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PART A
Form No. XXXII
(Title Page of the Judgment)
(Para 44 (i) of Chapter VI of Criminal Manual)

IN THE COURT OF SPECIAL JUDGE OSMANABAD
(Presided over by Shri. Rajesh K. Khomane)

Special Case (ACB) No. 81/2018 **Exh. No.**

(FIR/Crime No.168/2018
at Anand Nagar,Police Station,
Osmanabad, Tq. & Dist. Osmanabad)

Prosecution:	The State of Maharashtra Through Police Station Officer Aanand Nagar Police Station, Osmanabad,Tq. & Dist. Osmanabad
Represented by	Smt.N. Y. Sabale, Shri. J.V. Deshmukh Ld APP for the State
Accused	Satyawan Machindra Bhalerao, Age 32 Years, Occ. Service, R/o. Bahula, Tal. Kallam, Dist. Osmanabad
Represented by	Shri P.M. Nalegaonkar, Ld.Advocate for the accused

Date of offence	**12.06.2018**
Date of F.I.R.	**12.06.2018**

Date of Charge-sheet	**03.09.2018**
Date of framing of Charges	**02.02.2019**
Date of commencement of evidence	**20.07.2023**
Date on which Judgment is reserved	--
Date of Judgment	**15.06.2026**
Date of Sentencing order, if any	--

ACCUSED DETAILS

Rank of the accused	Name of the Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec. 428 Cr.P.C.
1.	**Satyawan Machindra Bhalerao**	**12.06.2018**	**14.06.2018**	Under sections 7, 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988	Acquitted	--	--

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution :-

RANK	NAME	NATURE OF EVIDENCE	Exhibit
PW1	**Amar Vilas Mane**	**Original Complainant**	**61**
PW2	**Sarjerao Manohar Kate**	**Panch No.1**	**66**
PW3	**Dr. Sanjay Gendraj Kolte**	**Competent Authority**	**77**
PW4	**Vishal Wyankatesh Raghoji**	**Witness**	**82**
PW5	**Vinayak Ramchandra Bahir**	**Investigation officer**	**85**

B. Defence Witnesses, if any :-

RANK	NAME	NATURE OF EVIDENCE
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C. Court Witnesses, if any :-

RANK	NAME	NATURE OF EVIDENCE
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dsLIST OF PROSECUTION / DEFENSE / COURT EXHIBITS

A. Prosecution :-

Sr.No.	Exhibit Number	Description
1	Exhibit P-67/PW2	Complaint
2	Exhibit P-68/PW2	Panchanama
3	Exhibit P-69 /PW2	Panchanama of Voice Sample
4	Exhibit P-70/PW2	Panchanama
5	Exhibit P-78/PW3	Letter
6	Exhibit P-79/PW3	Sanction order
7	Exhibit P-80/PW3	Letter
8	Exhibit P-81/PW3	Order of Suspension
9	Exhibit P-83/PW4	Information of tender
10	Exhibit P-95/PW4	Police Statement
11	Exhibit P-86/PW5	Portion mark a in Exh. 67
12	Exhibit P-87/PW5	Complaint
13	Exhibit P-88/PW5	FIR
14	Exhibit P-89/PW5	Arrest panchanama
15	Exhibit P-90/PW5	Information of arrest
16	Exhibit P-91/PW5	reasons of arrest
17	Exhibit P-92/PW5	Muddemal Receipt
18	Exhibit P-93/PW5	Letter
19	Exhibit P-94/PW5	Examination Report of Regional Forensic Science Laboratory
20	Exhibit P-95/PW5	Portion Mark A

21	**Exhibit P-96/PW5**	**Documents Page No. 203 to 236**
22	**Exhibit P-97/PW5**	**Letter**
23	**Exhibit P-98/PW5**	**Appointment of order**

<u>Documents admitted under section 294 of the Code of Criminal Procedure, 1973</u> :-

Sr.No.	Exhibit Number	Description
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B. Defence :-

Sr.No.	Exhibit Number	Description
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C. Court Exhibits :-

Sr.No.	Exhibit Number	Description
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D. Material Objects :-

Sr.No.	Material object Number	Description
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<u>J U D G M E N T</u>

(Delivered on this 15th day of June, 2026)

The accused has been facing trial for offence punishable under Sections **7 and 13(1)(d) read with 13(2)** of the Prevention of Corruption Act, 1988. (hereinafter referred to as “the Act”)

2] The prosecution case, in brief, is as under;

A] The informant, Amar Vilas Mane, resident of Village Wadi (Bamani), Taluka and District Osmanabad, lodged a complaint with the Anti-Corruption Bureau, Osmanabad, on 12.06.2018.According to the informant, during the year 2017-

2018, the Minor Irrigation Department of Zilla Parishad, Osmanabad had invited online tenders under the Jalyukt Shivar Abhiyan Scheme for repair works of a reservoir. The informant submitted an online tender in the name of his friend, Vishal Wyankatesh Raghoji, and deposited an amount of Rs.19,397/-, being 1% of the total tender value, as earnest money. Thereafter, the said tender was not awarded to Vishal Wyankatesh Raghoji but was allotted to one Suresh Kawade, Proprietor of Aditya Construction. Since the tender was not allotted to the informant's nominee, the earnest money deposit of Rs.19,397/- was liable to be refunded by the Minor Irrigation Department, Zilla Parishad, Osmanabad. For obtaining the refund of the said earnest money amount, the informant approached the accused, who was serving as an Assistant Engineer in the Minor Irrigation Department, Zilla Parishad, Osmanabad. Upon being requested to facilitate the refund of the earnest money deposit, the accused allegedly informed the informant that as the tender had been submitted in the name of Vishal Wyankatesh Raghoji, he would have to pay some amount if he desired an early refund of the deposit amount. It is alleged that the accused thereby demanded a bribe of Rs.1,000/- from the informant and further informed him that, in the event of non-payment, the refund process would be delayed.

B] Initially, the informant expressed willingness to pay the amount demanded by the accused. However, being unwilling to actually pay the bribe, he approached the Anti-Corruption Bureau, Osmanabad, on 12.06.2018 and submitted a written complaint before Police Inspector V.R. Bahir.Upon receipt of the complaint, Police Inspector V.R. Bahir initiated the necessary procedure and secured the presence of two independent panch witnesses. In the presence of the panch witnesses, the informant narrated the contents of his complaint. After verification of the allegations, a pre-trap panchanama was prepared and arrangements were made to verify the demand made by the accused.Thereafter, the informant accompanied by shadow panch witness Sarjerao Manohar Kate visited the office of the Minor Irrigation Department, Zilla Parishad, Osmanabad, where the accused allegedly reiterated his demand for Rs.1,000/- from the informant. After verification of the demand, the informant and the shadow panch witness returned to the ACB Office, Osmanabad.Subsequently, the ACB officials demonstrated the effect of anthracene powder and applied the same to two currency notes of Rs.500/- each, which were then handed over to the informant. Necessary instructions were given to the informant and the shadow panch witness regarding the manner in which the trap was to be executed and the signal to be given after payment of the bribe amount.Thereafter, the informant and the shadow panch witness again proceeded to the office of the accused. It is the prosecution case that the accused demanded the bribe amount and indicated by gestures that the same be handed over to him. Accordingly, the informant handed over the tainted currency notes totaling Rs.1,000/- to the accused, who accepted the same.

C] Immediately thereafter, the informant gave the pre-arranged signal to the raiding party. The members of the raiding party entered the office, apprehended the accused, and carried out the necessary trap proceedings. During the course of the trap, the tainted currency notes were allegedly recovered from the possession of the accused. Accordingly, the post-trap panchanama was prepared and, after completion of investigation and obtaining sanction for prosecution, the charge-sheet came to be filed against the accused for the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

3] On the basis of the report lodged by the complainant, Crime No. **168/2018** came to be registered at **Anand Nagar Police Station, Osmanabad,** for the aforesaid offences.The investigation was conducted by the Investigating Officer, Deputy Superintendent of Police, Shri Bramhadeo Vasudeo Gawade. During the course of investigation, the Investigating Officer completed all necessary formalities, conducted the pre-trap panchnama and spot panchnama, and collected the relevant evidence pertaining to the demand of bribe.Upon completion of the investigation, the Investigating Officer found sufficient evidence against the accused and, therefore, submitted a charge-sheet before the Special Court, Osmanabad, as the offences were exclusively triable by the said Court.

4] My learned predecessor framed the charge vide Exhibit **5** for the aforesaid offence. The contents of the charge were read over and explained to the accused in his vernacular language. The accused denied the charge, pleaded not guilty, and claimed to be tried.

5] In order to bring home the guilt of the accused, the prosecution examined four witnesses in all. The accused did not adduce any oral or documentary evidence in his defence. His statement under Section 313 of the Code of Criminal Procedure was recorded vide **Exhibit 100**. In his statement, the accused contended that he had not demanded any bribe.

6] In view of the submissions and the case of the prosecution the following points arise for determination and I give my findings thereon with reasons as under :-

	POINTS	FINDINGS
1.	Whether the prosecution proves beyond reasonable doubt that on 12.06.2018, at the office of the Minor Irrigation Department, Zilla Parishad, Osmanabad, the accused, being a public servant and while discharging his official duties, demanded an amount of Rs.1,000/- from the complainant Amar Vilas Mane as illegal gratification for facilitating the refund of the earnest money deposit pertaining to the tender submitted in the name of Vishal Wyankatesh Raghoji, and thereby committed an offence punishable under Section 7 of the Prevention of Corruption Act, 1988?	No
2.	Whether the prosecution further proves beyond reasonable doubt that on 12.06.2018, in the presence of panch witnesses, the accused, being a public servant, demanded and accepted an amount of Rs.1,000/- from the complainant Amar	No

	Vilas Mane as illegal gratification for facilitating the refund of the earnest money deposit pertaining to the tender submitted in the name of Vishal Wyankatesh Raghoji, and thereby committed an offence punishable under Section 7 of the Prevention of Corruption Act, 1988?	
3.	Whether the prosecution proves beyond reasonable doubt that on 12.06.2018, the accused, being a public servant, obtained and accepted an amount of Rs.1,000/- from the complainant Amar Vilas Mane as illegal gratification for facilitating the refund of the earnest money deposit pertaining to the tender submitted in the name of Vishal Wyankatesh Raghoji and thereby committed criminal misconduct punishable under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988?	No
4.	What order?	Acquitted as per final order.

:: **R E A S O N S**

As to point no.1 to 3

7] All the aforesaid points for determination are interlinked and, therefore, they are taken up together for discussion in order to avoid repetition of facts, evidence and reasons.The prosecution case, in brief, is that the accused, while discharging his official duties, demanded an amount of Rs.1,000/- from the informant as illegal gratification for facilitating the refund of the earnest money deposit of Rs.19,397/- pertaining to an online tender submitted in the name of PW4 Vishal Wyankatesh Raghoji. It is further alleged that pursuant to the said demand, the accused accepted the aforesaid amount from the informant, whereafter a trap was laid by the Anti-Corruption Bureau and the accused was apprehended.In order to bring home the guilt of the accused, the prosecution has examined five witnesses, namely PW1 Amar Vilas Mane, the informant; PW2 Sarjerao Manohar Kate, the shadow panch witness; PW3 Dr. Sanjay Gajendra Kolte, the sanctioning authority; PW4 Vishal Wyankatesh Raghoji, in whose name the tender was submitted; and PW5 Vinay Ramchandra Bahir, the Investigating Officer.

8] The entire prosecution case substantially rests upon the evidence of the informant and the shadow panch witness in respect of the alleged demand and acceptance of illegal gratification. The evidence of the sanctioning authority and the Investigating Officer is primarily confined to the procedural aspects relating to grant of sanction and conduct of investigation. The evidence of PW4 Vishal Raghoji is also relevant inasmuch as the tender transaction and the alleged refund amount pertain to him.It is well settled that in a prosecution under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, the prosecution must establish beyond reasonable doubt that the accused made a demand for illegal gratification and voluntarily accepted the same. Demand of illegal gratification is the gravamen of the offence and constitutes a sine qua non for recording a conviction. Mere recovery of tainted currency notes from the possession of the accused, in the absence of proof of demand and conscious acceptance, is not sufficient to sustain a conviction.Therefore, it becomes necessary to scrutinize the evidence of the prosecution witnesses with due care and caution in order to ascertain whether the prosecution has succeeded in proving the essential ingredients of demand, acceptance and recovery of illegal gratification beyond reasonable doubt. The evidence on record is required to be appreciated in its entirety, keeping in view the settled principles governing prosecutions under the Prevention of Corruption Act.

9] PW1 Amar Vilas Mane deposes that Vishal Raghoji is his friend and a contractor. He states that he had submitted an online tender of the Zilla Parishad Irrigation Department in the name of Vishal Raghoji and, for that purpose, an amount of Rs.19,397/- was deposited as earnest money in the name of Vishal Raghoji. The said tender was not allotted to Vishal Raghoji but was awarded to one Suresh. As the tender was not allotted to Vishal Raghoji, he approached Vishal for inquiry regarding the earnest money amount of Rs.19,397/-. At that time, Vishal Raghoji was not willing to repay the said amount. Therefore, he approached a clerk of the concerned department by the name of Pundge. Mr. Pundge informed him that the earnest money amount had already been received by Vishal Raghoji, in whose name the tender had been submitted. This witness further testifies that he never met accused Satyawan Bhalerao. As this witness did not support the prosecution case, he was declared hostile and was cross-examined at length by the learned APP. However, he denied the prosecution case in its entirety.

10] The next witness is PW2 Sarjerao Manohar Kate, examined vide Exhibit 66. He is a shadow panch witness. He deposes that on 12.06.2018, he was serving as a Junior Clerk in Krishna Marathwada Bandhakam Vibhag, Osmanabad. Pursuant to written orders issued by his superior officers, he along with another panch witness, Mohan Kadam, visited the office of the Anti-Corruption Bureau, Osmanabad. There, he met Police Inspector Mr. Aghav, who introduced him to the informant Amar Mane. In his presence, the informant narrated that accused Satyawan Bhalerao, who was employed in the Minor Irrigation Department, Z.P. Osmanabad, had demanded a bribe for returning the tender deposit amount at the rate of 1% of the deposited amount. The contents of the complaint were reduced into writing in his presence, and the informant signed the same. Thereafter, he also affixed his signature on the complaint.PW2 further deposes that thereafter he accompanied the informant to the office of the Minor Irrigation Department, Z.P. Osmanabad, which was situated on the second floor. He overheard the conversation between the accused and the informant. According to him, the accused demanded a bribe of Rs.1,000/- from the informant for securing the refund of the deposited amount. Thereafter, he and the informant returned to the ACB Office, Osmanabad, and informed Mr. Aghav about the demand made by the accused. He further states that the conversation regarding the demand was recorded in a Sony mobile handset and that the handset was subsequently handed over to the ACB Office, Osmanabad.

11] He further states that two currency notes of Rs.500/- each, after being treated with anthracene powder, were handed over to the informant. Thereafter, he accompanied the informant to the office of the accused. According to him, the accused again demanded the bribe amount, and the informant accordingly handed over the two currency notes of Rs.500/- each to the accused. Thereafter, the informant gave the predetermined signal to the raiding party. The raiding party immediately entered the office, apprehended the accused, and conducted the necessary trap proceedings. Thereafter, all concerned returned to the ACB Office, Osmanabad, where Panchanama Exhibit 68 was completed.PW2 Sarjerao Kate further deposes that on 13.06.2018, he was again called to the ACB Office for conducting a panchanama relating to voice samples. In his presence, the voice sample of the accused was obtained and Panchanama Exhibit 69 was prepared.

12] The next witness is PW3 Dr. Sanjay Gajendra Kolte, the sanctioning authority. His evidence is confined to the aspect of sanction. He deposes that on 16.07.2018, he was serving as the Chief Officer of Zilla Parishad, Osmanabad. He states that the Chief Officer was the competent authority to appoint and remove an employee holding the post of Assistant Civil Engineer in Z.P. Osmanabad. On 16.07.2018, he received a letter (Exhibit 78) from the ACB Office, Aurangabad, seeking sanction to prosecute accused Satyawan Machindra Bhalerao. Along with the proposal, he received all relevant documents pertaining to the investigation carried out by the Anti-Corruption Bureau. After carefully scrutinizing the entire record, he formed an opinion that sufficient material existed to prosecute the accused and accordingly granted sanction. The sanction order is at Exhibit 79. He further states that along with the sanction order, he forwarded a covering letter, which also bears his signature. He deposes that the sanction order was actually issued on 21.08.2018; however, due to inadvertence, the date of sanction was mentioned as 11.07.2018 in the sanction order. In his cross-examination, he admitted that the sanction order is in his handwriting.

13] The next witness is PW4 Vishal Wyankatesh Raghoji, examined vide Exhibit 82. According to the prosecution case, the tender in question was submitted in his name and he is a government contractor. In his examination-in-chief, he states that he is a registered contractor with the Public Works Department, Water Conservation Department, and NRHM. In the year 2018, he had submitted an e-tender for repair work of Cocoba Bridge. He had deposited the requisite tender fee and approximately 1% of the tender amount as earnest money. According to him, the deposited amount was approximately Rs.18,000/- to Rs.19,000/-. He further states that his tender was accepted and the earnest money deposited by him was refunded within 15 to 20 days after completion of the tender process. Since this witness resiled from his previous police statement, he was cross-examined by the learned APP with the permission of the Court. However, nothing material could be elicited from his cross-examination.

14] PW5 Vinay Ramchandra Bahir is the Investigating Officer. He deposes regarding the pre-trap and post-trap procedures. He states that on 15.06.2018, he was attached to the Anti-Corruption Bureau, Osmanabad. On that day, the informant Amar Mane lodged a complaint (Exhibit 87) against the accused. The allegations in the complaint were that the informant had deposited the earnest money amount in connection with a tender and that the accused had demanded a bribe for facilitating its refund. The complaint was reduced into writing in the presence of the informant and panch witnesses. After completing the requisite formalities, including demand verification and preparation of the trap panchanama, it was found that the accused, being a public servant, had allegedly demanded and accepted a bribe amount of Rs.1,000/- for performing an official act. Accordingly, he lodged a report with Anandnagar Police Station, Osmanabad. On the basis of the said report, Crime No.168 of 2018 came to be registered for the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. The investigation was entrusted to him. During the course of investigation, he arrested the accused and, upon completion of the investigation, found sufficient material against him. Consequently, he filed the charge-sheet before the Court.

15] In his cross-examination, PW5 admitted that the appointment of the accused to the post of Assistant Engineer was temporary in nature and that the relevant document is reflected at page No.303 of the charge-sheet. He denied the suggestion that he had filed a false charge-sheet against the accused without any supporting evidence.

16] On the basis of above evidence learned AGP Smt. N.Y. Sabale submitted that the prosecution has successfully proved the demand and acceptance of illegal gratification through the evidence of PW2 Sarjerao Kate, the shadow panch witness. She contended that PW2 has specifically deposed that during the demand verification, the accused demanded a bribe amount and the said conversation was recorded in a Sony mobile handset. PW2 has further categorically stated that during the trap proceedings, the accused accepted two currency notes of Rs.500/- each from the complainant.The learned APP further submitted that the testimony of PW2 finds corroboration from the evidence of PW5 Vinay Ramchandra Bahir, the Investigating Officer, who has deposed regarding the pre-trap, trap and post-trap proceedings. According to the prosecution, merely because the complainant and another witness have not supported the prosecution case, the entire prosecution case cannot be discarded. The evidence of the shadow witness and the Investigating Officer is sufficient to establish the guilt of the accused.It is, therefore, submitted on behalf of the prosecution that the evidence on record proves that the accused demanded and accepted illegal gratification in discharge of his official duties and consequently the accused is liable to be convicted for the offences charged against him.

17] On the other hand learned advocate for the accused submitted that the accused was working on a temporary post and was not a permanent employee. According to him, the sanction accorded for prosecution is not legal and valid. It is contended that the sanction order reveals that the date of sanction is mentioned as 11.07.2018, whereas the proposal seeking sanction along with relevant papers was forwarded by the Anti-Corruption Bureau to the sanctioning authority on 16.07.2018 vide Exh.78. Thus, the sanction order appears to have been passed even before receipt of the proposal and relevant documents. This circumstance, according to the defence, clearly demonstrates non-application of mind by the sanctioning authority. It is argued that without considering the material collected during investigation, the sanctioning authority mechanically granted sanction and, therefore, the sanction order is defective, invalid and cannot be relied upon.The learned defence advocate further submitted that there is no cogent and reliable evidence on record to establish either the demand or acceptance of illegal gratification by the accused. He pointed out that the complainant PW1 Amar Mane and PW4 Vishal Raghoji have not supported the prosecution case and have been declared hostile. Though PW2 Sarjerao Kate, the shadow panch witness, has deposed regarding the alleged demand and acceptance of bribe, his testimony suffers from serious infirmities. It is submitted that the prosecution has failed to establish by satisfactory evidence the instrument through which the alleged conversation was recorded. The said instrument was neither properly identified nor produced and played before the

Court. The Investigating Officer has also not specifically stated what recording device was supplied to the complainant for recording the conversation. Consequently, the alleged recorded conversation has not been proved in accordance with law.It is further argued that neither the shadow witness nor the Investigating Officer has given the exact particulars of the alleged conversation constituting demand of bribe. In the absence of reliable evidence proving demand, the recovery of tainted currency notes alone cannot constitute an offence under the Prevention of Corruption Act. Therefore, it is submitted that the prosecution has failed to prove its case beyond reasonable doubt and the accused deserves to be acquitted.

18] I have considered the submissions advanced by the learned APP for the State and the learned Advocate for the accused. I have also carefully gone through the oral and documentary evidence placed on record.For proving the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, the prosecution is required to establish beyond reasonable doubt the following ingredients:

(i) That the accused was a public servant on the relevant date;

(ii) That there was a demand for illegal gratification by the accused;

(iii) That the accused accepted or obtained the gratification other than legal remuneration;

(iv) That such demand and acceptance was in connection with the discharge of official functions or for showing favour or disfavour in exercise of official duties; and

(v) That the prosecution is instituted on the basis of a valid sanction accorded by the competent authority.

19] It is a settled principle of law that proof of demand of illegal gratification is the sine qua non for constituting an offence under Sections 7 and 13 of the Prevention of Corruption Act. Mere recovery of tainted currency notes from the accused is not sufficient to bring home the guilt unless the prosecution proves demand and conscious acceptance of the bribe amount. Unless the foundational facts of demand and acceptance are established, the statutory presumption under Section 20 of the Act does not arise.

20] In the present case, it is the specific case of the prosecution that the accused demanded an amount of Rs.1,000/- from the informant for facilitating return of the earnest money deposit of Rs.19,397/- pertaining to an e-tender submitted in the name of PW4 Vishal Raghoji.The evidence of PW1 Amar Vilas Mane and PW4 Vishal Raghoji assumes considerable significance because they are the persons directly connected with the tender transaction. PW1 Amar Mane has admitted that he had submitted the online tender in the name of PW4 Vishal Raghoji and that earnest money amounting to Rs.19,397/- was deposited. He further stated that the tender was not allotted to Vishal Raghoji. However, he has categorically denied the prosecution case regarding demand of bribe by the accused. He specifically stated that he had approached one Mr. Pundge, a clerk in the concerned department, for making inquiries regarding refund of the earnest money. He further stated that Mr. Pundge informed him that the amount had already been received by Vishal Raghoji. He denied having met accused Satyawan Bhalerao for the purpose alleged by the prosecution.

21] Similarly, PW4 Vishal Raghoji, in whose name the tender was submitted, has also not supported the prosecution case. He stated that he was a registered contractor and that after completion of the tender process, the deposited amount was refunded to him within a short period. He has not attributed any role whatsoever to the accused in relation to refund of the earnest money. He has also not stated anything regarding demand or acceptance of illegal gratification by the accused.

22] Thus, from the evidence of PW1 and PW4, it emerges that though they have spoken about the tender process and deposit of earnest money, neither of them has supported the prosecution regarding the alleged demand or acceptance of bribe. More importantly, no role has been attributed to the accused in the process of refund of the earnest money. Consequently, their evidence does not establish any nexus between the accused and the alleged illegal demand.

23] The prosecution has heavily relied upon the testimony of PW2 Sarjerao Kate, the shadow panch witness. PW2 has stated that he accompanied the informant during demand verification and trap proceedings. According to him, in his presence the accused demanded Rs.1,000/- from the informant for return of the deposited amount. He has further stated that the conversation was recorded in a mobile handset and that subsequently the handset was handed over to the Anti-Corruption Bureau.However, a careful scrutiny of his evidence reveals material deficiencies. Though PW2 states that the conversation was recorded, he was unable to disclose the source of the mobile handset. He has not stated who supplied the handset, in whose custody it remained, or how the recording was preserved. The prosecution has not led satisfactory evidence regarding the chain of custody of the recording device. Further, the alleged recording was not duly proved in accordance with law. Neither the contents of the conversation nor the exact words constituting demand have been brought on record through admissible evidence. The recording device was not effectively proved and the conversation was not demonstrated before the Court in a legally acceptable manner.

24] Another important aspect is that the examination-in-chief of PW2 remained incomplete. The record shows that after part of his examination-in-chief was recorded, the matter was deferred on medical grounds. Thereafter, the prosecution failed to secure his presence for completion of examination-in-chief and for cross-examination. It is a settled principle that evidence which has not been tested by cross-examination ordinarily carries little evidentiary value. Since the testimony of PW2 remained incomplete and was not subjected to cross-examination, reliance upon such testimony becomes unsafe.

25] The evidence of PW5 Vinay Bahir, the Investigating Officer, only proves the procedural aspects relating to registration of crime, investigation and filing of charge-sheet. His evidence cannot substitute proof of demand and acceptance, which are substantive ingredients of the offence. The Investigating Officer admittedly had no direct knowledge of the alleged demand. Therefore, his evidence by itself cannot establish the guilt of the accused.

26] The sanction for prosecution also requires consideration. PW3 Dr. Sanjay Kolte, the sanctioning authority, has stated that after examining the relevant documents he accorded sanction to prosecute the accused. However, the documentary evidence creates serious doubt regarding the validity of sanction.Exhibit 78 reveals that the proposal seeking sanction was forwarded by the Anti-Corruption Bureau on 16.07.2018. However, the sanction order at Exhibit 80 bears the date 11.07.2018. Thus, on the face of the record, the sanction appears to have been granted prior to receipt of the proposal and supporting documents. Though PW3 attempted to explain that the date mentioned in the sanction order was inadvertent, the discrepancy remains unexplained by any contemporaneous record.

27] Sanction under Section 19 of the Prevention of Corruption Act is not an idle formality. The sanctioning authority is required to independently examine the material placed before it and arrive at a conscious satisfaction that the facts disclose commission of an offence warranting prosecution. The existence of application of mind is a condition precedent for a valid sanction.In the present case, the chronology reflected from Exhibits 78 and 80 raises serious doubt as to whether the sanctioning authority had before it the necessary material at the time of granting sanction. The documents indicate that sanction was granted before the proposal itself was received. This circumstance adversely affects the credibility and legality of the sanction order and creates substantial doubt regarding proper application of mind by the sanctioning authority.Even assuming for the sake of argument that the sanction is valid, the prosecution is still required to independently prove demand and acceptance of illegal gratification. As discussed above, the complainant has completely resiled from the prosecution case. The contractor in whose name the tender was submitted has also not supported the prosecution. The shadow panch witness's testimony suffers from procedural and evidentiary infirmities and remained incomplete. Consequently, the foundational fact of demand has not been established.

28] In criminal jurisprudence, suspicion, however strong, cannot take the place of proof. The prosecution is required to establish its case beyond reasonable doubt. In the present matter, the evidence on record falls short of the standard required for recording a conviction under the Prevention of Corruption

Act.Therefore, this Court is of the considered opinion that the prosecution has failed to prove beyond reasonable doubt that the accused demanded and accepted illegal gratification of Rs.1,000/- as alleged. The accused is consequently entitled to the benefit of doubt.Accordingly, Point Nos. 1 to 3 are answered in the Negative.

As to point no.4

29] In view of findings on point no. 1 to 3 the accused found not guilty and is entitled to the acquittal. Muddemal Article No.1 currency notes of Rs.500/- each be shall stand confiscated to the State. **Muddemal Articles No.2 and 3 seized 8 GB SanDisk Micro SD HC I memory cards being of no value**, shall be destroyed, after appeal period is over. Hence, the following order:

-<u>ORDER</u>-

01.	The accused Satyawan Machindra Bhalerao is hereby acquitted under section 235(1) of the Code of Criminal Procedure, 1973 for the offences punishable under sections 7 and 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988 of Prevention of Corruption Act, 1988.
02.	The bail bonds of accused stands cancelled.
03.	The accused is directed to executed PR bond and SB of Rs.50,000/- as provided under section 437-A of the Code of Criminal Procedure.
04.	Muddemal Article No.1 currency notes of Rs.500/- each be shall stand confiscated to the State Government,

	after appeal period.
05.	Muddemal Art. No. 2 and 3, seized 8 GB SanDisk Micor SD HC I memory cards being worthless, be destroyed after appeal period.
	Pronounced and dictated in open Court.

Digitally signed by RAJESH KADUBAL KHOMANE
Date: 2026.06.15 17:57:52 +0530

Date :- 15.06.2026

[Rajesh K. Khomane]
Special Judge, (Court No.4)
Osmanabad

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 the Stenographer	:	Golhe P.V., Stenographer Grade 1
Name of the Court	:	District Judge-1 and Additional Sessions Judge, Osmanabad (Dharashiv)
Date of Judgment	:	15.06.2026
Judgment signed by the presiding officer	:	15.06.2026
Judgment uploaded on	:	15.06.2026