


MHYA010005882011 	Presented on : 29/04/2011 Registered on : 29/04/2011 Decided on : 05/05/2026 Duration- - 15 Y., 00 M., 06 D
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Part 'A'

IN THE COURT OF SESSIONS, YAVATMAL.

(Present : S.R. Sharma, Additional Sessions Judge)

Date of the Judgment : 05/05/2026.
Special ACB No. : 03/2011. **Exh. No.**

Details of FIR/Crime : FIR No.3376/2004.
and police station. Police-Station, Yavatmal City.

Prosecution. : The State of Maharashtra,

Represented By. : A.P.P. V. S. Telang.

Accused. : 1) Vijay Bhopasing Chavhan.
Aged about 60 Years, Occ. President
YDCC Bank Yavatmal,
R/o. Gujari Chowk Pusad,
Tq. Pusad, Distt. Yavatmal.
2) Devidas Vitthalrao Jibhkate,
Aged about 57 Years, Occ. Manager
YDCC Bank Yavatmal,
R/o. Hanuman Nagar near Medical
College Nagpur,
At present r/o. Veer Wamanrao Chowk
Sarad's house Yavatmal
Tq. Yavatmal, Distt. Yavatmal.

3) Mukund Shamraoji Kale
Aged about 67 Years, Occ. Retired
Head Recovery Officer, YDCC Bank

Yavatmal & President of Union No.56
R/o. Near Date College, Yavatmal
Tq. Yavatmal, Distt. Yavatmal.

- 4) Ghanshyam Dadaji Dhobe,
Aged about 59 Years, Occ. Retired
Development Officer YDCC Bank
Yavatmal, & Secretary of Union
No.56,
R/o. Hanuman Nagar House No.68,
Yavatmal, Tq. Yavatmal, Distt.
Yavatmal.
- 5) Vijay Uddhavrao Uplenchwar,
Aged about 62 Years, Occ. Retired
Loan Supdt. YDCC Bank
Yavatmal,
R/o. Hanuman Nagar Yavatmal,
Tq. Yavatmal, Distt. Yavatmal.
- 6) Narayan Hiranman Mule,
Aged about 63 Years, Occ. Retire
Sub-Manager(Administration)YDCC
Bank Yavatmal, (Main Officer),
R/o. Motinagar Pusad,
Tq. Pusad, Distt. Yavatmal.

Represented By. : M.J.Thakre Adv. for accused no.1
S.K.Kaprekar Adv.for accused no.2&4
V.A.Bhutada Adv for accused no.3& 5
S.N.Mule Adv for accused no.6

Part 'B'

Date of offence. : 04/10/2000 to 04/10/2001

Date of FIR : 08/12/2004

Date of charge-sheet. : 20/04/2011

Date of Framing of charges. : 10/08/2023

Date of commencement of evidence. : 07/12/2023

Date on which judgment is reserved. : 05/05/2026

Date of the judgment. : 05/05/2026

Date of the Sentencing Order, if any. : N.A.

Accused Details.

Rank of the accused	Name of the accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose of section 428, Cr.PC.
1.	Vijay Bhopasing Chavhan	16/12/04	20.12.04	Under Section 7, 13(1) (d), 11, 12, of Prevention of Corruption Act, 1988 and sec.465, 471 R/w. 120(B) of IPC.	Acquitted	N.A.	N.A.
2.	Devidas Vitthalrao Jibhkate	09/12/04	14.12.04	As above	Acquitted	N.A.	N.A.
3.	Mukund Shamraoji Kale	09/12/04	10.12.04	As above	Acquitted	N.A.	N.A.
4.	Ghanshyam Dadaji Dhobe,	09/12/04	14.12.04	As above	Acquitted	N.A.	N.A.
5.	Vijay Uddhavrao Uplenchwar	27/12/04	30.12.04	As above	Acquitted	N.A.	N.A.
6.	Narayan Hiranman Mule,	27/12/04	30.12.04	As above	Acquitted	N.A.	N.A.

JUDGMENT(Delivered on 05th May, 2026)

The accused have been arraigned for the offence punishable under sections 7, 13 (1)(d), 11, 12 of Prevention of Corruption Act, 1988 (hereinafter referred to as The Act for the sake of brevity) and sec. 465, 471 read with 120(B) of Indian Penal Code (hereinafter referred to as "The IPC").

2] The compendious facts of the prosecution case are that within the jurisdiction of the court is present Yavatmal District centralized Cooperative Bank (hereinafter referred to as "The Bank" for the sake of brevity). At the time of incident accused No. 1 and 2 were the president and the administrator of The Bank. Accused 3 and 4 were the chairperson and secretary of union No. 56 of The Bank. All of them while serving as public servant criminally conspired together and in furtherance of their agreement by misusing their position and with illegitimate motive approved in favour of employees of all branches of The Bank increase in salary leading to financial loss to The Bank. Accused No. 1 and 2, in order to gain undue advantage for themselves illegitimately included within the agreement a condition that out of the arrears which would be paid to the employees towards this increase in salary, 50% of the amount would be diverted to the fund of union. Through this manner accused No. 1 demanded a bribe of 15 lakh rupees out of the amount which came to be disbursed. Accused No. 5 and 6 were also got involved in the conspiracy and gifted to accused No. 1 a Maruti car worth Rs. 214059/- which undue advantage was accepted by him as a reward for improperly performing his public duty. In furtherance of their role in the conspiracy accused No. 3 and 4 intentionally fabricated false certificates and projecting those certificates as genuine released Rs.855915/- out of the amount which had come to be deposited in the account of the union. Hence, enquiry was initiated and later on complaint was lodged by division officer of The Bank branch Pusad and accountant of The Bank branch Bajoria Nagar.

3] On its basis crime no.3376/2004 was registered and investigated by erstwhile deputy superintendent of police against all of the accused.

4] Further investigations were conducted. All relevant documents concerning the entire sequence of events were obtained which included but were not limited to agreement which had come to be executed between The Bank and its employees, document pertaining to accounts maintained by both Union No. 3746 and 56 and enquiry report of Divisional Sub Registrar Cooperative Society. Also correspondence done between District Deputy Registrar, Special Auditor-Cooperative Society were gathered. Even copies of resolutions which had come to be passed in the General Meeting of the employees of The Bank, documents of employees Path Sanstha Registration No. 1017, of Maruti car alleged to have been gifted to accused No.1 as a reward were collected. 13 bundles of documents pertaining to increase in pay and deduction towards union fund were made part of record.

5] I framed charge against the accused for the offence punishable under sections sections 7, 13 (1)(d), 11, 12 of The Act, and sec. 465, 471 read with 120(B) of IPC. vide (Exh.77) the contents whereof were read over and explained to them in vernacular. They pleaded not guilty and claimed to be tried vide their pleas (Exh.No.78 to 83). Their defence is of total denial and false implication vide their statements under section 313 of Code of Criminal Procedure (Exh.177 to 182).

6] The points for determination along-with my findings thereon are as follows :

<u>POINTS</u>	<u>FINDINGS</u>
1) Whether the prosecution proves that the accused being public servants in furtherance of agreement of their criminal conspiracy demanded and accepted gratification other than legal remuneration ?	No.
2) Whether the prosecution proves that the accused being public servants in furtherance of agreement of their criminal conspiracy committed criminal misconduct by corrupt or illegal means through obtaining pecuniary advantage by abusing their position as public servant?	No.
3) Whether the prosecution proves that the accused being public servants in furtherance of agreement of their criminal conspiracy accepted or obtained undue advantage or valuable thing for free ?	No.
4) Whether the prosecution proves that accused No. 2 to 6 being public servants in furtherance of agreement of the criminal conspiracy abetted, aided, instigated an offence of bribery ?	No.
5) Whether the prosecution proves that accused No. 3 and 4 in furtherance of agreement of the criminal conspiracy committed forgery ?	No.
6) Whether the prosecution proves that accused No. 3 and 4 in furtherance of agreement of the criminal conspiracy used as genuine forged document ?	No.
7) What order?	The accused are acquitted.

REASONS

As To Point Nos.1 to 7 :

7] In order to avoid pleonasm and since evidence of

above points is interlinked it is opportune to consider it conjointly.

8] Additional Public Prosecutor inviting the attention of this Court to the evidence adduced on record submitted that apposite order be passed. Refuting the prosecution case the defence counsel asserted that there was no iota of evidence to bring home the charges invoked against any of the accused whereby they were entitled for exoneration.

9] In order to prove the guilt of the accused the prosecution has examined witness Ghanshyam as PW-1 at Exh.98, I.O Retired Dy.S.P Tadavi as PW.2 at exh 147 and subsequent Investigation officer retired Police Deputy Superintendent Sonwane as PW-3 at Exh.168 on Video Conference. Thereafter evidence is closed by prosecution vide pursis (Exh.171).

10] The prosecution has come forth with the case that at the time of incident all of the accused working with The Bank in varied capacity had criminally conspired together so as to obtain gratification other than legal remuneration for themselves. They are alleged to have engaged in criminal misconduct by abusing their position and obtaining undue pecuniary advantage. Accused no.1 is attributed to have accepted valuable thing namely Maruti Car worth Rs.2,14,059/- without consideration from other employees including some of the accused. All of the other accused are charged of having instigated, abetted, commission of above offences. The accused are purported to have acted as per agreement of their criminal conspiracy.

11] In regard to above charges there is available for consideration of this Court the direct testimony of Ghanshyam

(PW1). The witness was in box for more than one date and has been examined in extensive manner by each side and all the accused. He deposed that on 13/08/76 he had joined The Bank, Branch Umarkhed as Clerk. He continued that on July 88 he came to be posted at Yavatmal Head Quarter. He amplified that initially there was only one union within The Bank however eventually there arose difference of opinions thereby there came into existence two different union bearing registration no. 3746 and NGP-56. He detailed that accused no.3 and 4 were President and Secretary respectively of Union No. NGP-56 whereas the informant and himself were President and Secretary of union no.37476.

12] He recalled that during the tenure accused no.1 was serving as the President of The Bank. He accepted that he and the informant had been removed since they had raised their voice against prevalent corruption with The Bank. He admitted that they had moved Petition before Labour Court challenging their suspension whereby they came to be reinstated.

13] I have no hesitation to accept the evidence available on record. Nevertheless, where it suffices to prove the ingredient which are *sine qua non* to bring home the complicity of the accused needs to be cogitated upon. At the outset it is pertinent to note that so far as ingredient of the accused being public servants is concerned it is not disputed calling no further discourse.

14] As per prosecution case, all of the accused had in furtherance of their agreement to obtain undue advantage had increased salary of employees of The Bank by mandating

condition that 50% of the arrears amount would be deposited in the fund of Union. However, in this context Ghanshyam (PW1) has in his examination-in-chief disclosed that he has no details about the same since the work was being looked into by the informant.

15] Further, the defence has been able to extract from him that the amount in the fund of the union was secured till the time he retired as General Secretary thereof. He concurred that he was unaware about the transaction of the union fund. He acquiesced that the Board of Director of The Bank constituted a committee including representatives of all stakeholders to sit together to resolve grievances and policy issues. Recommendation as to enhance salary was given by the committee for consideration by Board of Directors. He acceded that any resolution between the management and union representatives used to be reduced before Resolution Authority. He approved that it was the right of Union to decide whether old salary agreement of the employees was to be replaced by new one and representatives of Union were also part of committee in capacity of Director. He explained that it was after due deliberation that proposal recommended by committee for new agreement was made effective from 01/01/99. He added that the agreement was signed by free will which was verified by Commissioner. The defence further managed to elicit from him that in the meeting of Board of Director the issue of deduction toward union fund out of the employees salaries had been raised since there was dissatisfaction amongst some employees. As such it is perspicuous that version of Ghanshyam (PW1) does not buttress the allegation that the accused by misusing their official

capacity held by them within The Bank hatched criminal conspiracy with a view to obtain gratification other than legal remuneration.

16] In regard to the charge of accused no.1 having engaged in criminal conduct by accepting valuable security namely car for free. Ghanshyam (PW1) recalled that in year 2002 marriage of daughter of accused no.1 was fixed for which all union members had collected money to purchase gift. However, he elaborated that he is ignorant about what gift came to be given since he had not attended the function. He accepted that whatever information he has is hearsay on this point. As such, there is scarcity of evidence in regard to fundamental facts of not only accused no.1 having accepted or obtained the undue advantage but also of other accused having encouraged or abetted him for the same.

17] Accused no.3 and 4 are ascribed to have prepared forged bill of employees and having fraudulently or dishonestly used them as genuine to withdraw Rs.8,55,915/- out of the union fund. However, because of Ghanshyam (PW1) having trodden on the path of tergiversation as discussed above no probative evidence in that regard is lucid. He has not advanced any validating evidence of them to have created, signed, executed agreement with the intent to cause wrongful gain to themselves leading to wrongful loss to The Bank. It is because of retraction on part of Ghanshyam (PW1) that prosecution is not able to establish that Rs.15 lacks were demanded by accused no.1 and Rs.8,55,915/- accepted by accused no.1 to 4.

18] In order to vivify the prosecution case and obliterate the vacuity which has arisen because of deficient testimony of Ghanshyam (PW1) the prosecution has examined Investigation officer retired DYSP Tadavi (PW2). He testified that from June 2006 till June 2009 he had served as DYSP of Anti Corruption Bureau at Amravati. He continued that on 05/08/2006 he had received investigation of crime no.3376/2004. This witness affirmed that Ghanshyam (PW1) had in his statement stated portion (Exh.148 to 152/PW2). However, because of Ghanshyam (PW1) himself having reneged the same could not enable to provide necessitated support to ameliorate prosecution case.

19] The prosecution in this particular matter made iterative attempts to secure the presence of the informant. Considering facts of matter his testimony could have proved crucial. Spate of summons were issued to secure presence. However, as per various reports received on record the witness was not found medically in a position to appear or testify before Court. Ultimately in view of time bound nature of matter it had to be proceeded further. Thus, direct and primary evidence of the informant which is permissible to draw inferential deduction of culpability, guilt of public servant under Section 7, 13 (1) (d), 11, 12 of The Act could not be tendered. For the same reason, multifarious documents which were made part of record to establish the culpability of the accused could not be proved so as to buttress case.

20] In its attempt to reinforce its case the prosecution even examined Investigation officer Retired DYSP Sonone (PW3). He

deposed that while serving at ACB, Yavatmal on 8.12.04 he had received crime no.3376/04. He elaborated that after going through entire set of documents he had filed report (exh.169) on behalf of the State on which basis crime had come to be registered vide FIR (exh.170). He enunciated that the accused had been arrested vide arrest forms (exh 162 to 167). He concluded that ultimately chargesheet had come to be filed by DY.S.P Garde.

21] His testimony was combatted by defence. It is argued that it is merely of formal nature and can not form the fulcrum of the case. On ruminating upon the version it is unequivocal that it makes luculent the facet of investigating machinery having been set into motion against all of the accused and they to having been arrested in regard thereof. This in any case is irrefragable. However, the enable it to form the pivot of the charges attributed it was required not just to reaffirm the action undertaken but also bolster the evidence on the basis of which the same was initiated. But that is lacking. Infact, defence even managed to fracture the part of lodging report reiterated by him. Thus, it fails to restore the prosecution case as necessitated.

22] For criminal conspiracy to be punished there is required an agreement between two or more to commit an illegal act or a legal act by illegal means. But key ingredient of *consensus ad idem* express, implied or tacit is not pellucid.

23] There is dearth of evidence in order to hold the accused demanded and accepted gratification other than legal remuneration. There is scarcity of material to hold that the accused committed criminal misconduct by abusing their position

in The Bank. The evidence is not found cogent enough to hold that the accused accepted or obtained undue advantage or valuable thing for free. There is missing probative evidence to prove that accused no.2 to 6 abetted, added, instigated bribery offence. There is no iota of evidence to reinforce that accused no.3 and 4 made forged document with intent to cause damage or injury to the public or to any person with intent to commit fraud.

24] The onus has not been discharged by prosecution beyond reasonable doubt. A conviction is not warranted unless that burden is sustained. A conviction cannot be sustained on the basis of conjecture, suspicion, a mere belief in the accused guilt or even a strong probability of guilt. I, therefore, answer point Nos.1 to 6 in negative and in answer to point No.7, I ordain as follows.

ORDER

1) Accused no.1 Vijay Bhopasing Chavhan, R/o. Gujari Chowk Pusad, Tq. Pusad, Distt. Yavatmal, accused no.2) Devidas Vitthalrao Jibhkate, R/o. Hanuman Nagar near Medical College Nagpur, At present r/o. Veer Wamanrao Chowk Sarad's house Yavatmal, Tq. Yavatmal, Distt. Yavatmal accused no.3) Mukund Shamraoji Kale, R/o. Near Date College, Yavatmal, Tq. Yavatmal, Distt. Yavatmal accused no.4) Ghanshyam Dadaji Dhobe, R/o. Hanuman Nagar House No.68, Yavatmal, Tq. Yavatmal, Distt. Yavatmal, accused no.5) Vijay Uddhavrao Uplenchwar, R/o. Hanuman Nagar Yavatmal, Tq. Yavatmal, Distt. Yavatmal and accused no.6) Narayan Hiranman Mule, R/o. Motinagar Pusad, Tq. Pusad, Distt. Yavatmal are hereby acquitted of the offence punishable

under section sections 7, 13 (1)(d), 11, 12 of Prevention of Corruption Act, 1988 and sec. 465, 471 read with 120(B) of Indian Penal Code, vide section 235(1) of the Code of Criminal Procedure.

- 2) Bail bonds of the accused stand cancelled.
- 3) The accused to furnish Personal Bond of Rs.15,000/- (Rs. Fifteen thousand only) each and surety bond of like amount vide section 437-A of the Code of Criminal Procedure.

Place:Yavatmal.
Date : 05/05/2026.

(S.R.Sharma)
Additional Sessions Judge,
Yavatmal.

APPENDIX
Part 'C'

A. Prosecution witnesses.

Rank	Name	Nature of evidence
PW1	Ghanshyam Dewakji Golhar	Witness
PW2	Latib Najir Tadavi	I.O.
PW3	Bhanudas Sarjerao Sonwane	I.O.

B. Defence witnesses, if any : Nil.

C. Court Witnesses, if any : Nil.

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution Exhibits :

Sr.No.	Exhibit Number	Description
1.	P-148 to 152/PW2	Portion Marked of Ghanshyam (PW1)
2.	P-169/PW3	Report

3.	P-170/PW3	FIR
4.	P-162 to 167/PW3	Arrest forms
<u>Admitted documents</u>		
Nil.		

B. Defence Exhibits. : Nil.

C. Court Exhibits. : Nil.

D. Material Objects : Nil.
