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

|                    |                                                                                                                                                                                                                                                                                                                                                         |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    | <p style="text-align: center;"><b>IN THE COURT, SPECIAL JUDGE OF<br/>RATNAGIRI</b></p> <p style="text-align: center;">(Before V. Y. Jadhav, Special Judge, Ratnagiri )</p> <p style="text-align: center;">Decided on 31.07.2026</p> <p style="text-align: center;">Special Case No. 36/2016</p> <p style="text-align: center;"><u>Exh. No. 184.</u></p> |
|                    | (Crime No. 28/2015, Rajapur police station.<br>Tal. Rajapur, Dist. Ratnagiri)                                                                                                                                                                                                                                                                           |
| <b>Prosecution</b> | <p>The State of Maharashtra<br/> <i>Through</i>, Police Inspector, Rajapur Police<br/>         Station, Tal. Rajapur, Dist.Ratnagiri<br/>         Investigating Officer :</p> <p><b>Shri. Satish Vilasrao Gurav, PSI ACB Office<br/>         Ratnagiri</b></p>                                                                                          |
| REPRESENTED<br>BY  | <b>SPP Shri. P. S. Shetye</b>                                                                                                                                                                                                                                                                                                                           |
| <b>ACCUSED</b>     | <p><b>Shri. Gurunath Ramchandra Hunnare</b><br/>         Age about 68 years, Occu.: Retired,<br/>         R/o. Near Patkidevi, Amane Apartment, First<br/>         floor, Kankawali, Dist. Sindhudurga.</p>                                                                                                                                             |
| REPRESENTED<br>BY  | <b>Shri. P. P. Nene, Ld. Counsel for accused.</b>                                                                                                                                                                                                                                                                                                       |

Offence punishable under  
 Section 7, 13(1)(d) r/w 13(2)  
 of the Prevention of  
 Corruption Act, 1988.

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

|                                      |            |
|--------------------------------------|------------|
| Date of offence                      | 15.09.2015 |
| Date of FIR                          | 16.09.2015 |
| Date of Chargesheet                  | 19.09.2016 |
| Date of Framing Charges              | 22.12.2016 |
| Date of commencement of evidence     | 11.01.2018 |
| Date on which judgment is reserved   | --         |
| Date of the Judgment                 | 31.07.2026 |
| Date of the Sentencing Order, if any | --         |

**Accused details**

| Accused Name                | Arrested on | Released on bail | Charge                                                                                      | Decision              | Sentence Imposed    | Detention Period Undergone |
|-----------------------------|-------------|------------------|---------------------------------------------------------------------------------------------|-----------------------|---------------------|----------------------------|
| Gurunath Ramchandra Hunnare | 16.09.2015  | 18.09.2015       | Offences punishable under <u>Z. 13(1)(d) r/w 13(2) of the Prevention of Corruption Act.</u> | Accused is Acquitted. | As per final order. | -----                      |

**J U D G M E N T**  
**(Delivered on 31<sup>st</sup> of July, 2026 )**

1. The accused stands prosecuted for the offences punishable u/s. 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act.

2. **The prosecution case, in nut-shell, is as under :**

The informant was doing business of laterite quarry. He used to work from Vikhare Gothane, Taluka Rajapur. He had made application for excavation of laterite stone to the extent of 500 brass from Gat No. 664 in Vikhare Gothane village. The said application was filed on 01.09.2015 with Tahasildar, Rajapur. It was sent for process.

3. On 15.09.2015 he received call from Dy.S.P. Gurav. They informed that the accused Hunnare has gone out for his duty and may return in the evening. Thereafter at 3.00 p.m. the informant met Dy.S.P. Gurav at hotel Ankita Palace. There were other staff of Anti Corruption Bureau Unit and panchas. The process of verification of the complaint was conducted there. Thereafter, it was decided to verify the demand. Accordingly, instructions were given to the panchas and the complainant by putting voice recorder under the shirt of the complainant.

4. During verification panchnama negotiation took place between the accused and the witnesses and it was decided to pay Rs. 2,00,000/- immediately and Rs. 5,00,000/- after Ganesh festival.

5. After verification of demand pre-trap panchnama was prepared and again the complainant went with panchas to the house of the accused Hunnare. The panch Salgar remained at entry gate, while the complainant went inside the house. The witness Kazi and one Nigare cousin of the accused were also there. In the meanwhile the President of Quarry Owners Association also followed the informant. When this quarry owner President was at the entrance of the house, the alleged episode of demand of money by accused and acceptance of Rs. 2,00,000/- had completed. Thereafter further process of signaling the Investigating Officer and process of verification of acceptance by watching the glittering of anthracine powder under the ultraviolet rays was performed. After completion of

procedure and verification of acceptance the FIR came to be lodged against the accused.

6. According to the FIR CR No. 28/2015 came to registered against the accused for the offence punishable under Section 7, 13(1)(d) r/w 13(2) of Prevention of Corruption Act.

7. Police Inspector Satishkumar Vilasrao Gurav has conducted investigation of this crime. During his investigation he prepared pre-trap panchnama, trap panchnama, thereafter recorded statement of witnesses, arrested the accused. After completion of investigation he filed charge-sheet against accused for the offence punishable under Section 7, 13(1)(d) r/w 13(2) of Prevention of Corruption Act.

8. My learned predecessor framed charge (Exh-12) against accused persons for the offence punishable under Sections- 7, 13(1)(d) r/w 13(2) of Prevention of Corruption Act. The contents of the charge were read over and explained to the accused in vernacular. The accused pleaded not guilty and claimed for trial.

9. In order to prove the guilt of accused, the prosecution has examined in all eight witnesses and relied upon various documents more particularly mentioned in Appendix-I of this judgment. Vide pursis at Exh. 140 the prosecution closed its evidence.

10. The statement of accused under Section-313 of the Code of Criminal Procedure was recorded only for the purpose of confronting incriminating material against accused. His defence is of total denial and false implication out of enmity with the then sitting MLA.

11. Heard learned SPP Shri. P. S. Shetye for the State and learned counsel Shri. P. P. Nene for the accused persons.

12. Following points arose for my consideration and I have given my findings thereto, for the reasons mentioned thereunder.

### POINTS

### FINDINGS

1. Whether prosecution has proved that that on 15.09.2015 in between 07.18 p.m. to 08.30 p.m. in Government Residence of Tahasildar Rajapur at Sainagar, Rajapur, Tal. Rajapur, Dist. Ratnagiri accused being a public servant namely Tahasildar, Rajapur, Tal. Rajapur, Dist. Ratnagiri had demanded Rs.7,00,000/- (Rupees Seven Lakh only) from complainant and other persons issuing for licence under (Maharashtra Land Revenue Code) Minor and Mineral Act for extraction of laterite stones and at about 09.31 p.m. on the above mentioned date and place accepted Rs. 2,00,000/- (Rs. Two Lakhs only) as a first installment from the

**In the negative.**

complainant Shri. Majoj Madhar Sapre, R/o. Sasale, Tal. Rajapur, Dist. Ratnagiri for himself as a gratification other than his legal remuneration and that he thereby committed an offences punishable U/s. 7 of Prevention of Corruption Act, 1988?

2. Whether prosecution has proved that at about 9.31 p.m. on the aforesaid date and place accused accepted Rs. 2,00,000/- (Rupees Two Lakh only) as a first installment from complainant Shri. Manoj Madhav Sapre for giving licence by abusing his position as a public servant for yourself and that he thereby committed an offence punishable U/s. 13(1)(d) r/w. 13(2) of Prevention of Corruption Act, 1988? **In the negative.**
3. What offence, if any, committed by the accused ? **No.**
4. What order ? **Accused is acquitted.**

### **REASONS**

13. Ld. SPP Shri. P. S. Shetye submitted that there was demand of Rs. 7,00,000/-. After negotiation it was agreed to accept of Rs. 2,00,000/- for time being and to pay remaining amount of Rs. 5,00,000/- after Ganesh festival. He further submitted that P.W. 1 is the informant. P.W. 2 is chance witness, P.W. 3 is the panch on verification of

demand till acceptance and on house search of voice samples, P.W. 4 is member of raiding party, P.W. 5 is Nayab Tahasildar, P.W. 6 is panch on house search of accused at Kankawali, P.W. 8 is the Investigating Officer.

14. The complainant, panchas as well as chance witness P.W. 2 have categorically deposed about the demand, negotiation as well as acceptance of the bribe amount.

15. He further submitted that the demand has been duly proved by recording of the conversation and its transcript along with the demand verification and pre-trap and other panchnamas. That the evidence of P.W. 1, 2 and 3 corroborates demand as well as acceptance by the accused. The demand was made by spreading both the hands before the informant. Moreover, the anthracin powder was found on the palms of the accused. The presence of the accused and the informant on the spot has not denied, rather a defence of thrusting has been taken by the defence. Therefore, presence and appearance of powder is not disputed. Therefore, onus shifts on the accused to prove the case otherwise. Even if the conversation would be perused, there is detailed discussion and negotiation about the demand. Moreover, the accused could have examined witnesses Kazi and Nigare to disprove the allegations. He was duty bound to do so. The presence of the parties and the existence of the anthracin powder on the palms of the accused has accepted. Moreover, two witnesses have corroborated the

entire prosecution story. Hence, it is required to hold that the prosecution has proved the allegations against the accused for demand of bribe and acceptance of RS. 2,00,000/-. Therefore, he may be suitably punish for the charged offences.

16. In support of his argument Ld. SPP relied on the following case laws.

- 1. Madhukar Bhaskarrao Joshi Vs. State of Maharashtra, reported in 2001 Cri.L.J. 175.*
- 2. C.M. Sharma Vs. State of A.P. Th.I.P., reported in 2010 (4) Crimes 347 (SC).*
- 3. State of Madhya Pradesh Vs. Shambhu Dayal Nagar, reported in 2006(4) Crimes 362(SC).*
- 4. State of Karnataka VS. Chandrasha, reported in 2024 LawSuit(SC) 1051.*
- 5. Amrut s/o. Gajmal Chavan Vs. The State of Maharashtra, reported in 2022 ALL MR (Cri) 3978.*
- 6. Kalicharan Mahapatra Vs. State of Orissa, reported in (1998) 6 Supreme Court Cases 411.*
- 7. C. R. Bansi Vs. State of Maharashtra, reported in 1971 AIR 786.*
- 8. Kisan Baliram Rathod & Anr. Vs. State of Maharashtra, reported in 2023 ALL MR (Cri.) 3313.*
- 9. Leela Ram (D) through Duli Chand Vs. State of Haryana and another, reported in AIR 1999 Supreme Court 3717.*
- 10. Maqsoodan and others Vs. State of U.P., reported in AIR 1983 Supreme Court 126.*
- 11. Rameshbhai Mohanbhai Koli & Ors. Vs. State of*

***Gujarat, reported in 2010(4) Crimes 325(SC).***

***12. State of Madhya Pradesh Vs. Dharkole @ Govind Singh and others, reported in 2005(2) B Cr C 389(SC).***

***13. Ramanand Yadav Vs. Prabhu Nathjha and others, reported in 2004 (2) B Cr C 70.***

***14. Ranbir and others Vs. State of Punjab, reported in AIR 1973 Supreme Court 1409(1).***

***15. T. Shankar Prasad Vs. State of Andhra Pradesh, reported in 2004 LawSuit(SC) 38.***

17. On the other hand, Ld. Defence counsel Shri. P. P. Nene submitted that in the present case there is peculiar situation where prior to receipt of complaint the Anti Corruption Bureau had made panchnama for trap. As per examination-in-chief of the Investigating Officer itself he made said panchnama on 14.09.2015. Even the ACB office Sindhudurga was also informed for additional aid. The written complaint was lodged by the complainant on 15.09.2015 in a hotel. There is no material about telephonic call. No entry of said call or CDR has produced on record.

18. As per prosecution case the panchas arrived at the office of ACB at 10.00 a.m. of 15.09.2015. Thereafter, they proceeded toward Rajapur. At about 2.00 p.m. they reached to village Hatiwale. They met the complainant at one hotel by name Ankita Palace. The complainant had produced the complaint before the Investigating Officer and his license for getting permission for excavation of red

laterite stone. It is at Exh.29. At one place complainant has made allegations that the demand was made by the accused personally to this complainant for his personal work while his another statement is that the accused had demanded the alleged bribe from number of persons who were members of the association of the laterite quarry runners. The written complaint is absolutely silent as to when and in what manner the demand was made. The signature of the complainant as well as panchas on the written complaint Exh. 29 do not bear any date or time. The verification panchnama (Exh. 55) is also silent on this point. The accused had not demanded any bribe at any point of time nor he has accepted any such amount.

19. On 15.09.2015 the accused had not called them for any meeting. The complaint as well as other evidence on record is totally silent on this aspect. Therefore, the prosecution has miserably failed to prove that there was any demand and any amount was accepted in pursuance to said demand.

20. P.W. 3 the shadow panch witness had not entered the house of the accused. He was not in the company of the complainant at the relevant time of the verification of the demand or acceptance of the bribe amount. As per prosecution case itself the panch witness was standing near the entrance gate of the bungalow of the accused. The distance was so that he could not see or hear anything which was happening inside. The evidence of

prosecution itself suggest that there was heavy rain at the relevant time. So also there was tin roof on the slab/ceiling of the bungalow. Therefore, it was not possible to hear anything due to noise of rain on the tin roof. If Exh.30 the noting of the Circle Officer Rajapur and order thereon passed by the present accused were perused, it is clear that the work of present accused was already accomplished on 08.09.2015 i.e. much prior to lodging of complaint.

21. The theory of demand put forth by the complainant is absolutely hearsay. The statement of the complainant came to be recorded on 19.09.2015. Therefore, there is four days delay in recording the said statement after alleged verification of the demand and trap panchnama.

22. As per prosecution case the private person by name Kazi had accompanied the complainant and he was present in the house of the accused at the relevant time of the alleged demand as well as acceptance. Admittedly the panch was not there. The statement of said Kazi has been recorded under Section 164 of the Cr.P.C. However, he has not examined by the prosecution. He was the best witness available on the point of alleged demand and acceptance. That the amount of alleged bribe was not fixed even till the alleged trap. However, it is surprising that any such rainy period Rs. 2,00,000/- cash was arranged in a span of half or one hour. Therefore, the allegations of the demand and acceptance are hard to digest.

23. As per paragraph 2 of the chief of the complainant itself shows that he had met the accused in his office. At that time the accused had allegedly informed that the accused had told the businessmen working in quarry of the laterite stone that they should pay Rs. 7,00,000/- from such businessmen and thereafter, the accused would provide license to all of them. Therefore, the theory of demand of Rs. 7,00,000/- from the complainant is incorrect. The evidence is totally silent on this aspect as to exactly when demand was made, moreover, as per complaint Exh. 29 such demand was made with the complainant while as per his oral version demand was made from all the businessmen and there is further reference of one Mr. Kazi. Moreover, the version of further talks with Kaviskar and Kazi confirmation of such demand by the complainant and further talks that there would be two installments. First of Rs. 5,00,000/- and second of Rs. 2,00,000/-. This entire material is absent in the complaint Exh. 29.

24. As per the version of the complainant in paragraph 4 he met Liyakat Kazi and Pramod Nigare outside the bungalow of the accused and all three went inside the bungalow of the accused while panch No.1 Salgar stood near the gate of the bungalow. Thereafter, alleged verification panchnama of cash and anthracin powder etc. was made within half an hour. This confirmation was completed at about 20.30 hours. The further arguments were made at the night hours which is also surprising.

25. Even at the time of alleged acceptance of bribe the complainant went inside the bungalow of the accused while the panch remained near the entrance gate of the bungalow. Witness Suyog Kaviskar came inside the bungalow after the complainant while accused Hunare, witness Liyakat Kazi and Pramod Nigare were already sitting inside the bungalow. The allegations of putting both the hands in front of the complainant also do not indicating any demand. There is no gesture of demand even by hand. The further contentions that after the accused allegedly accepted the amount the complainant Sapre had indicated the same to PSI Gurav by giving missed call. However, CDR of the same is not on record. The informant has hand over the bundles of money to the accused. Therefore, his palms were having anthracin powder. If really any such call would have been made to the PSI Gurav then certainly there would be anthracin powder on the mobile hand we as well. However, mobile hand set has not sent to FSL. There is also contentions of the informant that there was no balance in the mobile account of the complainant, therefore, the story of he giving missed call is also not reliable. The complainant has informed the Investigating Officer that the bribe amount was accepted by the accused Hunare and kept in a drawer. As per the version of the complainant in ultra violet lamp the anthracin powder was found on the inner side front portion of the shirt and outer side of front portion of the bunion of the complainant. However, both articles have not seized by the Investigating Officer. The handle of the

half opened drawer in which the cash bundles were allegedly kept has not check under ultra violet light. The distance between the gate and the place where the accused was allegedly standing was about 15 ft.. The complainant has deposed that the place where the accused was standing can be seen from the gate. So also the voice inside hall would be heard from the gate. These are the improvements by the complainant when the panchnama is silent on this aspect.

26. He further submitted that it is the case of prosecution that there was initial demand of Rs. 14 lakhs which subsequently reduced to Rs. 7 lakhs. There is no material about any discussion between accused and the defacto complainant about any such bargaining or reduction of amount and even about payment of Rs. 2,00,000/-. There is no material about day, date or time of such discussion of the amounts as 14 lakhs and 7 lakhs. It is also contention of the complainant that the discussion had taken place between the office bears of Quarry Association and the accused. None of the office bearers of the Quarry Association have deposed about any such discussion.

27. There is no material about any phone call between the complainant and the Investigating Officer one day prior to the raid. The gist of such discussion on phone are not on record. The CDR of the complainant or office bearers of the Quarry Association have also not produced on record. It is also not in evidence that the discussion had

taken place in person. On the day of trap the complainant was at Ankita Hotel and the raiding team has directly went to Ankita hotel. However, there is no explanation as to how the raiding team or Investigating Officer came to know about whereabouts of the complainant. There is no material like the complainant and raiding team were having any conversation on phone. The complainant has admitted that he used to frequently visit Ankita hotel. Said hotel is at the distance of 10 to 12 kmt from the bungalow of the accused. The Government rest house is at the distance of hardly 200 mtr. from the house of the accused. The Investigating Officer has required to chose independent place with which neither the accused nor the complainant would be related. In the entire conversation between the accused and the complainant it can be seen that the complainant was taking more initiative.

28. If the examination-in-chief of P.W. 1 would perused in paragraph No.4 he has admitted that the accused was not ready to accept Rs. 2,00,000/-, however, he became ready after repeated request. It appears that the alleged discussion started at 19.19 hours and ended at 20.30 hours. Therefore, there is alleged recording of 1 hour 12 minutes duration. It is further case of the prosecution that the entire recording was heard by the raiding team in the vehicle. Thereafter, 400 currency notes for denomination of Rs. 500/- each were procured and their serial numbers were noted down. The instructions of pre-trap panchnama were given to the complainant in the

vehicle itself. The panchnama about application of anthracin powder on the currency notes and panchnama of the same was prepared in the vehicle itself. Thereafter the bottle containing anthracin powder was kept in a envelope by washing hands of the concern party. Thereafter, seven instructions were given to the complainant and the voice recorder was put on the person of the complainant. After completing of this procedure the complainant allegedly entered the room of the accused at 21.23 hours. Therefore, it is improbable to complete such procedure within 53 minutes which is impossible

29. Thereafter, the panch and the complainant went to the bungalow of the accused. Panch No.1 Salgar remained near entrance gate of the bungalow. At that time the accused was sitting in the hall of the bungalow. Thereafter, the complainant stood up near the table of accused Hunnare and discussed with him about the work. On that the accused Hunnare stood up and informed that their applications were granted. It is not the contentions of the complainant or any other prosecution witness that Hunnare was sitting beside the table.

30. As per further contention of the complainant that after alleged acceptance the member of the raiding party Gurav inquired about the application of the complainant made to the accused. Thereon the accused indicated towards file tied on the table. Said file was searched by the complainant. Therefore, the anthracin powder must should

have found on the file as well. However, there is no material to have effect. The files were not sent to FSL. Moreover, the witnesses have deposed that the work was not pending and the files were already sanctioned. The complainant has admitted in paragraph No. 16 that he was neither President nor representative of the Quarry Association. Then he has also admitted that as per his contention the office bearers have informed him that accused had made demand for the first time with the association and the office bearers have told him that the amount was supposed to be paid into two installments i.e. first of 5 lakhs and second of 2 lakhs. He has also admitted that he was not present at the time of negotiation of said Rs. 7,00,000/-. He has also deposed that he was not present in the meeting of the office bearers of the Quarry Association for bargaining. Therefore, if it was supposed to pay Rs. 5,00,000/- before Ganesh festival then the contention of the prosecution does not match with the demand or payment of Rs. 2,00,000/-. However, the complainant has deposed that there was no reason for not mentioning such things in the complaint Exh. 29 though the complainant was allegedly aware about the same at the time of lodging complaint.

31. He has further admitted that if the numbers of currency notes would be considered they were 400. That is why when the hands of the complainant were seen under ultraviolet light it was found that his finger tips as well as palm were glittering with anthracin powder, however, only finger tips of the accused were found glittering which

improbable. It is the contention of the complainant that he was standing near table while it is not contention that Hunnare was sitting near the table. Therefore, the defence that the complainant had put the amount in a drawer is probable one. If the conversations mentioned in paragraph No. 16 of the evidence of P.W.1 would perused, it can be seen that the complainant was willing to pay amount on his own. It has further came in the evidence of P.W.1 that the audio file No. 1 especially recording at the time 57.20 was played in his presence and following things revealed in his evidence that,

*"It is true that at the time of verification panchanama panch Salgar has not entered inside the Bungalow. It is true that there is a tin shed above the slab of the Bungalow of Tahasildar. It is true that at such time there was heavy rain fall. It is true that if there is heavy rain on the tin shed above the slab at the height of 10 to 12 feet it causes noise. There is difference between Heavy rain and torrential rain. I am not aware if panch No. 1 Salgar standing at the gate was holding an umbrella.*

On the point of demand during trap complainant has admitted that,

*It is true that at such time Tahasildar had not asked with his spoken words to me demanding the amount. It is true that there was no signal of demand by showing two fingers or five fingers. It is true that Dy.S.P. Gurav has instructed me*

*unless Tahsildar demands the amount I should not touch the currency notes nor hand it over to him”.*

However, the audio recorder in which the above said conversations mentioned has not seized by the Investigating Officer.

32. If paragraph No. 18 of his evidence would perused, it reveals thus,

*“I do not remember now exactly if the ACB officer had stated to me the object of the verification panchanama. It is true that according to me at the time of verification panchanama during the said period Hunnare had not stated to me personally in these words that, “today you may give me two and give me five after Ganpati”. It is true that during all such time period of verification panchanama and trap panchanama Kazi and Nigare were inside the Tahasildar's Bungalow. It is true Kazi and Nigare were office bearers of our association at some point of time. It is true that as Hunnare had not personally stated to me that he requires two and five in similar fashion he has not demanded to me either from Kazi and Nigare.*

33. However, neither Kazi nor Nigare has examined by the prosecution. So also there is specific demand that he would be paid Rs. 2,00,000/- at that point of time and Rs. 5,00,000/- subsequently. Neither there is any such demand

with Kazi or Nigare. He further submitted that if the evidence of complainant in paragraph No.4 would perused he has deposed that after alleged negotiation with the accused the complainant/P.W. 1 came towards private vehicle of Dy.S.P. Gurav as it was raining he got inside the vehicle. However there is no explanation why either the complainant, Investigating Officer or any member of raiding party and panch did not get wet or even as to how the complainant made arrangement of cash of Rs. 2,00,000/-. It is also not evidence of any of the prosecution witness that the complainant was already having such huge amount. This witness has also put a suggestion that some of the quarry owners association also used to do sand mining. However, the witness has shown his ignorance to the same. Therefore, the evidence of P.W. 1 does not inspire confidence.

34. So far as P.W. 2 is concerned, he is planted witness and he was never on the spot. As per P.W. 2 the complainant told him that he was called at Tahasildar bungalow at about 7.00 p.m., however this witness was late due to rain and household work. Further, that he reached at the bungalow of Tahasildar at about 9.30 p.m.. However, as mentioned above the discussion lasted upto 1 hour 12 minutes and this witness was not present at the time of alleged demand of money. The evidence of panch witness is silent on the point of presence of this person or his arrival at the bungalow. While as per the statement of this witness under Section 164 he has deposed that the last para of his

statement is intimating that this witness was standing in the varanda, when the accused was alleged receiving the amount. Even the complainant/P.W. 1 has not deposed that P.W. 2 was wearing raincoat. As per P.W. 2 the complainant had taken out money in his shirt which was under the coat, however, no coat has inspected under ultra violet lamp. P.W. 2 is silent on the point of alleged missed call given by the complainant to the Investigating Officer after alleged acceptance of the accused. Even the statement of this witness under Section 164 was recorded at belated stage. Therefore, this witness is also inspiring no confidence.

35. The statement of Kazi and Nigare were recorded under Section 164 of the Cr.P.C. If at all the prosecution was of the view that these two witnesses may not support the prosecution case as Nigare is relative of the accused. However, the prosecution could have refer their earlier statement under Section 164 of the Cr.P.C. In the present case, when the defacto complainant is required to be treated as accomplice in the crime. The conduct of the prosecution not to examine independent witness who is available is required to be taken into consideration.

36. P.W. 3 is the panch witness. Even if examination-in-chief of P.W. 3 would perused he is also silent on the point of presence of P.W. 2 near or inside the bungalow. He has just deposed that after alighting the vehicle the complainant met with Kazi and Nigare and trio went inside

the bungalow of the accused. Even paragraph No. 20 this witness is deposing that two persons sitting inside the bungalow of the accused. In paragraph No. 22 of Marathi version of oral evidence, he has deposed that no glittering of anthracin powder was found on both the fingers or palms of the accused. At the same time the complaint is totally silent on this aspect. Even in paragraph No. 25 P.W. 3 has deposed about presence of three persons inside the house of the accused namely the complainant Sapre, Kazi and Nigare. There is no reference of P.W. 2. In paragraph No. 63 this witness has admitted that nothing like opening the sealed of memory card or voice recorder in presence of panchas had taken place. There is no material to show that the accused had called the informant at 7.00 p.m. in presence of this witness. This witness has also admitted in paragraph No. 64 that he stayed near the entry gate of the bungalow, however, he further admitted that accused Hunnare had not prohibited him for entering inside the bungalow. During entire period of discussion between Hunnare, complainant Sapre and other persons he was not present inside the bungalow, rather he was at the gate. He has also admitted that there is no whisper in the panchanama that this witness heard the conversation inside the hall though he has further admitted in paragraph No. 16 that Mr. Gurav had directed him to accompany the complainant and see and hear whatever happens. Even in paragraph No. 65 similar things happened at the time of alleged trap panchnama. Therefore, at both alleged times of verification and trap this witness remained outside the

bungalow. In paragraph No. 68 he has admitted that after entering the hall complainant was talking with the accused by standing towards right side of the table of Hunnare. Therefore, this witness has neither seen nor heard anything.

37. P.W. 4 Harchakar is the person who had issued certificate under Section 65B of the Indian Evidence Act in respect of digital recorder. There are numbers of deliberate improvements in paragraph No. 5. He has even deposed about somethings which had allegedly occurred inside the bungalow which is improbable things.

38. P.W. 5 is Resident Nayab Tahasildar. This witness has admitted in paragraph No. 6 that after the trap on the accused at the night of 15.09.2015 the file of the complainant was transferred to this witness. He has further admitted that the case of the complainant was allowed by the accused before 15.09.2015 and no work of the complainant was pending with the accused.

39. So far as P.W. 6 is concerned there is no charge against the accused in respect of disproportionate asset. No different charge-sheet has filed on this aspect. Rather this witness has admitted that no article was found in the concern house which may connect the same to accused Hunnare.

40. If the evidence of P.W. 7 would perused in paragraph No. 8 he has admitted that he did not mention in

his statement to the Investigating Officer that the accused had demanded Rs. 7,00,000/- from the complainant for granting permission for excavation of laterite stone.

41. P.W. 8 is the Investigating Officer. Even the Investigating Officer is silent on the aspect of complainant informing him that he was in Ankita Hotel. Moreover, his entire evidence is silent about telephonic conversation between the Investigating Officer and the complainant one day prior to the alleged trap and he had recorded any gist of the complaint. There is no material about the amount of alleged demand. So far as paragraph No. 6 is concerned, it is mentioned that Dy. S.P. Hatodkar from ACB Sindhudurga has produced one audio bug. However, there is no material to show any communication between this investigating Officer and Dy.S.P. Sindhudurga for procuring such audio bug. This witness is also silent on the aspect of the complainant procuring Rs. 2,00,000/-.

42. In paragraph No. 20 this witness has deposed thus,

*“It is true that in Rajapur Taluka there is union of persons doing business of excavation of stones. That union was in existence prior to this incident. I do not know that most of the businessmen doing that business in Rajapur Taluka are members of that union. I did not make effort to collect that information. It is true that it is allegation of myself or prosecution that*

*accused has demanded Rs. 7,00,000/- from the members of that union”.*

43. However, in the next paragraph he has admitted that there is no information from complainant or other businessmen as to when and where such demand was made by the accused. There is also no material about any negotiation between the accused and the quarry owners association. There is no complaint by the association to the complainant. Admittedly the complainant was not office bearer of the association. The Investigating Officer has not made investigation about the number of members of the association. So also he has categorically admitted in paragraph No. 23 that his office did not receive any complaint either from the complainant or other quarry owners during the period from 01.09.2015 to 15.09.2015.

44. As per this witness in paragraph No. 24 Kazi had informed the complainant Sapre that Hunnare had called for meeting at 7.00 p.m., however, he is not sure to say that before such message by Kazi, said Kazi had met Hunnare. In paragraph No. 25 this witness has deposed that the bungalow is at the distance of 5 ft. from compound wall, however, as per P.W. 2 who allegedly stood near the entry gate the distance was 15 ft.. He has also admitted in paragraph No. 27 that the transcription of alleged conversation does not reflect that the accused had asked the complainant to bring Rs. 2,00,000/- immediately. He further admitted that admissions of this witness in

paragraph No. 28 are also important which reads thus,

*“It is true that before proceeding for raid I gave certain instructions to Mr. Sapre. It is true that it is my contention that I gave instructions to Mr. Sapre that after visiting Mr. Hunnare open topic of his work and only when he demands money, that be given to him and insist him to count that amount. It is true that it did not happen in this case that Mr. Hunnare made demand of money in his own voice and counted the currency notes. Witness volunteers that demand was made by making gestures. If it is your suggestion that in the police papers it is not mentioned that by making gesture bribe amount was demanded, I say that Mr. Sapre told that accused put his hand before him for getting money. It is true that in the statement of Mr. Sapre it is alleged that Mr. Hunnare only made his hand towards him. It is true that panch No.1 in his statement or in panchnama not stated that he had seen that accused demanded money by putting hand in front of complainant”.*

45. He has admitted in the same paragraphs that the panch has not mentioned in the panchnama as well as statement that he had seen that the accused Hunnare had put his arms in front of the complainant. He has also admitted that Nigare or Kazi did not make any complaint against the accused though they were present inside the

hall at the time of alleged incident. This witness has also admitted that he did not take voice samples of Liyakat Kazi, Nigare or Sapre. This witness has admitted in paragraph No. 29 that the file which was seized by this witness in respect of work of the complainant Sapre there is remark of accused as “मंजूर” (allowed).

46. Considering entire evidence it is required to hold that the prosecution has totally failed to prove the allegations against the accused beyond reasonable doubt. Hence, he may be acquitted from the charges. Therefore, even the prosecution of under Section 20 would not come to help of the prosecution.

47. In support of his argument Ld. Counsel for the accused relied on the following case laws.

- 1. The State of Maharashtra Vs. Bajarang Shankarro Bodhane, reported in 2020 ALL MR (Cri) 1111.***
- 2. State of Maharashtra Vs. Dr. Suresh Gulabchand Agrawal & Anr., reported in 2014 ALL MR (Cri) 4297.***
- 3. State of Maharashtra VS. Dnyaneshwar Laxman Rao Wankhede, reported in 2009 ALL MR (Cri) 3127 (S.C.)***
- 4. Neeraj Dutta Vs. State (Govt. of N.C.T. of Delhi), reported in 2023 ALL SCR (Cri) 665.***
- 5. Smt. Anita Shankar Mukkawar Vs. The State of Maharashtra, reported in 2025 ALL MR (Cri) 1154.***
- 6. Dattatraya s/o. Udaji Warkad Vs. State of Maharashtra, reported in 2018 ALL MR (Cri) 1305.***
- 7. State of Karnataka Vs. C. B. Nagaraj, reported in 2025***

***ALL SCR (Cri) 1617.***

***8. K. Shanthamma Vs. The State of Telangana, reported in 2022 LiveLaw(SC) 192.***

***9. Nilesh Dinkar Paradkar Vs. State of Maharashtra, reported in 2011 ALL SCR 796.***

***10. Muddasani Venkata Narsaiah (D) Th. Lrs. Vs. Muddasani Sarojana, reported in AIR 2016 Supreme Court 2250.***

***11. The State of Maharashtra Vs. Shri. Ravsaheb Aabaji Vasagadekar, reported in 2019 ALL MR (Cri) 4340.***

***12. Ambadas s/o. Ramaji Sahare Vs. The State of Maharashtra, reported in 2023 ALL MR (Cri) 2981.***

***13. Sabaji Shetye s/o. Pundalik Shetye Vs. State of Goa, reported in 2023 LawSuit (Bom) 2586.***

***14. Bhaskar Arjun Pandilwar and another Vs. State of Maharashtra, reported in Criminal Application No. 192 of 2024 dated 02.02.2024.***

48. In rejoinder Ld. SPP submitted that admittedly one Nigare was present. He is maternal cousin of the accused. As per informant Kazi and Nigare remained inside the house of the accused while the complainant and panch No.1 Salgar went towards private vehicle of Dy.S.P. Gurav. As it was rainy both of them get inside the said vehicle. Thereafter Harchakar took the Digital Voice Recorder in his custody. It was instructed to the complainant that till Hunnare demands the amount and till amount was required to be handed over the currency notes should not be touched and after acceptance of the bribe amount a missed call

should be given to Dy.S.P. Gurav for indication of the acceptance. The glittering of anthracin powder on the palms of the accused clearly shows that the accused had accepted the bribe amount. The doors of the house were open and the panch witness could very well see what was going on inside the house. The conversations mentioned in paragraphs No. 6 and 7 of the P.W. 1 clearly shows that there was demand of bribe amount by the accused. There is no date below signatures of the alleged sanction order. Moreover, there is no explanation as to why the matter kept pending till 15<sup>th</sup> of that month. Moreover, it transpired in transcription of the conversation that the complainant was showing that his matter is pending, however, at that time the accused did not inform that the matter has already closed and application is allowed. This shows the conduct of the accused. Therefore, the demand and acceptance has proved by the prosecution beyond reasonable doubt.

49. P.W. 2 the President of Association of quarry owners has deposed that the demand was made by accused Hunnare with this witness and he had informed to complainant Sapre to make arrangements for Rs. 2,00,000/-. This witness has corroborated the evidence of the complainant. As no work of this witness (P.W.2) was pending with the accused he was no reason to depose against him.

50. In the evidence of P.W.2 Kaviskar it has come that the complainant Sapre has alighted from his own

vehicle and one unknown person was with him. Thereafter, Sapre was went inside the bungalow of the accused while the other person stood with umbrella near the door and thereafter, further episode of acceptance of amount had taken place. Therefore, complainant Sapre might have going to his own vehicle after preparation of trap for search of his key of the vehicle, because key of said vehicle has not found in the personal search of the complainant Sapre after alleged acceptance. Therefore, it is required to hold that the prosecution has proved the charges beyond reasonable doubt and he may punish with maximum sentences prescribed for the same.

**As to Points No. 1 to 3**

51. As all these points are interconnected with each other, they are discussed together.

52. It is the specific contention of the prosecution that the applicant was a businessman having quarry of laterite stone. When he applied for excavation license with the then Tahasildar Rajapur i.e. the present accused, it was not processed for some days. On inquiry he came to know that the accused has demanded Rs. 7,00,000/- (Rupees Seven Lakhs Only) from the association of quarry owners from Rajapur. Admittedly he was neither President nor holding any other post of the managing committee of the Association. However, he appears to have lodged complaint and further process of verification and trap was initiated.

53. That in the cases under Section 7 and 13 of the Prevention of Corruption Act, 1988 the demand and acceptance are main things which are required to be considered. On this point the prosecution has rightly relied upon the decision in the case of ***Madhukar Joshi Supra;*** wherein it is observed thus,

*(A) Prevention of corruption Act (49 of 1988) Ss. 20(1). 7- Word 'gratification' – Must be understood to mean any payment for giving satisfaction to public servant who received it- And not reward- Fact that public servant is found in possession of currency notes smeared with phenolphthalein – Sufficient to draw legal presumption under section – Prosecution need not further prove that money was paid to public servant.*

54. In the light of above ratio, it is necessary to evaluate the evidence on record.

55. So far as the submissions of the defence that there were four bundles of currency notes i.e. total 400 in number. Therefore, the anthracin powder should have been noticed even on the palm of the accused. However, it was found only on the finger tips. However, the said defence would not be sufficient to disbelieve the entire case of the prosecution. On this point the Ld. SPP has rightly relied upon decision in the case of ***Shambhu Dayal Supra;*** *Prevention of Corruption Act, 1988 – S. 7 and 13(1)(d) r/w. 13(2)- Respondent Accused, an*

*Assistant Sub-Inspector of police, demanded and accepted Rs.3500/- from complainant to avoid seizure of rifle of complainant and his arrest pursuant to a complaint – Trap was laid as per direction of Superintendent of Police by joining two public witnesses as panch witnesses – Accused demanded and accepted money from complainant on appointed spot and was apprehended and arrested – Currency notes smeared with phenolphthalein were recovered from his possession – Test of sodium carbonate solution done on respondent gave positive test – Trial Court convicted accused on evidence of complainant and panch witnesses and awarded sentence of one year imprisonment u/s 7 and 13(1)(d) respectively – High Court set aside conviction in appeal discarding testimony of complainant PW1 on ground that upper right pocket of shirt of accused could not contain 35 currency notes and that perhaps complainant had forced currency notes in pocket of accused State appeal – Recovery of Rs.3500/- from accused was fully corroborated by PW1 and two independent witnesses – No material to substantiate plea that PW1 implicated accused because of previous enmity – Conviction of respondent was based on cogent and convincing evidence and High Court erred in setting it aside –*

*Conviction and sentence recorded by trial Court were liable to be restored.*

56. It is submitted by the defence that the Investigating Officer had come to Rajapur from Ratnagiri even before receiving oral complaint. That entire preparation for the verification of demand and trap was made even before such oral complaint. No doubt, in such cases of demand of bribe the raiding party has to taken swift decision so that the accused should not suspect about the trap. Therefore, only on this ground the entire prosecution story could not be disbelieve.

57. Now as per the oral evidence of the de facto complainant P.W. 1, after getting knowledge about the demand from the association, the complainant met the President of the Association Shri. Kawiskar and one Mr. Kazi. He came to know that initially demand was Rs. 14,00,000/- (Rupees Fourteen Lakhs Only) and after negotiation it has reduced to Rs. 7,00,000/- (Rupees Seven Lakhs Only). He has also deposed that the amount was agreed to pay in two installments. The first of Rs. 5,00,000/- (Rupees Five Lakhs Only) and second of Rs. 2,00,000/- (Rupees Two Lakhs Only). This complainant was asked to make arrangement of Rs. 7,00,000/- (Rupees Seven Lakhs Only) as the association was not having that much amount. As the complainant was not willing to pay the bribe, he made phone call to the Anti Corruption Bureau Office. In paragraph No. 14 of his cross-examination P.W. 1 has

admitted that all this information was with him at the time of lodging complaint Exh. 29.

58. Now if complaint Exh. 29 would perused, there is no reference of any talks with office bearers of the association. There is even no reference of any negotiation of 14 Lakhs and 7 Lakhs or, even two installments as well. There is no explanation by the prosecution on this aspect. Even the names of office bearers Kazi and Kawiskar are also not reflecting in Exh. 29. There is no reference of any day, date or time of such demand. Even a vague duration like month etc. is not also reflecting in Exh. 29. Even the oral evidence of this witness is totally silent on this aspect of day, date or time of alleged demand. Even the verification panchnama Exh. 55 is also silent on this aspect.

59. Now the oral evidence of P.W. 1 is totally different. As per said oral evidence Kazi and Kawiskar have asked the complainant to make arrangement of Rs. 7,00,000/- (Rupees Seven Lakhs Only). Admittedly, this reference is no where in the entire record upto the alleged trap. Rather there is sentence in Exh. 29 which reads thus,

*“माझ्या संपूर्ण ५०० ब्रास चिरेखाण उत्खननाची रॉयल्टी ही ५०,०००/- च्या आसपास होते, हे मला माहित आहे. त्यामुळे मी त्यांना ७,००,०००/- रु. कसे काय? तर त्यांनी मला सांगितले की हे माझे पैसे आहेत. रॉयल्टीचे नंतर पाहू, तुम्ही मला सात लाख रु. दिल्यानंतर मी तुम्हाला तुमचे परवाने देईन, असे म्हणाले”.*

Again this indicates that the demand was from complainant alone and he found it shockingly

disproportionate to his work/quantity in the licence. Therefore, very basis of the complaint Exh. 29 is not mentioned anywhere in the said complaint. The oral evidence is amounting to improvements.

60. The informant has also admitted in his cross-examination especially in paragraph No. 15 that even during the actual trap i.e. alleged acceptance the accused did not make any oral demand. He signaled by raising two or five fingers. He has further admitted that the PSI Mr. Gurav had specifically instructed him that the currency notes should not be touched or handed over to the accused before the demand by the Tahasildar. There is no explanation as to why the informant has not obeyed such instructions.

61. There is also force in the submission that the panch No. 1 Salgar did not enter the house of the accused either at the time of verification of demand or even at the time of alleged acceptance i.e. a trap. However, if his oral evidence would be perused, he has deposed that after verification of demand he had narrated the incident which he had seen to the Investigating Officer. On this point it is necessary to peruse the relevant portion in panchnama Exh. 55. In said panchnama as well this witness has stated to the Investigating Officer that the complainant Sapre and two other persons went in the bungalow of the accused. They had some conversations. At that time, this panch P.W.3 stayed near the gate. After some time the complainant came out and this panch returned with the complainant.

62. If, cross-examination of this witness would perused, he has deposed that the gate is at the distance of 10 to 15 ft. from bungalow. Rough sketch of the bungalow is at Exh. 54. It shows that the bungalow consists of a gate to the compound wall. Thereafter, there is some space. The bungalow is having veranda-cum-gallery with entry door. Thereafter, there is door of the hall and the alleged incident had taken place inside the hall. The photographs of the bungalow are also produced on record at article A, B, C (X, Y, Z) along with list Exh. 139. Those photographs have also referred to the Investigating Officer. If those photographs would be perused, it appears that the entry point of the gate is towards opposite direction than entry door of the Veranda-cum-gallery. Angle is such that of person standing at the gate could not see what is going on inside the hall.

63. Therefore, firstly it is clear that the panch has not entered in the house and therefore, not heard any conversations at the time of alleged demand. Secondly he was not able to see anything inside the hall of the accused. Admittedly, it was raining at the relevant time and the Investigating Officer has admitted by confronting the photographs of the bungalow that there was tin shed on the terrace of above bungalow. Therefore, it would be difficult for anybody to hear anything inside the house, even in normal course. There is no explanation as to why panch P.W. 3 did not enter the house and accompanying the complainant. He has deposed that the accused did not

prohibit him from entering the house. His conduct is clearly against the directions of the Investigating Officer and therefore, suspicious.

64. Even at the time of alleged acceptance also this witness P.W. 3 did not enter the house of the accused. Now if the panchnama Exh. 55 would perused there is specific instructions i.e. instruction No. 3 to the panch that,

“३. पंच नं. १ सलगर यांनी तक्रारदार सप्रे यांचे आसपास राहून त्यांच्यातील लाच रकमेचा व्यवहार पहावा व काय बोलणे होते ते ऐकण्याचा प्रयत्न करावा. तहसिलदार हुन्नरे यांनी लाचेची रक्कम स्विकारल्यानंतर ती रक्कम कोठे ठेवतात याकडे लक्ष ठेवावे.”

65. He has even admitted in paragraph No. 64 that, *“Mr. Gurav has given instructions to him at the time of verification of demand and one of the important instruction was that the panch should remain with Manoj Sapre and should see and hear whatever happens.”* He has further admitted that he remained near gate of the bungalow. However, accused Hunnare had not prohibited him for entering the bungalow. He has admitted that during entire conversations of verification process he was not inside the hall of bungalow, but at the gate of bungalow. In same paragraph itself he has volunteers that the distance between the gate and the hall is about 15 ft. Similarly in paragraph No. 65 he has admitted that at the time of trap panchnama as well the accused did not prohibit him from entering the bungalow. Therefore, there is no explanation at all as to why this witness refrained himself from entering

the bungalow premises on his own and why he remained at the gate only. Such explanation is not coming even in his oral evidence.

66. This witness has further admitted in paragraph No. 66 that, "it is not mentioned in the verification or trap panchnama that he could see the things occurring inside the hall from the spot near the gate where he was standing." He has admitted that, the contention of 15 ft. distance from bungalow as well as contention that he could see inside the house as there was light inside the house and darkness outside are improvements and they are not reflecting in panchnama Exh. 55. He has also admitted that contention in examination-in-chief that one person followed Sapre inside the bungalow and he had gone upto the Padavi of the bungalow is also not finding place in the panchnama.

67. Therefore, inspite of said specific direction this panch No. 1 Salgar again stayed near the entry gate of the bungalow. However, when he was inquired by the Investigating Officer during trap panchnama he has deposed in following manner,

*“तसेच पोउपअधी गुरव यांनी पंच नं. १ सलगर यांना घडलेली हकिगत विचारली असता त्यांनी सांगितले की ते तक्रारदार सप्रे यांच्या सोबत तहसिलदार यांचे बंगल्याच्या गेटजवळ गेले व तेथे थांबले असता त्यांना तहसिलदार हुन्नरे हॉलमध्ये टेबलसमोरील खुर्चीलगत उभे दिसले. तक्रारदार सप्रे यांच्यासोबत गेलेले दोन इसम साहित्याच्या बॅगा गाडीकडे नेत होते. तक्रारदार सप्रे हे टेबलाचे उजवे बाजूस उभे राहून तहसिलदार हुन्नरे यांचेशी बोलत होते. त्यानंतर त्यांनी शर्टचे बटण खोलून आतील*

पैशाची बंडले दोन्ही हातानी तहसिलदार यांचे समोर धरली असता तहसिलदार हुन्नरे यांनी पैशाची बंडले हातात घेवून गडबडीने टेबलाचे डॉवरमध्ये ठेवली. तेव्हा तक्रारदार सप्रे हे मोबाईल फोन कानाला लावून बाहेरील व्हरांडयात आले. थोड्याच वेळात आपण आंतमध्ये प्रवेश केलात अशी हकीकत सांगितली.”

68. Now as discussed above due to the location of standing this witness was not able to see anything inside the bungalow. Moreover, the other person (P.W.2) had allegedly went upto Padavi only. He was allegedly watching inside. Therefore, he would have blocked the view of panch. Therefore, his entire version is doubtful. On this point it is also necessary to consider the version of P.W. 2 Kawiskar in paragraph No. 2 of his oral evidence Exh. 35. He deposed that at about 9.30 p.m. he went near the bungalow of the accused by motor cycle. The complainant Sapre was alighting his private vehicle. One unknown person was with him. Manoj Sapre went inside the bungalow while other person stayed near the entry gate holding umbrella. P.W. 2 followed Manoj Sapre. There were Pramod Nigare, Liyakat Kazi and accused inside the hall. This witness was flicking his raincoat near the door of the Veranda. At that time, the accused stood up and put his hand ahead. He has further deposed that complainant took out the bundle of cash. Therefore, when this witness P.W. 2 was near the door of Veranda and watching inside the hall, it is difficult to digest that P.W. 3 panch could see the episode of acceptance from entry gate, as this witness P.W. 2 must have blocked his view. This shows that the entire conduct of the P.W. 3 is

doubtful. He had neither obeyed the direction of the Investigating Officer nor stated the truth.

69. On the point of panch not entering the bungalow, the Ld. SPP has relied upon decision in the case of **C.M. Sharma Supra**; paragraph No. 12 therein reads thus,

*12. Further corroboration of evidence of a witness is required when his evidence is not wholly reliable. On appreciation of evidence, witnesses can be broadly categorized in three categories viz., unreliable, partly reliable and wholly reliable. In case of a partly reliable witness, the court seeks corroboration in material particulars from other evidence. However in a case in which a witness is wholly reliable, no corroboration is necessary. Seeking corroboration in all circumstance of the evidence of a witness forced to give bribe may lead to absurd result. Bribe is not taken in public view and, therefore, there may not be any person who could see the giving and taking of bribe. As in the present case, a shadow witness did accompany the contractor but the appellant did not allow him to be present in the chamber. Acceptance of this submission in abstract will encourage the bribe taker to receive illegal gratification in privacy and then insist for corroboration in case of prosecution. Law can not countenance such situation. In our opinion it is not necessary that*

*the evidence of a reliable witness is necessarily to be corroborated by another witness. Not only this corroboration of the evidence of a witness can be found from the other materials on record. Here in the present case there does not seem any reason to reject the evidence of the contractor PW.1, M. Venka Reddy. His evidence is further corroborated by the evidence of the shadow-witness PW.2, G.T. Kumar. The shadow-witness has stated in his evidence that when he entered in the chamber, appellant was asked by the Inspector as to whether he had received any amount from the contractor, he denied and then removed the currency notes from his trouser's pocket and threw the same. He had further stated that sodium carbonate test was conducted in which the solution turned pink when the appellant's fingers and the right side trouser's pocket were rinsed. From the aforesaid one can safely infer that the evidence of the contractor is corroborated in material particulars by the shadow-witness.*

70. However in the present case the shadow witness was not prohibited by any one from entering the bungalow. He deliberately remained out on his own on both occasions i.e. verification and trap. Therefore, the above observations would not be helpful to the prosecution.

71. Now there are certain other aspects on the point of playing recording about verification of the demand. On this point the Ld. Counsel for the accused has rightly pointed out that the pre-trap panchnama indicates that the complainant went inside the house of the accused at about 7.18 p.m. while he came out of the bungalow at 8.30 p.m. Thereafter, he went inside the car and the digital voice recorder was switched off by Harchakar. Therefore, the duration of recording should be atleast of 1 hour 12 minutes. The raiding team heard entire conversations and confirmed that there was demand. Thereafter, the Investigating Officer asked the complainant to arrange for money. Accordingly arrangement was done. Thereafter, the Investigating Officer explained about the procedure for trap, gave instructions to the complainant and the panchas about their roles. The manner and precautions taken before delivery of amount. They also appraised about the properties of anthracin powder and applied powder on the currency notes, serial numbers of the notes were noted down and thereafter, further process of actual raid started. As per said witness P.W. 3 in paragraph No. 17 digital voice recorder was put under the bunion of the complainant at 9.23 p.m.. Therefore, all above things were completed within 53 minutes after the complainant returning to the vehicle after verification panchnama. There is force in the submission of defence that it is highly impossible to hear such conversations of the duration of 1 hour and 12 minutes and again complete all above procedure of pre-trap instructions, arrangement of money, application of

anthracin powder etc. within 53 minutes. This also creates a serious doubt about the procedure followed by the Investigating officer and the raiding team.

72. There is also force in the submission of the defence that the prosecution has not explained as to how such a considerable amount of cash of Rs. 2,00,000/- (Rupees Two Lakhs Only) was arranged by the complainant within such shorter span, that too, at such a late night hours. Moreover, how the complainant was knowing that there would be exact demand of Rs. 2,00,000/- (Rupees Two Lakhs Only) and complainant allegedly said that he would make arrangement of Rs. 2,00,000/- (Rupees Two Lakhs Only). However, neither the complaint Exh. 29 nor pre-trap panchnama or any other record reflects that the complainant had already brought Rs. 2,00,000/- (Rupees Two Lakhs Only) with him. Therefore, it is necessary to explain about source of said Rs. 2,00,000/- (Rupees Two Lakhs Only) at such late hours and during such shorter span.

73. Now even the paragraphs No. 18 of the Cross-examination of the complainant is also important. The complainant has deposed thus,

“१८. पडताळणीचा उद्देश ए.सी.बी. अधिका-यांनी त्यावेळी मला सांगितला होता काय हे मला आठवत नाही. हे म्हणणे खरे आहे की, माझ्या म्हणण्याप्रमाणे पडताळणी पंचनाम्याच्या कालवधीमध्ये हुन्नरे यांनी व्यक्तीशः माझ्या सोबत बोलताना ‘आज रोजी मला दोन लाख रुपये द्या व गणपतीनंतर पाच लाख द्या’ असे म्हणाले नाहीत. हे

म्हणणे खरे आहे की, या संपूर्ण कालावधीमध्ये म्हणजे पडताळणी व सापळा पंचनामा या कालावधीत काझी व निगरे हे तहसिलदार यांच्या बंगल्याच्या आतच होते. हे खरे आहे की, काझी व निगरे आमच्या संघटनेचे कधी ना कधी तरी पदाधिकारी होते. हे म्हणणे खरे आहे की, माझ्याकडे हुन्नरे यांनी व्यक्तीशः दोन व पाचची मागणी केली नाही तशी काझी व निगरे यांच्याकडे ही केलेली नाही”.

74. The above admissions are indicating that the accused had not demanded Rs. 2,00,000/- (Rupees Two Lakhs Only) from the complainant. There is also further admissions of the complainant that, “hotel Ankita Palace is at the distance of the 8 km. from the bungalow of the accused while the Government rest house was at a distance of just 200 to 500 mt. However, the complainant and the raiding party met at Ankita Palace and even as per P.W. 6 the pre-trap/verification panchnama was prepared at Ankita Palace. On this point, the defence has objected by submitting that the team should have used independent place especially when the complainant had deposed that he used to visit hotel Ankita Palace. There is no explanation for not using the Government Rest House.

75. Now on the point of demand even if the evidence of P.W. 2 would perused, he has deposed that when he was flicking raincoat the complainant was saw him. The complainant was having talks with the accused Tahasildar about his work. At that time, the accused Hunnare stood up and put forth his hand. At that time, the complainant Sapre took out the bundle of money kept near his abdomen under

the shirt and put before Tahasildar which were taken by the accused and kept in table drawer. This also doesn't show that there was any demand either by the mouth or by any specific gesture.

76. Moreover, it is also necessary to mention that there is room to doubt that P.W. 2 is of planted witness. Though he is alleged President of the association, he did not take part in the alleged negotiations at the time of verification panchnama, though other members Kazi and Nigare were present. The complaint Exh. 29 also do not refer him anywhere. Entire charge-sheet including the verification or other panchnama do not reflect his presence except his statement under Section 161 of Code of Criminal Procedure. Moreover, if the panchnama Exh. 55 would perused, it does not reflect his presence any where either during verification panchnama or even at the time of raid. Though it is the case of prosecution that he followed the complainant and was at the door of the hall when the alleged acceptance of bribe had taken place. However, his name is not reflecting in the persons present in the hall even after arrival of the raiding team. Names of only Nigare and Kazi have mentioned apart from the raiding team and complainant.

77. One may say that putting forth hand would amount to demand. However, when there was specific instruction by the Investigating Officer that the amount should not be handed over without any specific demand. It

has specifically mentioned that if the accused would ask any other person to accept the amount or ask to keep it any where then complainant should utter the same so that it can be recorded in voice recorder. Therefore, putting amount before the accused without any oral demand and non utterance of anything by the complainant is clearly against the directions. Such direction No. 1 is reproduced here for ready reference,

“तक्रारदार सप्रे तहसिलदार हुन्नरे यांची भेट घेवून पुन्हा कामाविषयी बोलणी करावी व पडताळणी मागणी केल्याप्रमाणे त्यांनी अंश्रासीन पावडर लावलेली लाचेची रक्कम तहसिलदार हुन्नरे यांचे हातामध्ये दयावी व त्यांना ती रक्कम स्वतःहून घेवू दयावी. त्यांना सदरची रक्कम मोजून घेण्याचा आग्रह करावा. तसेच त्यांनी इतर कोणाला लाच रक्कम घेण्यास सांगितली अथवा इतरत्र कोठे ठेवण्यास सांगितली तर तसा उच्चार करावा. त्यायोगे ते ध्वनीमुद्रीत होईल.

78. Moreover, the transcript or recording of conversations is also became doubtful for following reasons.

Firstly, paragraph No. 63 of the cross-examination of Panch P.W. 3 he has deposed that, “it did not happen that the digital voice recorder and the memory card were taken out from sealed condition by breaking the seal. There is no explanation that the card was brand new and therefore, taken out of packaging. This aspect is not reflecting in the evidence of P.W. 1 the complainant nor it is reflecting in his oral evidence that the memory card was blank and it was confirmed before initiating the process of panchnama. Even the member of raiding party Harchakar P.W. 4 who had allegedly produced and operated said voice

recorder has not deposed that new memory card was produced. Only the Investigating Officer has deposed that it was a new memory card. Even the voice samples of panch, Kazi or Nigare were not taken

79. On the point of verification and trap if the evidence of P.W. 7 member of raiding party Laxman Nivruti Sonavane would perused, he has totally changed the spot of the team when the verification panchnama was prepared. As per his version the raiding party went to Rajapur from Ratnagiri on 15.09.2015. They stayed in the room of hotel Ankita Palace. There they met the complainant. Introduction of the complainant and the panchas as well as verification of complaint was done there only. Thereafter, instructions for verification were given to the panchas and complainant. Thereafter, Mr. Gurav completed process of verification. It revealed during verification that there was demand of bribe. Therefore, it was decided to lay trap. Again instructions for trap were given by Mr. Gurav to the raiding team and panchas and thereafter, raiding team left the hotel Ankita Palace and went to the residence of the accused at Sai Nagar by two different private vehicles. This indicates that the team was at Ankita Hotel till verification of demand. While as per the prosecution story as well as the panchnama Exh. 55 the raiding team had been to the house of the accused at the time of verification panchnama itself. Now this creates serious doubt about the entire process of the recording complaint, verification of demand as well as actual raid.

80. Now even the Investigating officer is admitting especially in paragraph No.21 reads thus,

*"It is true that no specific date, time and place of alleged demand of bribe amount was stated by de facto complainant or other members of union. It is true that de facto complainant or other members of union also did not give me the information about the alleged settlement with Mr. Hunnare regarding alleged bribe amount.*

81. He has further admitted that no complaint was made by any other office bearers of the quarry owners association. The Investigating Officer has deposed in paragraph No. 23 that, he has not taken information as to how many applications were received by Tahasildar office, Rajapur for quarry license. On this point it is necessary to mention that as per the complaint Exh. 29 the demand was shockingly disproportionate to the work of complainant alone. Therefore, even assuming that the angle of demand from association revealed afterwards the Investigating Officer should have gathered above information.

82. He had admitted that it is no where mentioned in the FIR that Kazi had met Hunnare and meeting was fixed by their consent or that Hunnare and Sapre had contacted each other for such meeting. He has also admitted that he did not find that even Kazi or Hunnare had made calls on their phone and contacted each other for meeting.

Therefore, as per general practice the raiding team used to record even the calls received by the complainant in respect of such demand or meeting by putting the mobile on speaker. However, no such recording of calls were received or made from the mobile hand set of the complainant Sapre has been done. Even the Paragraph No. 27 of his cross-examination is important, which reads thus,

*"It is true that portion **mark A** from my deposition is correct. It is true that in the alleged transcription of recorded conversation above said portion mark A is not mentioned. It is true that in the transcription of recorded conversation there is no mention that Mr. Hunnare asked to Mr. Sapre to bring Rs. 2,00,000/- immediately".*

83. Bracket portion 'A' referred in above paragraph is reproduced below'

*"Shri. Hunnare demanded bribe of Rs. 7 lakh to issue licences, he asked to pay the bribe in two parts, Rs. 2 lakh and Rs. 5 lakh. He instructed to make payment of the first part immediately."*

84. He has also admitted in paragraph No. 28 which reads thus,

*"28. It is true that before proceeding for raid I gave certain instructions to Mr. Sapre. It is true that it is my contention that I gave instructions to Mr. Sapre that after visiting Mr. Hunnare open topic of his work and only when he*

*demands money, that be given to him and insist him to count that amount. It is true that it did not happen in this case that Mr. Hunnare made demand of money in his own voice and counted the currency notes.”*

85. Therefore, now the situation is the evidence of witnesses is contradicting to each other as well as core of prosecution case on the aspect of firstly nature of work rather magnitude of alleged pending work i.e. only complainant or entire association. Secondly, the presence of P.W. 2 and 3. Thirdly, on place of verification panchnama and mainly on payment without oral utterance.

86. On the point of pendency of the work also the prosecution has rightly relied upon the decision in the case of **Chandrasha Supra**; wherein it is observed thus,

*Code of Criminal Procedure, 1973 Sec.313; prevention of corruption Act, 1988 Sec.19 Sec.13, Sec.15, Sec.20, Sec.10, Sec.7 Sec.11 – Demand and acceptance – Appeal filed by State against High Court order acquitting respondent in corruption case - Respondent accused of demanding and accepting Rs. 2,000 as bribe for passing a salary encashment bill – Evidence included recorded conversation, recovery of marked notes, and corroborative witness testimonies – High Court acquitted respondent citing no pending work as on trap date – Supreme*

*court observed demand and acceptance of bribe proved beyond reasonable doubt – Rejected respondent's claim of loan transaction due to lack of evidence – Held demand and accepted of illegal gratification sufficient under prevention of corruption Act – Restored trial court's conviction and sentence, terming High Court's acquittal perverse - Appeal allowed.*

87. No doubt, the question of pending work may be of little importance. However, in the case cited by the prosecution other aspect of demand and acceptance was proved beyond reasonable doubt. Therefore, ratio would not be applicable to this case.

88. No doubt, the prosecution has relied upon decision in the case of ***Dharkole Supra;*** and submitted that mere non examination of the witness per se does not corrode vitality of prosecution version. However, there are various other aspects which have created more than reasonable doubt on the prosecution story and non examination of Kazi is one of the smallest part thereof. Moreover, there is material giving rise to doubt that P.W. 2 is a planted witness.

89. The prosecution has also relied upon the decision in the case of ***Kalicharan Mahapatra Supra;*** as well as decision in the case of ***Kisan rathod Supra;*** and tried to submit that, the sanction may not be necessary against the

retired public servant. On the other hand, the defence has relied upon decision in the case of ***Bhaskar Arjun Pandilwar Supra***;. However, the case laws produced by defence are about situation past 2018. The incidence is of 2015. However, when there is serious doubt about the prosecution case of demand and acceptance of the alleged bribe, this aspect would not have any impact on the case.

90. On the point of rebuttal of presumption under section 20 of the Prevention of Corruption Act, the prosecution has relied upon decision in the case of ***Amrut Chavan Supra***; paragraph No. 23 of the same reads thus;,

*23. In short, admittedly, the complainant had lodged a police report against Dr. Abdul Hameed. Enquiry/ investigation thereof was entrusted with the original appellant herein. The complainant had, therefore, been to the original appellant to request him to do the needful. The original appellant had made demand of Rs.1000/- first as illegal gratification. He then scaled down the demand to Rs.500/-. The factum of demand of bribe and acceptance thereof has been proved by the evidence of the complainant and the evidence of an independent witness, P.W.2 Rahimkhan. Tainted bribe money came to be recovered from the original appellant. In view of Section 20 of the Prevention of Corruption Act, it was for the original appellant to at least offer a reasonable*

*explanation or to lead evidence in rebuttal of presumption. The explanation offered by the original appellant in writing soon after the trap was successful is grossly inconsistent with his defence. It was his explanation that the complainant forcibly thrust some currency notes into his pocket. Had really the original appellant owed him Rs.500/- towards price of 5 tickets of Udit Narayan Sangeet Rajani, the original appellant could have given the same in his explanation (Exh.G). The meeting between the complainant and the shadow witness with the original appellant some time before the trap was laid is of no consequence in the face of overwhelming evidence on record. No question on that point had been put to the complainant in his cross-examination. As such, he did not have an opportunity to respond thereto. The trial Court has passed a well-reasoned order, convicting and sentencing the original appellant. On re-appreciation of the entire evidence in the case, this Court finds no reason to interfere with the impugned order of conviction and resultant sentence.*

91. However, the defence has rightly relied upon decision in the case of **Piara Singh Supra**; especially paragraph No. 28 thereof and submitted that, the burden

can not be solely cast of the accused and the prosecution under shelter of Section 20 of the Act can not escape from the responsibility to prove illegal gratification nor can be permitted to canvas for conviction of the appellant merely by invoking Section 20 of the Act.

92. By relying on the decision in the case of ***Leela Ram Supra***; the prosecution has also submitted that the irregularities or even illegalities in the investigation should not be treated as a ground to reject the prosecution case.

93. So also by relying on the decision in the case of ***Rameshbhai Koli Supra***; the prosecution has also submitted that submit that, *prima-facie, public servants must be presumed to act honestly and consciously. Their evidence can not be discarded merely on the ground that they are interested in succeeding in the case.*

94. However, both the above decisions would not be helpful to the prosecution, because firstly there are much more things to create serious doubt about the prosecution case than mere irregularities in the investigation. So also, the case of prosecution is not being doubted only on the ground that the government witnesses appears to be interested in the case. There are number of circumstances discussed above which are compelling the Court to come to conclusion that the prosecution story is doubtful. All the aspects in the matter has been thoroughly examined in detail.

95. Moreover, by relying on the decision in the case of *Maqsoodan Supra*; the prosecution also tried to submit that the quality of evidence and not the quantity of the evidence adduced by the prosecution counts. However, in the present case the prosecution has examined much more number of witnesses than the regular ACB cases. However, the quality of the evidence has assessed and the serious contradictions and discrepancies in the evidence of those witnesses have made the prosecution story doubtful.

96. It is also necessary to mention here that though it is the case of the prosecution that anthracin powder was found glittering on the shirt and bunion of the complainant, they were not seized. So also when the complainant had used mobile hand set after handing over the bribe amount powder should be reflected on mobile hand set as well. For the reason based known to the Investigating Officer the CDR of the complainant has not produced on record, so as to substantiate the contention about his complaint to ACB office on phone. Secondly, the call between Kazi and the complainant about the time and place of meeting which are important basis for the verification and raid were not audio recorded by putting the mobile hand set on speaker. Moreover, the panchnaam Exh. 55 does not reflect even the timing and numbers of such calls. The CDR of the same is not produced on record. The conduct of the raiding team is also not serious on this aspect. Moreover, the shadow panch has also not followed any instruction of the watching and

listening the incidence of demand and subsequently the incidence of acceptance. However, surprisingly he is deposing about witnessing both these incidences by staying at 15 ft. distance where from the spot of incident was not visible. On this point it is necessary to consider following admission of the complainant P.W. 1 especially in paragraph No. 15, which reads thus,

“हे खरे आहे की, पडताळणी पंचनाम्याच्या वेळी पंच सलगर बंगल्याच्या आत आलेले नाहीत. हे खरे आहे की, तहसिलदाराच्या निवासस्थानावर स्लॅब गळत असल्यामुळे पत्रे टाकलेले आहेत. हे खरे आहे की, त्यावेळी जोराचा पाऊस पडत होता. हे खरे आहे की, मुसळधार पाऊस पडला की, १० ते १२ फुटावरील पत्र्यावर पावसाच्या पाण्याचा जास्त आवाज येतो.”

97. Now if the paragraph No. 18 in the cross-examination of the complainant would be again considered it creates serious doubt about the demand itself. Therefore, when the demand has become doubtful and when the complainant has allegedly handed over the money without any oral demand or without uttering anything about the alleged demand by gesture of putting forth hand, it is total violation of the direction by the Investigating Officer to utter things and ask the accused to count money so that these things would be recorded in the voice recorder. There is no explanation to this conduct of the complainant. The above conduct is sufficient to create doubt about the conduct of the complainant of planting the money. In such circumstances, though there is some material in the transcript about the demand, the transcript also could not be used against the accused. Admittedly there was no

discussion or actual demand at the time of trap panchnama therefore, question of recording such conversations at the time of acceptance would not arise. Therefore, when the acceptance is not proved by the prosecution beyond reasonable doubt, said aspect along with admissions in paragraph No.18 of the complainant are compelling to observe that the prosecution has failed to prove allegations against the accused for demanding bribe and accepting the same beyond reasonable doubt.

98. In the above circumstances, there are various serious aspects which creates serious doubt about the allegations against the accused.

Firstly, the defacto complainant has not mentioned the day, date and time of the alleged original demand. No such material is available in the entire charge-sheet.

Secondly, he even did not mention in the complaint Exh. 29 that demand was made by the accused to the office bearers of the Quarry Owners Association. The complainant was not one of the office bearer of the Quarry Owners Association.

Thirdly, none of the office bearers had made complaint nor the alleged President P.W. 2 appears to be part of the negotiations which allegedly run for more than 1 hour 12 minutes. There is no reason for keeping him out of such negotiations.

Fourthly, there is room to doubt that P.W. 2 is of planted witness because the panchnama Exh. 55 does not reflect his presence anywhere either during verification

panchnama or even at the time of raid. Though it is the case of prosecution that he followed the complainant and was at the door of the hall when the alleged acceptance of bribe had taken place. However, his name is not reflecting in the persons present in the hall even after arrival of the raiding team. Names of only Nigare and Kazi have mentioned apart from the raiding team and complainant.

Fifthly, the alleged witness No. 3 which shadow panch did not enter the house of the accused against specific directions of the Investigating Officer. Specific questions have been asked to him as to whether he was prohibited by the accused and he said no. Surprisingly, on second occasion i.e. trap also he did not enter the house nor made any attempt to see the incident by standing near by.

Sixthly, the spot where P.W. 3 was allegedly standing was making it impossible to see what what happening inside the hall.

Seventhly, therefore, the verification of demand as well as the acceptance both have not witnessed by the star witness who is shadow panch. Moreover, oral version of this witness of witnessing the incident also makes him untrustworthy witness.

Eightly, the prosecution has not explained as per how the complainant made arrangement of rupees 2 lakhs at such late night hours during heavy rains and that too within 53 minutes during which even the procedure of hearing the conversations of 72 minutes, instructions for raid, application of anthracin powder etc. were completed.

Ninthly, the complainant had also not followed instructions of the Investigating Officer about not to hand over the money before oral demand and to utter the words if any gesture for demand would be made, so that demand could be recorded in the Voice recorder. He allegedly handed over money immediately when accused put forth his hand. No explanation for the same is coming on record.

Tenthly, other witnesses who were available on the spot were Kazi and Nigare assuming that Nigare was cousin of the accused, Kazi could have been certainly examined as star witness, but, he has not examined.

Eleventhly, the admission of the complainant in paragraph No. 18 that the accused did not demand either 2 or 5 (lakhs) from him nor made any such demand from Kazi and Nigare has created doubt about the allegations.

Twelvethly, place of verification panchnama has changed by the P.W. 7 member of the raiding party who has deposed that they left hotel Ankita at the time of the trap panchnama thereby indicating that the process of verification of complaint as well as verification of demand was completed at hotel Ankita only. This is totally contradictory to the prosecution story.

99. All above aspects are creating more than reasonable doubt on the prosecution story about the accused demanding bribe of Rs. 7,00,000/- (Rupees Seven Lakhs Only) and accepting first installment of Rs. 2,00,000/- (Rupees Two Lakhs Only) out of the same during the trap.

100. Consequently, it is required to hold that the prosecution has failed to prove the allegations against the accused. Hence, points No. 1 to 3 are answered in the negative.

101. Muddemal Article No.1 i.e. seized bribe amount of Rs.2,00,000/- (Rs. Two Lakhs only) 400 Government Currency notes of Rs.500/- required to be returned to the complainant, if the amount has not reimbursed by ACB to complainant. If it is reimbursed to the complainant by ACB, then the said amount required to be returned to ACB after expiry of the period prescribed in Paragraph No. 73(1)(d) of Chapter VI of the Criminal Manual.

102. Muddemal Article No.2 i.e. green colour receipt, Muddemal article Nos. 3 and 4 memory cards, being worthless, required to be disposed off after expiry of the period prescribed in Paragraph No. 73(1)(d) of Chapter VI of the Criminal Manual.

103. So far as Muddemal Article No. 5 cash amount of Rs. 1,01,500/- (Rupees One Lakh One Thousand and Five Hundred Only) and muddemal article No. 6 cash amount of Rs. 5,99,500/- (Rupees Five Lakhs Ninety Nine Thousand and Five Hundred only) are concern, it appears that they have been allegedly seized during house search of the accused vide panchnama Exh. 89.

104. However, if the cross-examination of the relevant panch witness P.W. 6, especially paragraph No. 4 thereof would perused, the Ld. Counsel for the accused has specifically denied that any such currency notes were found during house search of the accused. So also no application came to be filed by anybody for claiming the said amount during the trial. The accused also did not make any submissions on this aspect. Rather it came to be submitted that though house search was taken no charge of disproportionate assets came to be framed against the accused. Therefore, it is clear that nobody has claiming the said amount. The report of the Superintendent and concerned muddemal clerk dated 09.06.2017 reflects that the total amount of Rs. 7,01,000/- (Rupees Seven Lakhs One Thousand Only) has been invested in Fixed deposit in the State Bank of India, branch Ratnagiri vide order below Exh. 8 dated 07.12.2016. In the above circumstances, when nobody has claiming the said amount and accused has denied its recovery from his house, the said amount is required to be credited to the Government.

**As to Point No.4:**

105. As point No.1 to 3 are answered in the negative by holding that the prosecution has failed to prove the occurrence of alleged crime beyond reasonable doubt, it is necessary to acquit the accused from the charges. Hence, in answer to point No.4, I pass following order;

**ORDER**

1. The accused Gurunath Ramchandra Hunnare is hereby acquitted of the offences punishable u/s. 7 and 13(1) (d) r/w 13(2) of Prevention of Corruption Act vide section 235(1) of the Code of Criminal Procedure, 1973.

2. His bail bond stands cancelled and his surety bond is discharged.

3. Muddemal Article No.1 i.e. seized bribe amount of Rs.2,00,000/- (Rs. Two Lakhs only) 400 Government Currency notes of Rs. 500/- be returned to the complainant, if the amount has not already reimbursed by ACB to complainant. If it has been already reimbursed to the complainant by ACB, then the said amount be returned to ACB after expiry of the period prescribed in Paragraph No. 73(1)(d) of Chapter VI of the Criminal Manual.

4. Muddemal Article No.2 i.e. green colour receipt, Muddemal article Nos. 3 and 4 memory cards, being worthless, be disposed off after expiry of the period prescribed in Paragraph No. 73(1)(d) of Chapter VI of the Criminal Manual.

5. Muddemal Article No. 5. cash amount of Rs. 1,01,500/- (Rupees One Lakh One Thousand and Five Hundred Only) and muddemal article No. 6. cash amount of Rs. 5,99,500/- (Rupees Five Lakhs Ninety Nine Thousand and Five Hundred only) which was deposited in Fixed

deposit in the State Bank of India, branch Ratnagiri vide order below Exh. 8 dated 07.12.2016. The said amount of Rs. 7,01,000/- (Rupees Seven Lakhs One Thousand Only) be credited to the Government after expiry of the period prescribed in Paragraph No. 73(1)(d) of Chapter VI of the Criminal Manual.

6. The accused shall furnish fresh P.R. bond of Rs. 25,000/- (Rupees Twenty Five Thousand Only) and S.B. in the like amount by in compliance of the provisions of Section 437-A of the Code of Criminal Procedure.

7. Dictated and pronounced in the open Court.

**Ratnagiri**

**Date:- 31/07 /2026**

**( V. Y. Jadhav )**

**Special Judge, Ratnagiri.**

**APPENDIX-I****Part 'C'**

(Para 44 (ii) of Chapter VI of Criminal Manual)

**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****LIST OF PROSECUTION WITNESSES****A. Prosecution**

| Rank | Name                       | Nature of evidence    | Exh.No. |
|------|----------------------------|-----------------------|---------|
| PW 1 | Manoj Madhav Sapre         | Informant             | 28      |
| PW 2 | Suyog Suhas Kawiskar       | Panch                 | 35      |
| PW 3 | Ganesh Haridas Salgar      | Panch                 | 50      |
| PW 4 | Dinesh Mahadev Harchakar   | Police Photographer   | 65      |
| PW 5 | Rajendra Chandrakant Birje | Retired Tahasildar    | 73      |
| PW 6 | Madhav Vyankatrao Javalge  | Panch Talathi         | 80      |
| PW 7 | Laxman Nivruti Sonawane    | Sanctioning Officer   | 87      |
| PW 8 | Satishkumar Vilasrao Gurav | Investigating Officer | 94      |

**B. Defence Witnesses, if any : NIL****C. Court Witnesses, if any: NIL****LIST OF PROSECUTION COURT EXHIBITS****A. Prosecution :**

| Sr.No. | Exhibit Number | Description                                                         |
|--------|----------------|---------------------------------------------------------------------|
| 1      | 29/PW1         | Complaint                                                           |
| 2      | 30/PW1         | Statement before the Circle Officer Index pages No. 1 to 48         |
| 3      | 43 and 45/PW2  | Portion marks A and B in the statement of P.W. 2                    |
| 4      | 44/ PW2        | The statement of P.W.2 Suyog Kawiskar                               |
| 5      | 51/PW3         | Letter dated 14.09.2015                                             |
| 6      | 30/A/PW3       | Original statement before the Circle Officer                        |
| 7      | 52/PW3         | The paper on which serial numbers of currency notes were noted down |
| 8      | 54/PW3         | Rough sketch map                                                    |
| 9      | 55/PW3         | Panchnama dated 15.09.2015                                          |
| 10     | 56/PW3         | Arrest Panchnama                                                    |
| 11     | 57/PW3         | Panchnama of applying anthracin powder                              |
| 12     | 58/PW3         | Resolution                                                          |

|    |             |                                                                                   |
|----|-------------|-----------------------------------------------------------------------------------|
| 13 | 59/PW3      | Panchnama of search of house                                                      |
| 14 | 60/PW3      | The panchnama                                                                     |
| 15 | 61/PW3      | Paper (3 pages)                                                                   |
| 16 | 68/PW4      | Certificate u/s. 65B of Indian Evidence Act                                       |
| 17 | 81/PW6      | Panchnama dated 16.09.2015                                                        |
| 18 | 88/PW7      | Written order of search of residence of accused                                   |
| 19 | 89/PW7      | Report of proceeding conducted for search of house of accused                     |
| 20 | 95/PW8      | Letter dated 14.09.2015                                                           |
| 21 | 105/PW8     | Recorded conversation and its transcription                                       |
| 22 | 106/PW8     | Report                                                                            |
| 23 | 108,109/PW8 | Letters                                                                           |
| 24 | 110/PW8     | Letter to FSL Kalina                                                              |
| 25 | 111,112/PW8 | Letters                                                                           |
| 26 | 113/PW8     | The information                                                                   |
| 27 | 114/PW8     | Copy of letter dated 12.10.2015                                                   |
| 28 | 115/PW8     | Remaining information by letter dated 13.10.2015                                  |
| 29 | 116/PW8     | The Certificate                                                                   |
| 30 | 117/PW8     | Muddemal receipt                                                                  |
| 31 | 118/PW8     | Letter to Magistrate for recording statement u/s. 164 of Cr.P.C.                  |
| 32 | 119/PW8     | Letter dated 30.10.2015 of Ld. Magistrate                                         |
| 33 | 120/PW8     | Correspondence to Deputy Superintendent Land Record Rajapur for rough sketch      |
| 34 | 121/PW8     | Reply                                                                             |
| 35 | 122/PW8     | Map along with covering letter                                                    |
| 36 | 123/PW8     | The reliving letter                                                               |
| 37 | 124/PW8     | Correspondence was made to Chief Secretary Revenue and Forest Mantralay Mumbai    |
| 38 | 125/PW8     | Letter issued to Collector                                                        |
| 39 | 126/PW8     | Information along with letter                                                     |
| 40 | 127/PW8     | Copy of Suspension order along with covering letter                               |
| 41 | 128/PW8     | Letter issued to Collector Ratnagiri for information about retirement of accused. |
| 42 | 129/PW8     | Reply and copy of superannuation order                                            |
| 43 | 130/PW8     | Letter received from SP and DG, ACB Thane.                                        |

|    |         |                                               |
|----|---------|-----------------------------------------------|
| 44 | 131/PW8 | Copy of necessary entry in the log book       |
| 45 | 132/PW8 | Report of FSL about analysis of voice sample. |

B. Defence : Exhibits - NIL

C. Court Exhibits : NIL

D. Material Objects :

| Sr.No. | Material Object /Article Number | Description                   |
|--------|---------------------------------|-------------------------------|
| 1      | M Article 1                     | Cash amount of Rs. 2,00,000/- |
| 2      | M Article 2                     | Green colour receipt          |
| 3      | M Article 3                     | Memory card RD Micro SD 2 GB  |
| 4      | M Article 4                     | Memory card RD Micro SD 2 GB  |
| 5      | M Article 5                     | Cash amount of Rs. 1,01,500/- |
| 6      | M Article 6                     | Cash amount of Rs. 5,99,500/- |

**Ratnagiri**

**Date:- 31/07/2026**

**( V. Y. Jadhav )**

**Special Judge, Ratnagiri.**

I affirm that the contents of this Pdf file Judg./order are same words as per original order.

|                         |    |                           |
|-------------------------|----|---------------------------|
| Special Case No.        | :- | 36/2016                   |
| Name of Stenographer    | :- | Sou. P. S. Lad            |
| Court Name              | :- | Special Judge, Ratnagiri. |
| Date of Decision        | :- | 31.07.2026                |
| Judg. signed by P.O. on | :- | 02.08.2026                |
| Judg. uploaded on       | :- | 02.08.2026                |