receipt of bribe to laying party as instructed earlier by Dy. Sangale. As soon as the signal was received thereby laying party entered inside the office of accused no.1, that time, Dy. S.P. Sangle asked panch witness PW-2 in presence

of panch no.2 as to who demanded bribe and who accepted it, that time, panch witness-PW-2 by pointing his finger towards said District Youth Coordinator Rawalkar said that she demanded of bribe amount of Rs.3000/- and asked to give it to a person wearing white shirt and pant, who was going outside. Said person accepted and kept inside right pocket of his pant. That time, police constable Shri. Kadam caught hold said person i.e. accused no.2 and brought him inside the office. Thereafter, lady police constable Jadhav caught hold accused no.1. Jadhav and Shri. Police Bachewad and PHC Shri. Shinde caught hold said person wearing white shirt and pant.

2.26 Dy. S.P. Sangle introduced them himself by showing his identity card and also other trap laying members. Dy. S.P. Sangle removed tape recorder from the pocket of complainant PW-1 and took into his possession and thereafter, closed windows and doors of said office. Then tub lights from inside were switched off and dark was made and ultra-violet lamp was switched on. The hands and clothes of all trap laying party members were checked under light of ultra-violet lamp and nothing was found. Thereafter, Dy. S.P. Sangle asked the name of woman sitting in his chair. In written she disclosed her name Chandakala (Chanda) Pralhad Rawalkar. So also, person wearing white shirt and white pant, after inquiry, disclosed his name from Gangaprasad Ramchandra Patil. As per the instructions of Dy. S.P. Sangle both the hands and clothes of Chanda Rawalkar were checked under light of ultra-violet lamp. Nothing was found on the right/left hands and clothes of accused no.1. Thereafter, ultra-violet light was thrown on glass kept on the table and greenish glow was seen. Since, the table glass was considerably big and was not possible

to seize, therefore, it was not seized. Thereafter, hands, pant and shirt of accused no.2 was checked under ultra-violet light. On right hand of accused no.2 greenish glow was seen. Under ultra-violet light, on right pocket of pant and on tarkish handkerchief of accused no.2 greenish glow was seen. So also, the currency notes of Rs.3000/- having folded found inside pocket shown greenish glow. Thereafter, said bribe amount was counted and it was found in denomination of 1 currency note of 1000/-, 3 currency notes of 500/- and 5 currency notes of 100/- under ultra-violet lamp light. Said currency notes were checked and greenish glow was seen by the panch witnesses. The currency notes numbers found matching with details of noted mentioned under pre-trap panchnama Exh.63. Said recovered bribe amount was kept inside envelope and sealed. The panch witnesses as well as Dy. S.P. Sangle put their signatures on it. So also, the handkerchief was also seized under panchnama . It was sealed and signatures of panch witnesses and Dy. S.P. Sangle put on it.

2.27 Then the personal search of accused no.1 was taken by panch no.2, but nothing was found. Purse and articles inside it of accused no.1 were checked under ultra-violet lamp light but no greenish glow was seen. Therefore, said purse was returned back to the accused no.1. So also, search of accused no.2 was taken and some articles were found in full pant also. One cotton handkerchief was found on the rear side of his pant, one wallet containing amount of Rs.270/- was found. In right side pocket, nothing was found. In hidden wallet pocket amount of Rs.10,000/- containing 20 currency notes of Rs. 500/- was also found. On inquiry he disclosed said amount was received from his friend as his taken as hand loan from

him. The other articles and amount also checked under ultra-violet lamp light nothing was found and it was returned back. Thereafter, as per instruction of Dy. S.P. Sangle, extra pant was made available to the accused no.2 and his pant worn at the time of raid was seized. The spots where anthracene powder was found on pant were circled by blue ball pen. Said white full pant was then put in envelope and sealed, and panchas and Dy. S.P. Sangle put their signatures. Thereafter, Dy. S.P. Sangle asked accused no.1 to produce all the related documents regarding cheque of stipend dated 14.12.2009. Accordingly, one blue colour file having NSVNYS-2009-2010 and bearing seal of said office containing merit list and other documents were found. On page no. 1 to 4 and on cover of said file, panch witnesses and Dy. S.P. Sangle put their signatures. One yellow file containing details of complainant PW-1, one cheque of SBI, one voucher was also seized and Dy. S.P. Sangle and panch witnesses put their signatures on said documents. After taking true copies of the same, same was returned to accused no.1 and kept inside cover. Thereafter, the complainant PW-1 called inside office and his hands and clothes were checked under ultra-violet light. On his right hand palm and finger greenish glow was seen. On left hand and turkish shirt and banian and full pant no greenish glow was seen. Thereafter, search was taken and in his right pocket of shirt a leaf of cheque bearing cheque no. 31131985 dated 07.12.2019 was found. True copy of said cheque was made and original cheque was given to the complainant PW-1.

2.28 In presence of panch witnesses, Dy. S.P. Sangle asked panch witness-1 PW-2 about what is seen, observed through out said

process. Accordingly, he is narrated the same to Dy. S.P Sangle. Then, tape recording of conversation conversion took place between accused no.1 and the complainant PW-1 was heard to the panch witnesses and transcript of the same written in spot panchnama Exh.66. Then said cassette was seized and sealed. Panch witnesses and Dy. S.P. Sangle put their signatures. Dy. S.P. Sangle took possession said cassette. Thereafter, as per instruction of Dy. S.P Sangle, complainant PW-1 left the place.

2.29 Since, after some time, accused no.1 was not feeling well, therefore, along with ladies police, accused no.1 was sent for medical examination in Government vehicles to Government hospital, Nanded *vide* referral letter. Accordingly, the directions around this spot were taken down in spot panchnama. So, also accused no.1 and 2 gave their statement in hand writing, which was signed by both panch witnesses and Dy. S.P. Sangle. From 16.45 of 14.12.2009 till 4.30 a.m. of 15.12.2009 said panchnama was carried out and typed on laptop and after getting bring out of said panchnama panch gone through the same. Said contents were true and correct. Accordingly, panchnama was carried out.

2.30 The accused no.1 *vide* arrest panchnama Exh.64 and accused no. 2 *vide* panchnama Exh.65 were arrested on 15.12.2009. Dy. S.P. Sangle PW-4 then obtained explanation (निवेदन) from both the accused.

2.31 On 21.12.2009, in presence of panch PW-2 and panch no.2, the voice samples of the complainant-PW-1 were taken at ACB Office in tape recorder *vide* voice sample panchnama Exh.67.

2.32 On 21.12.2009 itself, in presence of panch witness PW-2 and another panch no.2, the recorded conversation dated 08.12.2009 and 14.12.2009 regarding bribe verification panchnama, verification panchnama, spot panchnama were decided to be played and the accused no.1 was directed to read conversation against her name as per tape recorded conversation and accordingly, same was read by accused no.1 and it was recorded into tape recorder. Then cassette in which said conversation was recorded was seized under voice sample panchnama Exh.68 of accused no.1.

2.33 On the same day, in presence of panch witness PW-2 and another panch no.2, the recorded conversation dated 14.12.2009 regarding panchnama, spot panchnama was decided to be played and the accused no.2 was directed to read conversation against his name as per tape recorder conversation and accordingly, same was read by accused no.2 and it was recorded into tape recorder. Accordingly, the cassette in which said conversation was recorded was seized under voice sample panchnama Exh.69 of accused no.2.

2.34 Dy. S.P. Sangle, then forwarded matter for according sanction to sanctioning authority Saleem Ahmad PW-3. He issued sanction order Exh.73 dated 12.09.2012 under Section 19 (i)(c) of the Prevention of Corruption Act, 1988 for prosecution of accused no.1.

2.35 The investigating officer Dy. S.P. Sangle then lodged report Exh.82 at Shivaji Nagar Police Station. On the basis of said report printed FIR Exh.83 was also registered.

2.36 He sent letter Exh.84 to Dy. Superintendent of Land Records, Nanded for preparing the map and the office of Dy.SLR prepared and provided map-Article-DD of the spot.

3. After completion of investigation, PW-4 led charge-sheet before the Court against both the accused.

4. My learned predecessor and brother framed charges against the accused *vide* Exh.34. The charges were read over and explained to the accused in vernacular language, to which they pleaded not guilty and claimed to be tried.

5. In order to prove the guilt of the accused, Prosecution examined 1) Vijaysing s/o. Padmsingh Thakur-complainant as PW-1 below Exh.42, 2) Vinod Vishnupant Deogaonkar, panch witness no.1 as PW-2 below Exh.53, 3) Saleem Ahemad-sanctioning authority as PW-3 below Exh.72, and 4) Sangram Hiranman Sangle-Investigating officer as PW-4 below Exh.75 and also relied upon documentary evidence complaint Exh.P-43/PW-1, true copy of ID card of the complainant Exh.P-44/PW-1, true copy of cheque book leaf bearing no. 311385 Article-A/PW-1, letter dated 18.12.2009 Exh.P-54/PW-2, letter dated 07.12.2009 Exh.P-55/PW-2, bribe verification panchnama Exh.P-56/PW-2, pre-trap panchnama Exh.P-60/PW-2, trap panchnama Exh.P-61/PW-2, verification panchnama Exh.P-62/PW-2, pre-trap panchnama Exh.P-63/PW-2, arrest panchnama of accused no.1 Exh.P-64/PW-2, arrest panchnama of accused no.2 Exh.P-65/PW-2, spot panchnama Exh.P-66/PW-2, panchnama of specimen voice of the complainant Exh.P-67/PW-2, panchnama of specimen voice of accused no.1 Exh.68/PW-2,

panchnama of specimen voice of accused no.2 Exh.69/PW-2, currency notes collectively at Article-B, panchnama of seized handkerchief of accused no. 2 Article-C, Sanction order Exh.P-73/PW-3, letter sent to Principal of Shankar Chavan LLB College, Nanded Exh.P-77/PW-4, letter sent by Principal to ACB Office Exh.P-78/PW-4, letter about sending the panchas Exh.P-79/PW-4, letter issued by Paikrao Exh.P-81/PW-4, xerox copy of the first page of cheque book Article-E/PW-4, CDs collectively Article-F/PW-4, order of Nehru Yuva Kendra, Nanded Exh.P-92/PW-6, and closed its evidence by filing evidence close pursis at Exh.109.

6. Accused no.2 closed the defence evidence by filing evidence close pursis Exh-114.

7. After conclusion of evidence, the incriminating circumstances appearing in the evidence against the accused were put to them under Section 313 of Cr.P.C. Their defence is three fold i.e. total denial, false implication and grudge of the complainant.

8. Heard learned District Government Pleader Shri. R.N. Deshmukh for the Prosecution, learned advocate Shri. S.B. Pawar for accused no.1 and learned advocate Shri. Kapil Patil for accused no.2.

9. **ARGUMENTS ON BEHALF OF PROSECUTION:**

9.1 It is argued by the learned D.G.P. *inter alia* that, the prosecution has proved demand of bribe sufficiently, in pursuance of demand made by accused no.1. The accused no. 1 accepted the

bribe through accused no.2. There is sufficient material to show demand of bribe and acceptance. The consequent recovery of bribe amount is also proved. The sanctioning authority PW-3 is the appointing and removal authority of the accused no.1 and accorded sanction in order to prosecute accused no.1 in the case. The prosecution has proved pre-verification panchnama, verification panchnama, spot panchnama, arrest panchnama and other relevant documents, on which prosecution has relied. The panch witness PW-2 has supported the complainant PW-1 throughout the trial. PW-4 investigating officer has carried out the investigation into the crime. The prosecution has proved case against both the accused beyond all reasonable doubts. Hence, prayed to convict them as per charge.

10. ARGUMENTS ON BEHALF OF DEFENCE:

10.1 Learned advocate for the accused no.1 submitted that, the complaint dated 08.12.2009 has been suppressed by the prosecution as per evidence of PW-1. He has stated that, on 08.12.2009 another complaint was typed. PW-1 Deogaonkar and panch no.2 Devita Boinwad were not acted as panch on complaint dated 05.12.2009. Therefore, it is highly impossible that, their signatures appeared on complaint dated 05.12.2009.

10.2 Cheque was issued on 07.12.2009, therefore, there was no pending work on 14.12.2009. The complainant PW-1 is unable to tell what happened on 08.12.2009. PW-1 complainant has admitted that, on 05.12.2009, he did not recollect that, he tried to meet accused though he has stated that, in between 10.00 a.m. to

5.00 p.m. on 05.12.2009, he had met complainant PW-1. PW-1 complainant has admitted that, he do not recollect as to what happened on 08.12.2009 or 09.12.2009.

10.3 He further submitted that, voice recorder has not been produced by the prosecution before the Court. The demand is not conclusively proved. Mere acceptance will not attract presumption under Section 20 of PC Act. Accordingly, he submitted that, the prosecution has failed to prove foundational facts and further failed to discharge initial burden, hence, presumption under Section 20 cannot be attracted. Accordingly, prayed to acquit the accused.

10.4 Learned advocate for accused no. 2 submitted that there is absolutely no role of the accused no. 2 in the present crime. Merely he was present in the office of accused no. 1. Since, accused no. 1 was his senior there as per say of accused no. 1, he accepted the amount. He is not aware about the actual transaction between the accused no. 1 and the complainant. The complainant has admitted that the accused no. 2 has not he neither met accused no.2 nor accused no. 2 demanded any money nor there was any talk between the complainant and the accused no.2. Hence, he prayed that accused may be acquitted.

11. On the basis of material placed on record, following points arise for my determination against which I have recorded my findings along with reasons as under:-

Sr. No.	Points	Findings
1)	Does the prosecution prove that, on 14.12.2009 at about 16.45 p.m. at Nehru Yuva Kendra Stadium, Nanded, while accused no.1 employed as a District Youth Coordinator at Nehru Yuva Kendra demanded a sum of Rs.3,000/- and accepted through accused no.2 for herself from the complainant as a gratification other than legal remuneration as a motive or reward to issue cheque in favour of the complainant and thereby committed an offence p/u/Sec. 7 of the Prevention of Corruption Act, 1988?	No
2)	Does the prosecution further prove that on the above date, time and place, the accused no.1 by corrupt and illegal means and by abusing her official position as public servant, obtained for herself through accused no.2 a pecuniary advantage of Rs.3,000/- and thereby committed an offence of criminal misconduct u/Sec. 13(1)(d) punishable under Section 13(2) of Prevention of Corruption Act, 1988?	No
3)	What order?	As per final order

REASONS

12. It is undisputed fact that, the complainant was appointed as National Service Employee (Rastriya Seva Karmi) and was posted at Loha and was working under office of accused no.1. It is also not disputed that, accused no.1 District Coordinate officer of Nehru Yuva Kendra, situated at Nanded.

13. AS TO POINT NO.1 & 2:

13.1 The complainant is employee of Nehru Yuva Kendra, Nanded. He was appointed through advertisement issued by the Nehru Yuva Kendra, Delhi. His appointment was given as per merit list. He was posted at Loha, Dist. Nanded. His work was to spread awareness in the society about schemes of Government. He was under District Coordinate officer of Nehru Yuva Kendra, his stipend was agreed to be paid at the rate of Rs.2,500/- per month. From his initial appoint, he had worked with Loha office from 2 to 3 months. According to complainant, a stipend for two months was due against said office. So, he had talk with District Coordinate Officer Chandrakala Rawalkar i.e. accused no.1. Since he had no money, therefore, he met accused and informed about his grievance and requested her to pay his stipend amount. In reply, the accused told him that payment cannot be given. Accused further asked complainant to pay Rs.3,000/- to her, then she would release complainant's stipend cheque. Hence, the complainant requested 2 to 3 days time to pay the amount. Since, the complainant was not willing to pay said amount to the accused. Therefore, he went to ACB Office, Nanded and gave his complaint Exh.43.

13.2 As per Section 19 of the Prevention of Corruption Act, 1988 (hereinafter referred 'PC Act'), 1988 Court cannot take cognizance of the offence punishable under Section 7 and 13 of PC Act unless the investigating agency has proved that the sanction was accorded to prosecute the accused.

13.3 To prove the point of sanction, the prosecution has examined PW-3-Saleem Ahemad at Exh.72. He deposed that, in the month of July/August, 2012 being social worker, he was appointed as Director of General of Nehru Yuva Kendra, Sanghtan, Delhi. In every state and district that established Nehru Yuva Kendra. Accused no.1 Chandrakala is the coordinator working in Nehru Yuva Kendra, Nanded. PW3 further deposed that he is having power of appointment and removal of District Youth Coordinator in every state. He received proposal from ACB Officer, Nanded for granting sanction to prosecute accused no.1. He perused the papers and file. He applied his mind and accorded sanction order on 12.07.2012 (Exh.73).

13.4 During the course of cross-examination he admitted that, on sanction order Exh.73 date is not typed and it is hand written. Prior to it, matter was referred to Ministry of Youth and Sports and also Legal Section of said ministry. His appointment was political. He admitted that, initial date of demand is not mentioned in sanction order Exh.73. He further admitted that, sanction order is received from vigilance department. After getting sanction from legal section vigilance section, finally file comes to Director General. He admitted that, he had received the sanction order Exh.73 from legal and vigilance section. He further admitted that, on last page the date of sanction is not mentioned. He denied the suggestion that, he was not removal or appointing authority of District Youth Coordinator. It is also brought on record by way of suggestion in cross-examination that, after receiving the complete file, he had passed the sanction order. He admitted that, he don't remember the

tape recorder was used for creating the evidence of voice during a trap by ACB. He denied the suggestion that, without applying the mind, he passed the sanction order Exh.73. He further denied suggestion, he does not have any documents showing that, he was appointing and removal authority of the District Youth Coordinator, Maharashtra State. The cross-examination is declined on behalf of accused no.2.

13.5 There is no suggestion that, the sanction accorded by PW-3 was illegal and granted in casual manner or there was any grudge against the accused. Further, there is no suggestion that, PW-3 just signed on sanction order and forwarded it to the investigating agency.

13.6 On the point of sanction Ld. advocate for the accused no.1 submitted that, there is no convincing evidence to show that, whether PW-3 is sanctioning authority or not? He argued that, PW-3 during his examination-in-chief has clearly deposed that, the Director General of Nehru Yuva Kendra has no direct power for appointing and removal of District Youth Coordinator. He further argued that, during the course of cross-examination PW-3 has admitted that, his appointment was political. The date of demand is not mentioned in the sanction order Exh.73. He received sanction order from vigilance department and legal section. The date of sanction is also not mentioned on Exh.73. He is unable to tell whether tape recorder was used for creating the evidence of voice during the trap.

13.7 On entire evidence of PW-3 and after going through Exh.73, it can be seen that, in respect of sanction order Exh.73, the various defences taken by the learned advocate for the accused no.1 tried to convince this Court that, PW-3 just signed on the sanction order Exh.73. In my opinion, if the evidence of PW-3 perused, it nowhere goes to show that, he did not go through the investigation papers forwarded along with proposal for according sanction. There is no suggestion from defence side that, PW-3 granted sanction order Exh.73 mechanically and arbitrarily. Even there is no suggestion that, PW-3 just signed on sanction order Exh.73. In my opinion, merely because witness stated that, he had no appointing and removal power in relation to accused no.1 that will not *per se* allow me through away entire evidence of said witness, more particularly, when PW-3 has volunteered and stated that, the officer had told him that, Director General of Nehru Yuva Kendra Sanghtan, Delhi has power of appointing and removal of the District Youth Coordinator in every state. The defence, during the course of cross-examination though suggested that, PW-3 has no any documents to show that, he is appointing and removal authority, but said suggested is flatly denied by PW-3. In fact there is no suggestion that, PW-3 is not having appointing and removal authority. I find that, the evidence of PW-3 is credible, trustworthy and confidence inspiring.

13.8 Further, if sanction order Exh.73 is perused, it goes to show that, it runs into around 3 pages divided into 8 paragraphs. It appears that, at first page the reference number of the office PW-3 is given. So also, the date 12th September 2012 is also mentioned. The

defence that, the date 12th is hand written and remaining part of date is typed cannot be accepted for the reason that, there is no law which prohibits writing date partially in hand and partially in typing. Merely on that ground, the sanction order Exh.73 cannot be doubted.

13.9 If the sanction order Exh.73 minutely perused then it further shows that, in the first paragraph, the averment in respect of demand of illegal gratification for releasing the stipend of Rs.5,000/- is mentioned. In the second paragraph, the complaint dated 05.12.2009 addressed to the ACB Office is mentioned. In the third paragraph, information regarding registration of crime no. 3040/2009 under Section 7 of PC Act against the accused is mentioned. In the fourth paragraph, there is reference of verification of demand through verification-cum-pre-trap panchnama dated 09.12.2009 and the conversation held between the accused and the complainant. In the fifth paragraph, the reference of accused no.1 caught raid handed while accepting bribe of Rs.3,000/- on 14.12.2009 through accused no.2 is mentioned. Likewise, in paragraph six, the acts on the part of accused shown to constitute offences punishable under Section 7 and Section 13(2) read with 13(1(d) of PC Act are highlighted. In paragraph seven, the sanctioning authority (PW-3) after carefully examining the material, such as copy of FIR, copies of the statements of the witnesses recording by the I.O., copies of document collected during investigation, panchnamas, other relevant record and material etc. the sanctioning applied its mind independently and after having fully satisfied that, the accused has committed offence then opined

that, accused should be prosecuted. In concluding paragraph, PW-3 has accorded sanction under Section 19(i)(c) of PC Act 1988 for prosecuting accused no.1 for the alleged offences.

13.10 After appreciating entire evidence of sanctioning authority PW-3, he independently came to conclusion that, there was sufficient evidence and after making sure himself, PW-3 granted sanction to prosecute accused no.1 *vide* sanction order Exh.73 dated 12.09.2012, hence, it is to be concluded that PW-3 after carefully examining the papers highlighted above in relation to case forwarded for granting sanction, applied his mind and after satisfaction accorded the valid sanction. The Sanction order Exh-73 is duly proved through PW-3.

13.11 In my opinion, in absence of any other convincing and material admission affecting validity of sanction, said sanction order Exh-73 can not be termed as accorded without application of mind. Therefore, the submission of learned advocate for the accused no. 1 that, PW-3 had granted sanction without application of mind and it suffers from illegality cannot be accepted. However, there is no sanction to prosecute accused no.2 in accordance with Section 19(i)(c) of PC Act, 1988. Therefore, he cannot be prosecuted. Moreover, sanction order Exh.73 shows that, the sanctioning authority PW-3 in para no.8 of said sanction order has only accorded sanction to prosecute Ms. Chandrakala (Chanda) Pralhad Rawalkar (accused no.1) and not accused no.2. Further, though there is reference in para no.5 of the sanction order Exh.73 regarding name of accused no.2, however, in my opinion, unless

and until sanctioning authority PW-3 accords sanction under Section 19(i)(c) of PC Act, 1988 to prosecute accused no.2, till then he cannot be prosecuted and Court is not competent take cognizance of the offences against such accused.

13.12 Record shows that, my predecessor has already framed charge under Exh.34 on 26.10.2017. By the time when this file was assigned to this Court, all the witnesses were examined. Therefore, it is proper to deal with accused no.2 along with accused no.1 in this Judgment.

13.13 The judgments relied by the accused no.1 on the point of sanction are altogether based upon different facts. It is submitted that, there is non-application of mind by the sanctioning authority and in mechanically manner sanction order is issued. I am unable to accept said submission.

13.14 Reference can be made to catena of judgments on the point of sanction. Here it is necessary to refer some of the judgments which are really guiding factors while deciding whether sanctioning authority has applied his mind or not. Said judgments can be summarized are as under-

- 1) **State of Maharashtra through Central Bureau of Investigation Vs. Mahesh Jain, (2013) 8 Supreme Court Cases 119**, in this case, three judge Bench of Hon'ble Supreme Court of India in Para no. 6, 14.1 to 14.7 and 18 held that;-

“6. Grant of sanction is irrefragably a sancrosanct act and is intended to provide safeguard to a public servant against frivolous and vexatious litigations. Satisfaction of the sanctioning authority is essential to validate an order granting sanction”

“14.1 It is incumbent on the prosecution to prove that the valid sanction has been granted by the sanctioning authority after being satisfied that a case for sanction has been made out .

14.2 The sanction order may expressly show that the sanctioning authority has perused the material placed before it and, after consideration of the circumstances, has granted sanction for prosecution.

14.3 The prosecution may prove by adducing the evidence that the material was placed before the sanctioning authority and its satisfaction was arrived at upon perusal of the material placed before it.

14.4 Grant of sanction is only administrative function and the sanctioning authority is required to prima facie reach the satisfaction that the relevant facts would constitute the offence.

14.5 The adequacy of material placed before the sanctioning authority cannot be gone into by the court as it does not sit in appeal over the sanction order.

14.6 If the sanctioning authority has perused all the materials placed before it and some of them have not been proved that would not vitiate the order of sanction.

14.7 The order of sanction is a prerequisite as it is intended to provide a safeguard to a public servant against frivolous and vexatious litigants, but simultaneously an order of sanction should not be construed in a pedantic manner and there should not be a hyper technical approach to test its validity.”

It was further observed in para no.18 that,

“18. The learned trial Judge, as it seems, apart from other reasons has found that the sanctioning authority has not referred to the elementary facts and there is no objective material to justify a subjective satisfaction. The reasonings, in our considered opinion, are absolutely hyper- technical and, in fact, can always be used by an accused as a magic trick to pave the escape route.

The reasons ascribed by the learned trial Judge appear as if he is sitting in appeal over the order of sanction. True it is, grant of sanction is a sacrosanct and sacred act and is intended to provide a safeguard to the public servant against vexatious litigation but simultaneously when there is an order of sanction by the competent authority indicating application of mind, the same should not be lightly dealt with. The flimsy technicalities cannot be allowed to become tools in the hands of an accused.”

13.15 It was further observed in para no.20 that, in these kind of matters, there has to be reflection of promptitude, abhorrence for procrastination, real understanding of the law and to further remain alive to differentiate between hyper technical contentions and the acceptable legal pronouncements. While sanctity attached to an order of sanction should never be forgotten, but simultaneously the rampant corruption in society has to be kept in view.

13.16 It also further observed in said judgment that, it has come to the notice of the Hon'ble Supreme Court, how adjournments are sought in a maladroit manner to linger the trial and how at every stage in ingenious efforts are made to assail every interim order. It is the duty of the court that, the matters are appropriately dealt with on proper understanding of law of the land. Minor irregularities or technicalities are not to be given Everestine status. It should be borne in mind that historically corruption is a disquiet disease for healthy governance. It has the potentiality to stifle the progress of a civilized society. It ushers in an atmosphere of distrust. Corruption fundamentally is perversion and infectious and an individual perversity can become a social civil.

13.17 In the case of **Jaswantsing Vs. State of Punjab, AIR 1958 SC 124**, while dealing with validity and effect of the sanction given under Section 6(1) of the Prevention of Corruption Act, 1947 and after referring to the decisions in **Basdev Agarwalla Vs. King Emperor, AIR 1945 FC 16** and **Gokulchand Dwarkadas Morarka Vs. R, AIR 1948 PC 82**, the Hon'ble Supreme Court in para no.4 observed that,

“4- It should be clear from the form of the sanction that the sanctioning authority considered the evidence before it and after a consideration of all the circumstances of the case sanctioned the prosecution, and therefore, unless the matter can be proved by other evidence, in the sanction itself the facts should be referred to indicate that, the sanctioning authority had applied its mind to the facts and circumstances of the case.”

13.18 The Hon'ble Supreme Court while dealing with the order of sanction in **R.Sundararajan Vs. State, (2006) 12 SCC 749**, in para no.14 expressed as under-

“14- .. it may be mentioned that, we cannot look into the adequacy or inadequacy of the material before the sanctioning authority and we cannot sit as a court of appeal over the sanction order. The order granting sanction show that all the available materials were placed before the sanctioning authority who considered the same in great detail. Only because some of the said materials could not be proved, the same by itself, in our opinion, would not vitiate the order of sanction. In fact, in this case there was abundant material before the sanctioning authority, and hence, we do not agree that the sanction order was in any way vitiated”.

13.19 In case of **State of Karnataka Vs. Ameerjan, (2007) 11 SCC 273**, in para no.9 the Hon'ble Supreme Court opined that-

“9- .. an order of sanction should not be construed in a pedantic manner. But, it also well settled that, the purpose for which an order of sanction is required to be passed should always be born in mind. Ordinarily, the sanctioning authority is the best person to judge as to whether the public servant concerned should receive the protection under the Act by refusing to accord sanction for his prosecution or not.”

13.20 In a **Kutha Perumal Vs. State, (2011) 1 SCC 491**, the Hon'ble Supreme Court of India opined that, the sanctioning authority when grants sanction on an examination of the statements of the witnesses has also the material on record, it can safely we concluded that, the sanctioning authority has duly recorded its satisfaction and, therefore, the sanction order is valid. In the present case, there is no adverse evidence which could doubt the sanction order against accused no.1, therefore, it can be held that, the prosecution has proved sanction order against accused no.1, but as discussed herein above there is no valid sanction to prosecute accused no.2 as the sanction order does not speak explicitly giving permission to prosecute accused no.2 *vide* sanction order Exh.73.

13.21 To prove offence under Section 7 of Prevention of Corruption Act,1988 the prosecution has to prove that, -

- i) The accused was a public servant or instructed to be a public servant at the time when the offences was committed;
- ii) The accused accepted or obtained or agreed to accept or attempted to obtain illegal gratification from some person;
- iii) For himself or for any other person;
- iv) Such gratification was not a legal remuneration to which the accused was legally entitled.
- v) The accused accepted such gratification as a motive or reward for
:-

- a) Doing or forbearing to do unofficial act, or
- b) Doing or forbearing to show favour or disfavour to some one in the exercise of his official functions, or
- c) Rendering for attempting to render any service or disservice to some one with the Central or any State Government or Parliament or the Legislature of any State, of with any Local authority, corporation or Government Company referred to in Sec. 2 Clause (c) or with any public servant, whether named or otherwise.

13.22 In case in hand, it is not disputed either by accused no.1 or accused no.2 that, they are public servants. It is nowhere defence of accused no.1 and 2 that, they are not public servants. The prosecution has convincingly proved that, accused no.1 was District Coordinator Officer, of Nehru Yuva Kendra. The sanctioning authority-PW-3 has also deposed that, on 14.12.2009 accused no.1 Smt. Chandrakala Rawalkar was the Youth Coordinator working in Nehru Yuva Kendra, Nanded. On 14.12.2009, the accused no.1 was attached Nanded office of Nehru Yuva Kendra and was working as District Youth Coordinator. Said fact has not been denied either during the course of cross-examination of PW-1 or PW-3 by the defence. By way of cross-examination, Ld. Advocate for accused no. 2 gave various suggestions to the complainant PW-1 that accused no. 2 which, in my view, sufficient to hold that accused no. 2 is a public servant.

13.23 The evidence of PW-1 also unfolds that, accused no.1 was working as District Coordinate Officer of Nehru Yuva Kendra. The office of the Nehru Yuva Kendra, Nanded is also not disputed by the defence. Therefore, I hold that, accused no.1 and 2 are the public servants.

13.24 To prove second ingredient (i.e. demand) of Section 7 of Prevention of Corruption Act, 1988, firstly, the prosecution has to prove that, the accused demanded bribe to the informant.

13.25 It is the evidence of PW-1 that, he was appointed in the year 2009 as employee of Nehru Yuva Kendra, Nanded. His post was National Service Employee (Rastriya Seva Karmi). He was initially posted at Loha, District Nanded and nature of the work to make awareness about the schemes of Government in society. He was under District Coordinate Officer of Nehru Yuva Kendra, at that time the Nehru Yuva Kendra agreed to pay the stipend of Rs.2,500/- per month to him. Said stipend salary amount was to be paid by Nehru Yuva Kendra, Nanded. After his appointment, he worked at Loha office for 2 to 3 months. His further evidence that, his two month's stipend was due against above said office. Therefore, he had talk with accused no.1. When the complainant PW-1 requested accused no.1 to make payment, that time, accused no.1 told him that payment cannot be given. Further, accused told him that, if he (complainant) is ready to pay her Rs.3,000/- then she would release his stipend amount. Since, he had no money, therefore, he sought 2-3 days time to pay the amount. As he was not willing to pay the same, therefore, visited ACB Office, Nanded. At ACB Office, he met Dy.S.P. Sangle-PW-4. The complainant PW-1 is shown his readiness to reduce into writing his complaint. Then he lodged his complaint with ACB Office. Said complaint was typed on computer. PW-1 has identified his complaint Exh.43.

13.26 In order to prove demand, the prosecution heavily relied upon evidence of complainant-PW-1. In pursuance of complaint Exh.43 Dy.S.P. Sangle PW-4 decided to verify demand as it reflects from his evidence. He stated that, on 05.12.2009, he sent request letter Exh.77 to the Principal of Shankarrao Chavan LLB College, Nanded seeking two panch witnesses in ACB case. Accordingly, two panch witnesses namely Dr. Chavan and Smt. Zine were made available by reply letter Exh.78.

13.27 PW-4 then on the same day i.e. 05.12.2009 sent complainant PW-1 to the office of accused no. 1 to find out whether she is present in her office or not. However, since the office was closed, therefore, the complainant PW-1 returned back to ACB Office. PW-4 then recorded supplementary statement of the complainant PW-1 on the same day.

13.28 On 07.12.2009, PW-4 sent back said panch witnesses for the best reason known to him *vide* letter Exh.79.

13.29 On 08.12.2009, the complainant PW-1 informed PW-4 that the accused has come in her office. Hence, PW-4 sent letter Exh.80 to Principal of D.Ed. College seeking panch witnesses. Accordingly, two panch witnesses namely Vinod Degaonkar-PW-2 and one Paikrao were made available *vide* letter Exh.54.

13.30 Following difficulties shown by panch Paikrao, he was allowed to go back on 08.12.2009 under letter Exh.81. Thereafter, another employee of said college i.e. Smt. D.K. Boinwad was made available to act as panch *vide* letter Exh.55 dated 08.12.2009.

13.31 On 08.12.2009, PW-1 narrated oral complaint in presence of these witnesses. Thereafter, the complaint was handed over for perusal of panch witnesses. The panchas after ascertaining the contentions from the complainant PW-1 put their signatures on complaint Exh.43. So also, the signatures of panch witnesses were obtained on the Aadhar card copy of complainant and his supplementary statement.

13.32 PW-4 decided to use tape recorder for the purpose of verification of complaint made in respect of demand of bribe. It is also evidence that, PW-4 shown demonstration of the said cassette. Said cassette was blank, then he recorded voice of the complainant as well as the panch witnesses. Vinod Degaonkar was selected as panch no.1 i.e. shadow panch witness and Boinwad as panch no.2. The details instructions were given.

13.33 When the PW-4, complainant and panchas went to verify demand of bribe that time the voice recorder was switched on and kept in the back pocket of the complainant.

13.34 Evidence of PW-2- the shadow panch witness is also in line with PW-4, he deposed that, he and complainant PW-1 went to the office of accused. Then after some time, PW-2 and PW-1 went inside office of the accused. The complainant had talk with accused no.1. The complainant told her that, he is ready to pay the amount for issuance of cheque. It is also evidence that, the accused no.1 told complainant that, she would not issue the cheque unless and until the complainant pays the amount. PW-2 requested accused no.1 to reduce some amount, but she was not ready to reduce the same.

Thereafter, PW-2 and complainant PW-1 went back to ACB van and, from there, they came back to ACB Office, Nanded.

13.35 His next evidence speaks that, they heard conversation between complainant and accused no.1 recorded in voice recorder in ACB Office and, accordingly, a script was prepared there. PW-2 also narrated the sequence of events to the Dy.S.P.Sangle PW-4 and, accordingly, on the basis of said conversation, it was made clear that, accused no.1 would not issue the cheque of honorary amount of the complainant unless and until he i.e. complainant pays the amount to the accused no.1. The cassette and tape recorder were sealed in one packet and then ACB officer obtained their signatures on it. Accordingly, bribe verification panchnama Exh.56 dated 08.12.2009 was prepared.

13.36 On perusal of bribe verification panchnama Exh.56, it appears that, PW-2 and another panch Devta Boinwad acted as a panch witness. As deposed by the PW-2 the conversation recorded in tape recorder is also appears to have been transcribed in said panchnama.

13.37 Learned advocate for both accused vehemently contended that throughout trap procedure, as per evidence of complainant PW-1, shadow panch witness PW-2 and investigating officer PW-4, the tape recorder was used and the cassette were also used for the purpose of recoding voice samples as well as conversation taken place between the complainant and the accused no.1 . However, the prosecution has failed to produce said tape recorder. The prosecution further failed to play said tape recorder.

Accordingly, submitted that, in absence of production of tape recorder before the Court, the authenticity and genuineness of transcript mentioned in bribe verification panchnama Eh.56 cannot be relied upon for the purpose of ascertaining demand from the accused no.1.

13.38 In respect of this, I find that, since, it is the evidence of complainant PW-1, the shadow panch witness PW-2 and investigating officer PW-4 that, they used tape recorder and cassette while doing trap procedure, however, till date said tape recorder is not produced before the Court, nor the cassette have been played in said tape recorder to verify the conversation recorded in it.

13.39 Record shows that, one S.N. Gaikwad PHC B.no.70 of ACB office Nanded made written request to my learned predecessor by filing application Exh.46 on 14.02.2023. As per said Exh.46, it can be gathered that the Court had directed to play cassette from the seized muddemal. However, the tape recorder belonging to office of ACB, officer, Nanded was in irreparable condition. So also, the ACB officers went to one electronic shops and inquired about the same. However, they could not get tape recorder to play cassette and time was sought. My learned predecessor had given last chance on that day.

13.40 Another application dated 08.03.2023 was also filed by one V.R. Nukalwar, PC B.no. 675 ACB, Nande. Again on 05.07.2023 *vide* Exh. 51 my predecessor had given some directions in respect of tape recorder, voice recorder and supply of memory cards to the accused persons.

13.41 On 07.07.2023, *vide* Exh.48/A the prosecution filed application for playing cassette and providing copies of recorded conversation in memory card to the accused which was allowed by the Court on 23.08.2023. In respect of that, the report dated 02.09.2023 is placed on record. Since said report was not given any exhibit number, therefore, for the purpose of identification that is marked as Report-A. After perusing said report, it appears that, the Assistant Superintendent of Valuable Property Section, District Court Nanded has provided copies of conversation in 4 memory cards to accused from copying voice recorder. It appears that, accused no.2 has shown non-necessity of said memory card, as according to him, there is no conversation, hence, he did not take the same.

13.42 Again, the prosecution moved application Exh.98 for verifying the conversation recorded in the memory card. Said application was objected by the accused persons. Accordingly, the Court pleased to allow the application and directed to do the needful by following provisions in the Criminal Manual (Chapter VI Rule 24 Sub-Rule, 5, 6, 7). Accordingly, *vide* Exh.100, the Assistant Superintendent of Valuable Property Section, District Court, Nanded *vide* report informed the Court that, when the cassette kept with Shri. Gaikwad, ACB Officer were played, but no voice could be heard. Accordingly, ACB Officer Gaikwad has informed the Court that, the Tape recorder has become irreparable.

13.43 There is another report Exh.101 of Assistant Superintendent-Valuable Property Section, District Court, Nanded

which goes to shows that, in view of order passed by the Court below Exh.98 when the cassette Exh.1 to 6 were played to verify conversation in presence of all the parties, that time, the conversation in all cassettes could not be heard clearly and also no meaning could be assigned.

13.44 It further appears that, below Exh.103, the prosecution had filed application for giving direction to the accused to provide memory card to the Court to play. Said application was also resisted by the accused but by hearing both sides and considering orders and reports below Exh.98, report Exh.101, report Exh.102 and Exh.100, this Court pleased to reject the same on 14.10.2025.

13.45 in this background, the submissions of the learned advocate for the both accused if taken into account, then the prosecution was duty bound to produce said tape recorder as well as cassette before the Court. Moreover, the transcript mentioned in pre-verification panchnama, verification panchnama and spot panchnama are based upon said tape recorder and cassettes. However, as highlighted above, the tape recorder and the cassette are not produced before the Court. So also, the memory card in which the alleged conversation copies were made also could not be played due its defect shown by the Assistant Superintendent Valuable Property Section, District Court, Nanded. Therefore, reliance cannot be placed upon such transcript without hearing original conversation before the Court. Moreover, though C.A. report dated 04.10.2012 (page 467 of charge-sheet) is not exhibited. However, since the accused has not disputed said reports

and in view of Section 294 of Cr.P.C. I am going to consider said report. For the purpose of identification said report is kept at Report-B. On perusal of said report, the result of examination shows that, the forensic department is unable to give any opinion since the samples falls below probable identification or possible elimination confidence level. Therefore, full decision is not obtainable due to various limitations. Hence, the report is conclusive. Moreover, to satisfy requirement for electronic evidence the necessary requirement of certificate under Section 65(B) of the Indian Evidence Act, 1872 is also not filed on record.

13.46 Learned DGP Shri. R.N. Deshmukh submitted that, the entire conversation is recorded through tape recorder in cassette. He further submitted that, initially when the tape recorder was played before the Court, the voice was coming out, however, later on following difficulty in playing memory card containing voice conversation of the complainant and the accused no.1 same could not be played before the Court. He further submitted that, therefore, accused were under obligation to provide their memory card for the purpose of playing before the Court. On this premise, he submitted that, due to such technical flaw, the memory card could not be played before the Court. Be it that it may, fact remains that, till date the original tape recorder as well as cassette has not been produced before the Court for the purpose verifying the conversation between the complainant and the accused no.1. The prosecution heavily relying upon transcript various panchnama which fact founded on tape recorder conversation recorded in cassettes and subsequently copies to memory card by the A.S. of the

Valuable Property Section, District Court, Nanded. In my view, in absence of production of original tape recorder along with cassettes is definitely fatal blow to the case of prosecution. Moreover, the FSL report, does not support the prosecution, therefore, the demand made on 08.12.2019, 09.12.2019 and 14.12.2019 could not be proved successfully by the prosecution through the transcript.

13.47 Though, it is stand of the prosecution that, the conversation transcript in all panchnamas goes to show that, the demand made by the accused no.1 and therefore, complaint Exh.43 is proved by the prosecution, however, since the original tape recorder and the cassette could not be produced before the Court for verification of conversation and also subsequent memory card in which said data was copied by the A.S. Valuable Muddemal Property Section could not be played before the Court. Therefore, without being compliance of Certificate under Section 65(B) of the Indian Evidence Act, 1872 as required for giving electronic evidence is not complied, it cannot be said that, the demand is duly proved by the prosecution.

13.48 The defence advocate Shri. S.B. Pawar for accused no.1 submitted that, the cheque in question was prepared on 07.12.2009 itself. During cross-examination, the complainant has stated that, he was not aware whether the cheque in question was prepared by the accused on 07.12.2009 or not, therefore, the evidence in respect of pending work is not sure about pending work with accused no.1. When the complainant himself has admitted that, he was not aware about whether the cheque in question was prepared on 07.12.2009

or not, then there is certainly scope for holding that the accused has raised successful probable that, there was no pending work on the date of trap on 14.12.2009.

13.49 Learned advocate for the accused no.1 further submitted that, if the complaint was given on 05.12.2009 by the complainant PW-1, then there was no reason to keep it pending for verification till 08.12.2009 despite availability of two panch witnesses on 05.12.2009 itself. In my opinion, this aspect also creates serious doubt about the conduct of investigating officer PW-4 about not verifying the complaint on 05.12.2009 despite availability of panch witnesses.

13.50 Learned advocate further submitted that, as per evidence of complainant PW-1, the bribe amount was kept in shirt pocket, however, in Exh.66, nowhere greenish glow was seen. Therefore, there is contradiction. I find that, on perusal of Exh.66, when the shirt of complainant-PW-1 was checked under ultra-violet lamp light, then no greenish glow was seen.

13.51 He further submitted that, the evidence of PW-4 Dy. S.P. Sangale goes to show that, the tented currency notes were kept in the shirt pocket of the complainant. However, as per pre-trap panchnama Exh.63, the tented currency notes were kept inside pocket of pant of complainant. Therefore, find that, there is a contradiction in respect of keeping tented currency notes in the pocket of complainant.

13.52 It is also highlighted that, when the cheque was handed over by the accused no.1 to complainant PW-1 which was taken by him, however, no anthracene powder glow was seen. Even there is no mention of through which hand said cheque was handed over. Learned advocate further submitted that, all the witnesses have given different versions about accused no.1's conduct while asking accused no.2 to accept the bribe amount.

13.53 Learned advocate for accused no.2 submitted that, accused no.2, just accepted the amount as per instructions of his senior i.e. accused no.1. He further submitted that, mere acceptance of amount is not sufficient. According to him, the prosecution was duty bound to prove ingredient of offence mentioned under Section 107 of I.P.C.. He further submitted that, accused no.2. was not having knowledge of actual transaction between the accused no.1 and the complainant PW-1. There was no contact between accused no.2 and the complainant PW-1. He further invited my attention to cross-examination of PW-1 wherein he admitted that, since 02.12.2009 till 15.12.2009 the complainant did not came in contact with accused no.2. He further admitted that, on on the day of trap at about 9.00 a.m. he had phoned to accused no.1, however, he did not disclose said fact to panchas and ACB Officer. He is unable to assign any reason as to why he did not disclose this fact to panchas and ACB Officer. He further admitted that, on14.12.2009, he did not talk with accused no.2 nor he met him on that day. He further admitted that, he did not deliver any amount to accused no. 2 on 14.12.2009. He do not know whether the voucher was examined in the light of ultra-violet lamp as he had touched it with his hands.

He further submitted that, the evidence of PW-2 goes to suggest that, accused no.1 with her eyes towards accused no.2 conveying him to accept/take the amount of bribe. However, as per admission given by PW-1, the amount was kept on table and it was lifted by accused no.2 as per instructions of accused no.1. It is further admitted that, accused no.2 Gangaprasad did not know for what purpose the said amount was given. It is further admitted that, accused no.2 any bribe amount from the complainant. If this evidence is taken into account, certainly, the accused no. 2 had absolutely no knowledge about the purpose of amount kept on the table before the accused no.1. Further, though presence of accused no. 2 was not natural in the office of accused no.1, however, being a subordinate officer to accused no.1, the presence of accused no.2 in the office of accused no.1 cannot be ruled out for any other work. Overall in respect of accused no.2, there is absolutely no evidence to show that, the accused no.2 had any privy to the prohibited acts of the accused no.1. Therefore, I find that, the evidence falls short to prove the demand of bribe with the aid of 107 of IPC against accused no.2 .

13.54 Learned advocate for both the accused then submitted that, though they could not bring on record and prove documents regarding their defence, however, it is submitted that, as per directions given by their superior officer, on account of celebration of day, the office of accused no.1 had received letter for collection of donation from central office. Accused no.1 had directed all the Taluka Rastriya Seva Karmi to collect the donation. It is further contended that, the complainant had collected amount of donation

from the people, but same was not deposited with office of accused no.1. Therefore, the accused had been asked the complainant to deposit the same, and, same was deposited in the office which was received by accused no.2. There were complaint of people against the complainant PW1 about paying donation amount to him and not depositing with office of accused no. 1. Therefore, the accused have been falsely roped in the case. I am not convinced with said defence from any angle which in fact portrayed to be probable defence. Said submission is flatly rejected.

13.55 Learned advocate for the accused no.1 submitted that, as per evidence of PW-1, he had given complaint Exh.43 on 05.12.2009 to ACB Office, Nanded. Learned advocate invited my attention to complaint Exh.43 and submitted that, said complaint bears signature of complainant along with date mentioned below as 05.12.2009 with signature of Dy.S.P. Sangle PW-4 and both the panch witnesses. It is further submitted that, the panch witnesses who signed on Exh.43 shows that, they made their signatures on 08.12.2009.

13.56 He further submitted that, as per evidence of complainant PW-1 in para no.5 on 08.12.2009 PW-1 went to ACB Office. That day, ACB Officer called two new panchas. The names of the panchas were Degaonkar Sir-PW-2 and Devika Madam. Dy.S.P. Sangle PW-4 introduced him with these panchas. Then complainant PW-1 narrated his complaint to the panchas. Then again, his complaint was typed in ACB Office. He had readout complaint in

presence of said panchas. Both the panchas signed the complaint Exh.43 in his presence. He identified their signatures.

13.57 If these submissions collectively analyzed, then as per evidence of PW-1 on 05.12.2009, he first approached to ACB Office, Nanded and gave oral complaint which was then reduced into writing by Dy.S.P. Sangle-PW-4. Said complaint is at Exh.43. However, PW-1 in para no.5 has again stated that, on 08.12.2009, he went to ACB Office wherein two panchas were called. One of them was Degaonkar Sir, (PW-2) and Devika Madam. The panch were also introduced to complainant PW-1. He further stated that, he again narrated his complaint to the panchas and then it was typed in ACB Office. If said aspect is taken into account, then in my opinion, the complaint dated 05.12.2009 appears to be doubtful. Because, if the complaint again typed on 08.12.2009 in presence of above panchas, then definitely the complaint Exh.43 should not bear date 05.12.2009. Again, even assuming that, on 08.12.2009 Exh.43 was typed, then there is no question of complainant PW-1 signing it on 05.12.2009 itself. Putting date 05.12.2009 below his sign by the complainant on complaint Exh.43 goes to show that, the complaint was prepared on 05.12.2009. If that is so, then there is no question of again typing complaint on 08.12.2009 at ACB Office in presence of PW-2 and Devika madam. Assuming that, complaint is typed on 08.12.2009 at ACB Office, however, there is absolutely no record to show that, on 08.12.2009 the complainant gave complaint to the ACB Office, Nanded. On reading of complaint Exh.43 also there is absolutely such no reference of giving complaint on 08.12.2009 and typing the same at ACB Office.

13.58 The evidence of shadow panch PW-2 goes to show that, he signed on Exh.43 for the first time on 08.12.2009. His further evidence that, on 05.12.2009, he had not been in ACB Office, but went ACB Office on 08.12.2009.

13.59 In respect of this, the investigating officer PW-4 has admitted that, on 05.12.2009 he had called Dr. Y.S. Chavan and Smt. Sine. Both these panchas had appeared in ACB Office, Nanded at about 4.00 p.m. on 05.12.2009 and both these panchas were discharged on 07.12.2009. He further denied the suggestion that, he had not given the idea of the raid and complaint to both these panchas on that day. The proceeding of raid was not started till 07.12.2009, therefore, he had not given knowledge of the complaint to both panchas on 07.12.2009.

13.60 If the above evidence of PW-4 is appreciated, then it is very surprising that, on 05.12.2009, he called the above two panchas at about 4.00 p.m. and discharged them on 07.12.2009. Then question arises as to why said panch witnesses were kept till 07.12.2009 without giving any idea of said raid and complaint to these panch witnesses till 07.12.2009. Conversely, PW-4 had denied the suggestion that, he had not given any idea about raid and complaint to both these panchas on that day. That day certainly refers to 05.12.2009.

13.61 If further evidence of PW-4 appreciated, then it unfolds that, on 05.012.2009, he sent complainant PW-1 in the office of accused as to find out whether accused is present in office or not. Accordingly, complainant PW-1 went there and came back to ACB

Office and informed him that, then the office is closed, and accordingly, PW-4 recorded supplementary statement of complainant PW-1. The supplementary statement of the complainant appears to have been recorded by PW-1 on 05.12.2009 itself. If the supplementary is seen it goes to show that, the complainant had been to the office of accused no.1 and she was not found. PW-4 further stated that, he decided to call another two panchas and recoded the reason for changing the panchas in his diary. However, again he stated that, he did not record reason for not calling previous panchas. If this version of evidence is taken into account, then it goes to indicate that, PW-4 had already started process of verifying the accused at her office. If that so, then it cannot be said that, the proceeding of raid was not started till 07.12.2009. Sending complainant PW-1 on 05.12.2009 to the office of accused and after return of complainant PW-1 to the ACB Office and recording supplementary statement clearly signifies that the process of raid was started. Therefore, there was no question not to disclose about raid and the complaint to above said earlier panch witnesses called on 05.12.2009.

13.62 I find that, there is much force in the argument of learned advocate for accused no.1 that, the complaint dated 08.12.2009 is suppressed by the investigation officer. In light of said suggestion, it can be inferred that, the prosecution witness PW-1 though stated in his examination-in-chief that, on 08.12.2009, his complaint was again typed by the Dy.S.P Sangle-PW-4. However, that is not brought on record for best reasons known to the investigating officer. When investigating officer PW-4 has further

denied the suggestion that, he had not given idea of the raid and complaint to both these panchs (Dr. Y.S. Chavan and Sr. Smt. Sine). The reason also not came on record as to why PW-4 changed the panch witnesses appeared on 05.12.2009 who admittedly got discharged as per evidence of PW-4 on 07.05.2009. Such conduct of investigating officer PW-4 investigating such serious crime definitely not condonable. When complaint dated 08.12.2009 is not brought on record, definitely that gives fatal blow to the case of prosecution.

13.63 Learned advocate for accused no. 1 further submitted that, on the day of complaint no pending work was with accused no.1. In order to substantiate said contention, he invited my attention to evidence of PW-1 and submitted that, though the complainant PW-1 has stated that, the cheque in question towards stipend was given on 14.12.2009, however, the cheque in question Article-A does not bear dates below the signatures of panch witnesses. It is further pointed out complaint Exh.43, identity card Exh.44 bears dates as 08.12.2009 next to the signatures of PW-2 and another panch. However, on Article-A -the cheque in question, does not bear neither names of panch witnesses nor the dates on which they signed said xerox copy of the original cheque. On perusal of Article-A, it appears that, said cheque is issued on 07.12.2009. If the cross-examination of PW-1 (in para no.23) seen then he admitted that, he do not know whether in that meeting the cheques of all concerned were distributed. He further unable to tell whether the cheque of Rs.5000/- was prepared on 07.12.2009 by the accused no.1. Complainant PW-1 further admitted that, cheque Article-A shown to be dated 07.12.2009. He further stated that,

accused no.2 and other persons were volunteers like him. He further admitted that, the cheque of these volunteers were given on 07.12.2009. He further stated that, he met accused no.1 on 02.12.2009 and 03.12.2009. If the complaint Exh.43 is perused, then there is no reference of visiting the complainant to accused on 02.12.2009 and 03.12.2009. Therefore, it can also be said that cheque in question was prepared on 07.12.2009. Since the complainant PW-1 was out of town therefore he could not have received the same. If complainant PW-1 admitted that cheques of other volunteers were prepared on 07.12.2019, and received by other volunteers like him, then it can not be said the cheque was not prepared on 07.12.2009. Said contention could have been considered only if the complainant PW-1 had given visit to the officer of accused no. 1 on 07.12.2009 and otherwise not.

13.64 So far as amount of cheque is concerned, in para no. 28 of the cross-examination, complainant PW-1 has admitted that, he was getting honorary amount of Rs.3,000/- per month including all. He was getting honorary amount at the end of month and considering the work. He has admitted that, prior to this, he had received cheque of Rs.5,000/-. He further admitted that, he had received an amount of Rs.7,500/- for the months of August, September and October, 2009. He further admitted that, every month he received the payment after doing the work after 27th day of every month. He further admitted that, he had received Rs.7,500/- before 27.10.2009. It is also admitted by PW-1 that, his payment till the month of October, 2009 was not due against his office. If that is so, then again reverting back to complaint Exh.43,

it reveals that, the complainant PW-1 has averred that, he did not receive an amount of Rs.5,000/- for the month of October and November 2009. If evidence of PW-1 below Exh.53 is perused that also goes to show that, 2 months stipend amount was due against the office of the accused. I find that, if at all the complainant PW-1 had received honorary stipend till the month of October 2009. Then only questions remains regarding payment of stipend in relation to succeeding month i.e. November 2009. Admittedly, as per evidence the complainant was getting only Rs. 2,500/- for every month as a stipend. But at the most, his stipend amount of one month that too at the rate of Rs.2,500/- should be Rs. 2,500/- for month of November, 2009 against the office of accused no.1. However, complaint Exh.43 as well as evidence suggests that, even the payment of October and November 2009 was pending. When PW-1 has clearly admitted during his cross-examination that for the month of September, October and November he received Rs. 7,500/- then there is no question of asking stipend again for the month of October 2009 along with November, 2009. The evidence of complainant PW-1 is self contradictory. In his statement Exh.43, though, he has stated he had not received honorary stipend for the month of October and November, 2009. However, during the course of cross-examination para no. 28 he had admitted that, he had received stipend for the month of October, 2009. Therefore, the evidence of complainant PW-1 is not consistent in respect of actual due towards office of accused no.1 on the date of initial demand dated 02.12.2009. At any score of calculation, the complainant was not entitled to ask stipend for the month of October 2009 as it was

never due, when he had already received it. Therefore, the case of complainant regarding demand bribe of Rs. 5,000/- by accused no. 1 to release honorary stipend cheque of Rs. 5,000/- for the month of October and November, 2009 of the complainant is very doubtful about its genuineness. Hence, the prosecution has utterly failed to prove the demand which is one of the pre-requisite to complete offence.

14. Now, it has to be seen whether the prosecution has proved point of acceptance and recovery.

14.1 On the point of recovery, the prosecution has placed reliance upon testimony of PW-2 in the evidence that, on 14.12.2009 as decided by the Dy. S.P. Sangle, the complainant PW-1 and PW-2 went to the office of the accused. The complainant PW-1 then went inside office of accused no.1. He told accused no.1 that, he has brought the amount and whether cheque is ready. The complainant further held money in front of accused no.1. The accused no.1 asked the complainant PW-1 to deliver that amount to accused no.2. The accused no.2 said to the complainant PW-1 give me money (देण रक्कम माझ्याजवळ). Accordingly, the accused no.2 took the said amount from the complainant PW-1 and kept in the right pocket of full pant, then signature of complainant PW-1 was obtained on voucher and cheque was given. Thereafter, the complainant came out of the cabin and gave agreed signal to the raiding party by moving his hand on his face and flipping the handkerchief three times. Thereafter, the members of raiding party rushed to the spot. Then Dy.S.P. Sangle switched of the voice

recorder. Then both of the accused were caught. Dy.S.P. Sangle showed his I.D. card and gave introduction of himself and other trap party members. The search of accused no.2 was taken and the amount was found in the full pant of accused no.2. Then the artificial dark was made there and, the currency notes, portion of pocket of pant of accused no.2 and handkerchief was checked under ultra violet lamp and greenish glow was seen. The description number of currency notes was also tallied with the description of the currency notes noted in the panchnama. The evidence of PW-2 is found in line with the evidence of complainant PW-1. So also, the evidence of Dy.S.P. Sangle PW-4 is also support the testimony of PW-2. On perusal of Exh.66 spot panchnama dated 14.12.2009/15.12.2009 reflects the sequence of events and the manner in which accused no.1 accepted bribe amount of Rs.3000/- through accused no.2 and recovery of the same. I find that, there is absolutely no dent to the prosecution evidence on the acceptance and recovery, so also, the accused no.2 vide answering incriminating circumstance at question no.253 has accepted that he was present in the office of accused no.1 on the date of incident and as per instructions of accused no.1, he picked up the amount kept on the table. Therefore, I find that the prosecution has successfully proved the acceptance of bribe amount of Rs.3,000/- by accused no.1 through accused no.2. The evidence of PW-5 and PW-6 is formal.

14.2 However, as per settled position of law without proving demand of bribe, on the basis of the consequent acceptance and recovery of the bribe amount, the accused cannot be held guilt for

the offence punishable under Section 7 read with Section 13(1)(d) read with Section 13(2) read of PC Act, 1988. Reference can be made to the Judgment of Hon'ble Supreme Court in the case of **C.M. Girishbabu Vs. CBI, (2009) TNCC 779**. In the said judgment Hon'ble Apex Court has held that, to prove the charge under Section 7, 13(1)(d)(i) and (2) of the P.C. Act, 1988. It is to be proved beyond reasonable doubt that, the accused voluntarily accepted money knowingly to be bribe. Absence of proof of demand for illegal gratification and mere possession or recovery of currency notes is not sufficient to constitute such offence. In said judgment, it is also held that, even the presumption under Section 20 of the Act can be drawn only after demand of acceptance of illegal gratification is proved. No doubt the demand can also be proved by other circumstantial evidence in absence of direct evidence. I find that, though the prosecution has failed to produce the tape recorder and cassette used in the trap procedure, however, even otherwise the allegations in respect of demand of bribe as discussed herein above are not convincing. Therefore, I am unable to draw permissible inferential deduction of culpability and or guilt of the accused for the offences punishable under Section 7 & 13(1)(d) read with Section 13(2) of the P.C. Act, 1988. Since, I have discussed herein before that the prosecution has utterly failed to prove the demand, therefore, even if the prosecution succeeds in proving acceptance and consequent recovery of the bribe amount, still they cannot be held liable for the offence for which they are charged.

14.3 Learned D.G.P. relied upon following citations below list Exh.123;

- 1) Dhanwantraï Balwantraï Desai Vs. State of Maharashtra, 1964 AIR 575 (S.C.)
- 2) Neeraj Dutta Vs. State (Govt.of N.C.T. of Delhi), Criminal Appeal no. 1669 of 2009 (S.C.)
- 3) Anil Daima Etc. Vs. State of Rajasthan & Ors., Petition for Special Leave to Appeal (Cri.) Nos. 1010-1011/2026 decided on 20.01.2026.
- 4) The State of Kerala Vs. Navaneeth Krishnan, (SC) Criminal Rev. Petition no. 422 of 2022, decided on 26.07.2023.
- 5) Dharnidhar Vs. State of U.P., 2010 (SC) Criminal Appeal No. 239 of 2005 decided on 08.07.2010.
- 6) Umesh Manan Vs. State of M.P 2017(1), Crimes 34 (SC)
- 7) State of Karnataka Vs. Chandrasha, 2024(4), Cimes 409 (SC)
- 8) State of Bihar & Ors. Vs. Rajmangal Ram, (SC), Special Leave Petition (Cri.) No. 8013 of 2012, decided on 31.03.2014.
- 9) Central Bureau of Investigation Vs. Jagat Ram, (SC), Criminal Appeal No. 4964 of 2024, decided on 03.12.2024.

14.4 There cannot be without any doubt different opinion about the proposition laid down by the Hon'ble Supreme Court of India in above judgments and followed lateron in subsequent cases and also by the sub-ordinate judiciary. However, the facts of present

case are altogether different, therefore, without proving demand of bribe said judgments will not assist the prosecution.

14.5 Learned advocate for accused no.1 relied upon following citations below list Exh.122;

- 1) Mohan Bhaiyyalal Shrivastava Vs. The State of Maharashtra, DLD (Cri)-2023-2713
- 2) Vijay s/o. Wasudeo Shende Vs. The State of Maharashtra, DLD (Cri)-2024-3216.
- 3) State of Maharashtra Vs. Pradeep Vishwasrao Jadhav & Anr. 2017 ALL MR (Cri) 4738.
- 4) The State of Maharashtra Vs. Ramrao Marotrao Khawale, 2017 All MR (Cri)3269.
- 5) Pramod s/o. Namdeo Choudhary Vs. The State of Maharashtra, 2017 ALL MR (Cri), 57.
- 6) State of Maharashtra Vs. Shri Devida Ramchandra Wagh, (2017) 2 AIR BomR(Cri) 705.
- 7) State of Maharashtra Vs. Ravindra, 2025(1) Crimes 73 (Bom.).
- 8) Prabhat Vs. State of Maharashtra, (2023) ALLMR (Cri) 3815.
- 9) Shobha Sonba Raut Vs. State of Maharashtra, 2022(3) Bom.C.R. (Cri.) 663.
- 10) Rakesh Kapoor Vs. State of Hichal Pradesh, (SC), Criminal Appeal 1839 of 2012 decide on 22.11.2012.
- 11) N. Sunkanna Vs. State of Andhra Pradesh, 2015 ALL MR (Cri) 4551 (S.C.)

- 12) The State of Maharashtra Vs. Vitthal Baburao Kolpe, (2021) ALLMR (Cri) 2450.
- 13) Purushottam Vasant Joshi Vs. The State of Maharashtra, 2016 All MR (Cri) 665.
- 14) Shafi Abdul Rahiman Kudale Vs. State of Maharashtra, 2024(1) Bom.C.R. (Cri.) 463.
- 15) P. Satyanarayana Murthy Vs. The Dist. Inspector of Police and Others, Criminal Appeal no. 31 of 2009 decided on 14.09.2015.

14.6 Learned advocate for accused no.2 filed written notes of argument below Exh.120 and list of citations below Exh.121:-

- 1) Gopal s/o. Nagnathrao Gunjkar Vs. The State of Maharashtra, (Bom. High Court, bench Aurangabad) in Criminal Appeal no. 510 of 2009 decided on 19.04.2010.
- 2) Ulhas Vs. The State of Maharashtra, 2015 Supreme (Bom) 2013, 2015 ALLMR (Cri) 2259.
- 3) Abdul Mannan Mohd Yusuf Vs. State of Maharashtra, 2019 Supreme(Bom) 788, 2019 2 AIR (Bom)(R)(Cri) 911.
- 4) Keshav s/o. Mohanji Sakhale Vs. The State of Maharashtra, 2009 Supreme(Bom) 1044, 2009 ALLMR (Cri) 2681.
- 5) Sunil Hirasingh Rathod Vs. State of Maharashtra, 2021 Supreme(Bom) 1267, 2022 All MR(Cri) 647.
- 6) Ahmednagar Vs. Baburao Dipaji Pawar, 2019 Supreme (Bom) 2320, 2019 AllMR(Cri) 5205.

- 7) **Central Bureau of Investigation Vs. V.C. Shukla & Ors.**
1998(2) Supreme 329.
- 8) **Sadashiv Mahadeo Yavaluje and Gajanan Shripatrao Salokhe**
Vs. The State of Maharashtra, 1990 0 AIR (SC) 287.
- 9) **Panalal Damodar Rathi Vs. State of Maharashtra, 1979**
Supreme (SC) 79.
- 10) **K. Subba Reddy Vs. State of Andhra Pradesh, 2007(6)**
Supreme 605.
- 11) **Arulraj Vs. Sirajudeen, CrI.A. (MD). Nos. 185 and 207 of**
2014 decided on 27.04.2019.
- 12) **Bharat Shrikant Naik Vs. State of Maharashtra, 2016 BHCCO**
11943, 2016(4) B Cr C 837.

14.7 No doubt the proposition of law laid down by the Hon'ble Supreme Court of India in above judgments is followed lateron in subsequent cases and also by the sub-ordinate judiciary. However, the facts of present case are altogether different, therefore, without proving demand of bribe said judgments will not help both the accused.

14.8 In upshot of above discussion, in my view, the prior demand has not been proved by the prosecution, therefore, consequent acceptance and recovery of the tented currency notes of the bribe amount cannot aid the prosecution to prove the charges

against the accused. Accordingly, I find that, the prosecution has utterly failed to prove case beyond all reasonable doubts.

14.9 Lastly, to prove case under Section 13(1)(d) of Prevention of Corruption Act the prosecution has to prove that -

- “1. The accused should hold office as Public Servant.*
- 2. The accused should obtain any valuable thing or pecuniary advantage for any person.*
- 3. Such obtaining of valuable thing or pecuniary is without any public interest.”*

14.10 In the present case it is not disputed that the accused are public servants. However, the prosecution has failed to prove the demand of bribe, and, the accused accepted the said bribe from the complainant and, thereby, abused their position as a public servant. As such all ingredients of Section 13(1)(d) of Prevention of Corruption Act, 1988 are not proved.

14.11 Considering the entire evidence, I came to conclusion that prosecution has failed to prove its case beyond all reasonable doubts. Accordingly, accused are entitled for acquittal. Accordingly, **point no.1 & 2 answer in the negative.**

14.12 So far as the present case is concerned, the general muddamal property Article-C handkerchief and Article-D a full pant of the accused no.2 which are worthless and same is stained with anthracene powder, therefore, required to be destroyed after appeal period is over. Since the valuable property i.e. tainted currency notes i.e. **Article-B** are not yet returned to the

complainant and the said property is valuable, therefore, same is required to be returned to the complainant.

14.13 I appreciate learned DGP Mr. R.N. Deshmukh for the prosecution, Learned advocate Mr. S.B. Pawar for accused no.1 and learned advocate Mr. Kapil Patil for accused no.2 for conducting matter diligently. I also appreciate the ACB Officer Mr. Kandhare for assisting Court for the progress of present matter.

14.14 In upshot of above discussion, since, I have held that, the prosecution has failed to prove its case beyond all reasonable doubts, therefore, **in answer point no.3 following** order is passed:-

ORDER

1.	The accused 1) Smt. Chandrakala @ Chanda Pralhad Rawalkar , 2) Gangaprasad Ramdas Patil , are hereby acquitted of the offence punishable under Section 7 read with 12 & 13(1)(d) read with 13(2) of Prevention of Corruption Act, 1988, <i>vide</i> Section 235(1) of the Code of Criminal Procedure, 1973.
2.	Accused are already on bail, their bail bonds stand cancelled and their sureties are discharged.
3.	The accused shall execute PR bond of Rs. 10,000/- each with one surety in the like amount in compliance with Section 437-A of the Code of Criminal Procedure, 1973 during the appeal period.
4.	Muddemal property i.e. 1) Article-C a handkerchief, 2) Article-D a full pant be destroyed after the period of appeal is over.
5.	The seized valuable Muddemal property Article-B i.e. tainted one currency note of 1000/-, three currency notes of Rs.500/-

	and 5 currency notes of Rs. 100/- total Rs.3,000/- (in words Rs. Three Thousand only) be returned to the complainant-PW-1, after the period of appeal is over.
6.	In above terms Sessions Case is disposed of.
	(Judgment dictated, typed on Court computer and pronounced in the open Court)

Date: 14.07.2026

Sd/-
(T.S. Solankar)
Addl. Sessions Judge-2, Nanded.

Part 'C' APPENDIX
(Para 44 (iii) of Chapter VI of Criminal Manual)
LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE
PW-1]	Vijaysingh Padmasingh Thakur	Informant
PW-2]	Vinod Vishnupant Deogaonkar	Panch witness
PW-3]	Salim Ahemad	Witness
PW-4]	Sangram Hiranman Sangle	Investigating officer
PW-5]	Ganesh Jaywantrao Bhusare	Witness
PW-6]	Meera Namdeo Kendre	Witness

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
DW	-----NIL-----	-----

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
CW	-----NIL-----	-----

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

S.No.	Exhibit Number	Description
1]	Exh.P-43/PW-1	Complaint
2]	Exh.P-44/PW-1	Identity Card.
3]	Exh.P-54/PW-2	Letter issued by Principal, ITI college, Nanded.
4]	Exh.P-55/PW-2	Letter issued by Principal, ITI college, Nanded.
5]	Exh.P-56/PW-2	Bribe verification panchnama.
6]	Exh.P-60/PW-2	Pre-Trap panchnama.

7]	Exh.P-61/PW-2	Trap panchnama.
8]	Exh.P-62/PW-2	Verification panchnama.
9]	Exh.P-63/PW-2	Pre-trap panchnama
10]	Exh.P-64/PW-2	Arrest panchnama of accused No.1
11]	Exh.P-65/PW-2	Arrest panchnama of accused No.2
12]	Exh.P-66/PW-2	Spot panchnama
13]	Exh.P-67/PW-2	Specimen voice of complainant panchnama
14]	Exh.P-68/PW-2	Specimen voice of accused No.1 panchnama
15]	Exh.P-69/PW-2	Specimen voice of accused No.2 panchnama
16]	Exh.P-73/PW-3	Sanction order.
17]	Exh.P-77/PW-4	Letter issued by P.S. to Principal
18]	Exh.P-78/PW-4	Letter issued by Principal to P.S.
19]	Exh.P-79/PW-4	Letter issued by P.S.
20]	Exh.P-80/PW-4	Letter issued by P.S. to Principal, D.Ed. College, Nanded.
21]	Exh.P-81/PW-4	Letter issued by Principal to P.S.
22]	Exh.P-82/PW-4	First Information Report
23]	Exh.P-92/PW-6	Order issued by Nehru Yuva Kendra, Nanded.

B. Defence:

Sr. No.	Exhibit Number	Description
	NIL	-----

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
	Nil	-----

D. Material Objects :

Sr. No.	Material Object Number	Description
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1)	MO Article-A	Xerox copy of cheque
2)	MO Article-B	Currency notes
3)	MO Article-C	Handkerchief
4)	MO Article-D	Full pant
5)	MO Article-DD	Map
6)	MO Article-E	Xerox copy of cheque book

Date: 14.07.2026

(T.S. Solankar)
Addl. Sessions Judge-2, Nanded.

Certificate

I affirm that the contents of this P.D.F. file Judgment are same word to word, as per the original judgment.

Name of Stenographer	:	B.R. Khindre, Steno Grade-1
Court Name	:	District Judge-2 and Addl. Sessions Judge, Nanded.
Date of Order/Judgment		14.07.2026
Judgment signed by Presiding officer		14.07.2026
Judgment uploaded on	:	14.07.2026

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