

MHYA010017362016



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Duration : 09Y 06M 09D

IN THE COURT OF SPECIAL JUDGE, YAVATMAL, AT YAVATMAL
(Presided over by S.U. Baghele)

Date of the judgment : 16.03.2026 and 17.03.2026.
Special Case (ACB) No. : 10/2016.
Exhibit No. : 96

Details of FIR/Crime : FIR No.3024/2015,
and police station. : Babhulgaon police-station.

Prosecution. : The State of Maharashtra,

Represented By. : Learned A.P.P Shri N.N. Pande

Accused. : Sanjay Sheshrao Nakshane,
Age about 50 years,
R/o : Chandore Nagar, Moha Fata,
Dhamangaon Road, Yavatmal,
Tq. District Yavatmal.

Represented By. : Learned Advocate Shri V.A. Bhutada,
for the accused.

Date of offence. : 15.05.2015
Date of FIR : 24.06.2015
Date of charge-sheet. : 05.09.2016

Date of Framing of charges. : 22.01.2018
Date of commencement of evidence. : 22.01.2019
Date on which judgment is reserved. : 13.03.2026
Date of the judgment. : 16.03.2026 and
17.03.2026
Date of the Sentencing Order, if any. : 17.03.2026

Accused Details.

Rank of the Accused	Name of 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.	Sanjay Sheshrao Nakshane	24/06/2015	25/06/2015	7 and 13(2) read with 13(1)(d) of Prevent. of Corrupt. Act.	Convicted	As per final order	From 24/06/2015 to 25/06/2015

A. Prosecution witnesses.

<u>Rank</u>	<u>Name</u>	<u>Nature of evidence.</u>
Exh. No.P-13/PW1	Sandip Ramdas Gulhane	Complainant
Exh. No.P-26/PW2	Satish Bhimrao Gawai	Panch
Exh. No.P-41/PW3	Vikas Rajaram Mane	Witness
Exh. No.P-60/PW4	Satish Moreshwar Deshmukh	I.O.

B. Defence witnesses, if any. : NIL

C. Court witnesses, if any. : NIL

A. Prosecution Exhibits :

<u>Sr. No.</u>	<u>Exhibit Number</u>	<u>Description.</u>
1	Exh. No. P-14/PW1	Report
2	Exh. No. P-20/PW1	Seizure panchanama
3	Exh. No. P-21 to 23/PW1	7/12 extract, form 8A and a mutation extract
4	Exh. No. P-27/PW2	Panchanama of proceeding
5	Exh. No. P-29/PW2	Panchanama No.2
6	Exh. No. P-31, 32, 33/PW2	Seizure panchanama
7	Exh. No. P-34/PW2	Panchanama No.3
8	Exh. No. P-35/PW2	Accused voice panchanama
9	Exh. No. P-42, 43, 46/PW3	Letters
10	Exh. No. P-44/PW3	Documents relating to service
11	Exh. No. P-45/PW3	Order of Sub-Divisional Officer
12	Exh. No. P-47/PW3	Appointment order of the Collector
13	Exh. No. P-61/PW4	Complaint / report
14	Exh. No. P-62/PW4	Printed FIR
15	Exh. No. P-63/PW4	Acknowledgment
16	Exh. No. P-64/PW4	Arrest form
17	Exh. No. P-65, 66, 68, 70, 73/PW4	Letters
18	Exh. No. P-67/PW4	Report
19	Exh. No. P-69/PW4	Office copy of CDR and SDR
20	Exh. No. P-71/PW4	Certificate
21	Exh. No. P-72/PW4	CDR and documents

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- B. Defence Exhibits. : NIL.
- C. Court Exhibits. : NIL.
- D. Material Objects :

Sr.No.	Material Object Number	Description
1	Article-A	Memory card
2	Article-A	Shirt
3	Article-B, F	C.D.
4	Article-E	Pen drive
5	Article-P	Currency notes

ORAL JUDGMENT

(Delivered on 16/03/2026 and 17/03/2026)

1. The accused herein has been facing the trial for the offences punishable under sections 7 and 13(2), read with section 13(1)(d) of the Prevention of Corruption Act, 1988 (Hereinafter referred to as 'the Act' for short).

FACTS.

2. The facts, which have not been disputed to, are to the extent that in the year 2015, the accused was the Talathi of village Gharphad, Tq. Babhulgaon, District Yavatmal. The accused used to reside at Yavatmal. Complainant Sandip Gulhane (PW1) (hereinafter referred to as "the complainant" for brevity) was also the resident of Yavatmal. The complainant and his brother, namely Sanjay Gulhane, had purchased a land on 30.04.2015. The mutation of the said land

was to be taken. The said land was falling within the jurisdiction of the accused. The accused, being a Talathi, was a public servant. The complainant had contacted the accused, for the purpose of getting the land mutated in the revenue record, and also, for the purpose of issuance of 7/12 extract.

3. The case of the prosecution, as unfolded during the trial, can be narrated, in brief, as under :-

On 15.05.2015, the complainant contacted the accused on his mobile number 9823777484, for getting the land mutated and for the issuance of 7/12 extract. The accused asked the complainant to meet him at his residence at Yavatmal. Accordingly, the complainant approached the accused at his residence. The complainant handed over all the documents to the accused. At that time, the accused apprised the complainant that it would take 15 days for the said work. The accused further told the complainant that money (bribe) would have to be paid to the circle officer (Circle Inspector) for the same. The complainant replied in the affirmative, as he did not have any other option. Thereafter, the complainant contacted the accused again on 30.05.2015, on his mobile phone, whereupon the accused assured the complainant that the said task would be completed within 2 to 3 days. On 10.06.2015, the accused called up the complainant on his mobile phone, and asked the complainant to bring 7/12 extract of some relative. The complainant approached the accused and handed over the 7/12 extract of his aunt. At that time, the accused told the complainant that the complainant would have to pay Rs.2,000/- to the circle officer, for the

said work. Thereafter, the complainant called up the accused on his mobile phone on 19.06.2015, whereupon the accused told the complainant that the task would be completed on Monday. Thereafter, the complainant again called up the accused on his mobile phone on 22.06.2015, whereupon the accused told him that the task was already completed, and that, the complainant should approach the accused on 23.06.2015 with money (bribe). Thereafter, the complainant approached the accused on 23.06.2015, whereupon the accused told the complainant that mutation was taken, but 7/12 was remaining to be prepared. The accused asked the complainant to contact him at 6.00 p.m. and bring a blank 7/12 format. As the complainant was not willing to pay bribe to the accused, the complainant lodged a complaint with the Anti-corruption Bureau, Yavatmal, on the same day.

4. For the purpose of verification of the complaint, Dy.S.P. Satish Deshmukh (PW4) summoned two government servants to act as panchas. The complaint of the complainant was ascertained by them. Thereafter, the complainant contacted the accused on his mobile phone in the presence of panchas, whereupon the accused called the complainant to his house at Yavatmal on 24.06.2015 in the morning. Hence, it was decided to verify the demand on 24.06.2015. A panchanama came to be prepared, in respect of this entire scenario.

5. On 24.06.2015, the complainant approached the accused at the residence of the accused, in connection with the verification of the demand, with a voice recorder planted under his shirt. At that time, the accused demanded a bribe amount of Rs.300/- to the

complainant for the preparation of 7/12. The accused agreed to accept the bribe amount at Babhulgaon. A panchanama was prepared in respect of this entire proceeding.

6. On 24.06.2015 itself, a trap was laid at Tahsil office, Babhulgaon. The complainant contacted the accused on his mobile phone, whereupon the accused told the complainant that he would be arriving at Babhulgaon after some time. A trap was arranged, accordingly. The accused called up the complainant, and asked the complainant to come to a Dosa centre (Restaurant). The complainant approached the accused, with a voice recorder planted under his shirt. The raiding party followed him, and awaited for a signal in respect of acceptance of bribe by the accused. The accused accepted the bribe amount of Rs.300/- from the complainant. The accused was nabbed red handed. The bribe amount was seized from the accused. A panchanama was prepared in respect of this entire proceeding.

7. Dy.S.P - Satish Deshmukh lodged a report with police-station, Babhulgaon on the same day, on the basis of which, crime No.3024/2015 came to be registered against the accused, for the offences punishable under sections 7 and 13(2) read with section 13(1)(d) of the Act. The accused was arrested. The samples of the voice of the accused were taken and sealed. The conversations recorded in the memory card and the voice samples of the accused in the memory card were sent to the forensic science laboratory for the comparison of the voice of the accused. The statements of witnesses were recorded. The CDR and the SDR of the mobile phones of the

complainant and the accused were obtained. The statement given by the accused was recorded. Sanction was obtained from the competent authority, for the prosecution of the accused. The accused was charge-sheeted, upon the completion of the investigation, for the offences punishable under sections 7 and 13(2) read with section 13(1)(d) of the Act.

8. The accused came to be charged with the commission of the offences punishable under sections 7 and 13(2) read with section 13(1)(d) of the Act. The contents therein were read over and explained to the accused in vernacular, whereupon he pleaded to be not guilty, and preferred to face the trial.

9. The defence taken by the accused, in his statement recorded under section 313 of the Code of Criminal Procedure, 1973 (Hereinafter 'the Cr.P.C.' for short) and the suggestions put to the witnesses examined by the prosecution, is that there was no demand of Rs.2,000/- or Rs.300/- made by the accused, nor there was any acceptance of bribe amount. As the complainant was required to wait for long for 7/12 extract, the accused came to be falsely implicated, by thrusting the currency notes into the pocket of the accused.

10. Looking to the rival contentions taken by the prosecution as well as the defence, the following points cropped up for my determination, and I record my findings thereon, with the reasons to follow thereunder:-

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
(1)	Whether the prosecution proved that the accused, being a public servant, accepted or obtained or agreed to accept or attempted to obtain, for himself, any gratification, other than legal remuneration, as a motive or reward, for doing any official act ?	In the affirmative.
(2)	Whether the prosecution proved that the accused, being a public servant, by corrupt or illegal means, obtained for himself any pecuniary advantage ?	In the affirmative.
(3)	What order?	As per the final order

REASONS

POINT NOS. 1 AND 2. :-

11. In order to substantiate the case of the prosecution, the prosecution examined 4 witnesses, and relied upon certain documents, whereas the accused did not lead any oral evidence, but relied upon certain documents. Before advertng to the testimonies of the witnesses, it would be more convenient to deal with the arguments advanced on behalf of the parties, and to consider the evidence in the light thereof.

ARGUMENTS

12. It is submitted by Shri N.N. Pande, the learned APP for the prosecution, that the complainant deposed about demand and

payment of amount of bribe. Conversations are recorded in memory cards. Tainted currency notes were seized. PW2 panch deposed about the entire pre-trap process and the process of trap. PW3 is the sanctioning authority, who granted sanction for prosecution. PW4 Investigating officer deposed about the investigation. The voice samples of the accused matched with the voice recording, as per the C.A. report Exh.67. There was no enmity between the complainant and the accused. There was no reason for the complainant to go to Babhulgaon. The shinning of anthracene powder was found. The presumption under section 20 of the Act comes into picture. The previous demand of Rs.2,000/- was for the circle officer. The Sub-Divisional officer is the appointing authority, as per the Rules. As there was shinning on the right hand of the accused, there was no thrusting of money into his pocket. He relied upon the following authorities :-

- i] **M. Narsinga Rao ..Vs.. State of Andhra Pradesh, AIR 2001 Supreme Court, 318** wherein it was observed that the presumption under section 20 of the Act is a mandatory presumption.
- ii] **Rup Singh ..Vs.. The State of Punjab, AIR 1991 Supreme Court 1125**, wherein the conviction of the accused was upheld, as the evidence of the prosecution witnesses was found to be sufficient and as there was failure on the part of the accused to explain the presence of phenolphthalein powder on his hand.
- iii] **State of Gujrat ..Vs.. Navinbhai Chandrakant Joshi Etc., AIR 2018 Supreme Court 3345**, wherein it was observed that the accused had failed to rebut presumption, as no explanation was offered by the accused, as to how the bribe money was received by him.

- iv] **Neeraj Dutta ..Vs.. State (Govt. of N.C.T. of Delhi), 2023 SAR (Cri) 207**, wherein it was observed that demand and acceptance can be proved by circumstantial evidence also.

13. *Per contra*, it is submitted by Shri Bhutada, the learned counsel for the accused, that the presumption under section 20 of the Act is rebutted. There is an omission in the statement of the complainant that the bribe was paid in the Dosa centre. The order of sanction was corrected by PW3, which shows that a draft was sent by the Anti-corruption Bureau to the Sub-Divisional Officer. The work was already completed by the accused, without demanding bribe. Hence, the sanction was granted mechanically. The sanction order was invalid, as Collector was the appointing authority, and not the S.D.O. As per the evidence of the complainant, the complaint was lodged by him, when there was no demand. A wrong name of the Talathi is mentioned in the complaint at Exh.14, as the complainant did not approach the Talathi. The conduct of the complainant is doubtful, as the complaint was not lodged by him immediately. The complainant is a habitual complainant. In the previous case also, the work was done before the trap, as per Exh.79. All the phone calls were made by the complainant, which shows his conduct that he wanted to trap the accused. There is nothing to show any negotiations. It is not brought on the record, as to how Rs.2,000/- were reduced to Rs.300/-. Demand is not proved, due to omission. There was no demand during the alleged trap. The conduct of the complainant shows that he wants to harass government officers. The complainant asked the panch No.1 to stay outside, at the time of verification of demand. There was no demand or acceptance, till the

time the documents were handed over to the complainant. The completion of work and the handing over of documents show that there was no demand. There is no mention of demand in the charge-sheet, due to which, it is an omission in the statement of the complainant. The complaint is of Rs.2,000/-, but the alleged acceptance is of Rs.300/-. The complainant invited the accused at Babhulgaon, by making continuous calls and lodged the complaint after the completion of work, which shows the conduct of the complainant, to involve the accused deliberately. There are omissions in the statement of PW2 panch. The complainant called up the accused, as per the panch. He did not state about the demand by the accused, before the alleged acceptance. He stated that he entered into the Dosa centra, after the signal was given by the complainant, which shows that he was not present at the time of acceptance. The panchanama was not prepared, as per the instructions given by the panch. PW4 Investigating officer stated that the name "Sanjay Nakshane" revealed during verification, though "Nakshane" is mentioned in the panchanama No.1. Hence, the panchanama No.1 was prepared subsequently. Omissions are proved by the Investigating officer. No statement of any independent witness was recorded. The conversations between other people are not mentioned in the transcript. The guidelines given by the Hon'ble Apex Court are not followed, as inculpatory texts were also used for voice samples. Mere acceptance is not sufficient. There is no evidence of demand of Rs.300/- and acceptance thereof. No voice sample of the complainant was obtained, to show that the conversations of the accused were with the complainant. He submitted that the prosecution failed to

prove the guilt of the accused, beyond reasonable doubt. He relied upon the following authorities :-

- i] **Maruti Subrao Shinde ..Vs.. State of Maharashtra, 2011 ALL MR (Cri) 1968**, wherein the sanction was granted by an officer, subordinate to the appointing authority, and hence, it was held that the sanction was invalid. It was further held that the trial was also vitiated.
- ii] **Laxman Nanabhau Bangar and another ..Vs.. The State of Maharashtra, 2019 ALL MR (Cri) 2523**, wherein, there was nothing to show that the accused made the demand of bribe, except the oral evidence of the complainant. It was observed that the recovery of currency notes was not sufficient to establish the guilt of the accused. The accused was acquitted. Regarding the sanction for prosecution, it was observed that only the appointing authority and the officer of higher rank can remove the appointed employees. The sanction granted by a subordinate officer cannot be acted upon.
- iii] **Satish Ganpatrao Suryavanshi ..Vs.. State of Maharashtra, 2021 ALL MR (Cri) 21**, wherein the version of the complainant and the panch witness about demand and acceptance of bribe amount was doubtful. There was no verification of the demand by the prosecution. The sanction for prosecution was accorded by an officer, having no authority. In these circumstances, the accused was acquitted.
- iv] **Kashinath Shiru Ahire ..Vs.. The State of Maharashtra, 2020 ALL MR (Cri) 288**, wherein the accused completed the work of mutation, before trap. There was no evidence available on the record to corroborate the case of the complainant about demand of bribe. It was observed that the accused cannot be convicted, merely because tainted currency notes were recovered from the accused.
- v] **V. Venkata Subbarao ..Vs.. State represented by Inspector of Police, A.P., 2007 ALL MR (Cri) 1201 (S.C.)**, wherein it was

observed that the presumption under section 20 of the Act cannot be raised, in the absence of proof of demand.

- vi] **Dagadu Paku Dhebe Since (D) through LR's ..Vs.. State of Maharashtra, 2022 ALL MR (Cri) 4055**, wherein the complainant was desperate to involve the accused in a trap case. His version as to demand or acceptance of bribe was doubtful. Hence, the benefit of doubt was given to the accused.
- vii] **Shri. Ashok Siddhappa Burud ..Vs.. The State of Maharashtra, 2022 ALL MR (Cri) 2209**, wherein mutation was effected and certified, prior to trap. The testimony of the complainant did not show that there was demand or acceptance by the accused. Hence, the conviction of the accused was set aside.
- viii] **Sudhir Chaudhary and others ..Vs.. State (NCT of Delhi), 2016 ALL SCR (Cri) 1319**, wherein it was observed that it is not for the accused to dictate the investigation *vis-a-vis* the drawing of voice samples. However, a direction was issued to ensure that the voice sample will not contain sentences from inculpatory text.

EVIDENCE

14. Now, coming to the evidence on the record. PW1 Sandip Ramdas Gulhane (the complainant) testified in his examination-in-chief that on 15th May 2015, he made contact with the accused on his mobile phone No.98 23 77 74 84 and talked to him about the mutation of the field. The accused called him at his residential house at Chandore Nagar, Yavatmal. Hence, on the same day, in the evening, the complainant went to his house and requested him to make the mutation of the field, and gave him necessary documents. At that time, the accused told him that he would do the work within

15 days, but for that purpose, the complainant has to give money to the Circle Inspector and if he fails to give money, his work would not be done. Thereafter, the complainant left his house. On 30.05.2015, the complainant again made a phone call to the accused and made enquiry about his work. At that time, the accused told that the work is not done and it will be done within 2-3 days. On 10.06.2015, the complainant received a phone call from the accused, and the accused asked him to bring 7/12 extract of his relative. Hence, on the same day, the complainant went to his house with the 7/12 extract of his aunt and gave it to him. At that time, the accused demanded Rs.2000/- from him for Circle Inspector. On 19.06.2015, the complainant made a phone call to the accused and asked him about the work. The accused replied that he would do the work on Monday. On 22.06.2015, the complainant again made a phone call to the accused and made enquiry about the work. At that time, the accused told him that the work is about to complete and asked him to bring money on 23.06.2015, at his house. On 23.06.2015, the complainant went to his house. At that time, the accused told him that mutation is done but 7/12 extract is yet to be prepared, and asked the complainant whether he brought a blank 7/12 extract or not. The complainant replied that he did not bring it. Thereafter, the accused told him to make a phone call at 6.00 p.m. As he was not ready and willing to give the bribe to the accused, he lodged a report Exh.14 against him with the ACB Yavatmal.

15. He further stated that after lodging the report, Dy. S.P. Deshmukh called two public servants from Zilla Parishad, Yavatmal.

They were Satish Gawai and Sagar Hande. The complainant was introduced to them. He explained them his grievance orally. His report Exh.14 was given to these two public servants. Thereafter, they signed the report Exh.14. The procedure of A.C.B. was explained by Dy.S.P Deshmukh. It was told to them that whatever conversation would take place between the complainant and the accused would be recorded in the voice recorder. Thereafter, Dy.S.P Deshmukh asked the complainant to ask the accused where he should meet the accused. Hence, the complainant made a phone call to him and asked him, as to where and when the complainant can meet him, whereupon the accused asked him to come on 24.6.2015 around 10.00 a.m. at his house. Thereafter, the phone was disconnected. The complainant informed Dy S.P Deshmukh, accordingly. Thereafter, Dy S.P Deshmukh asked the complainant and both the panchas to come again on 24.6.2015 at 9.00 a.m. On 24.6.2015, around 09.00 a.m. the complainant and panchas again visited the ACB office. Thereafter, the complainant, panch No.1 namely Satish Gawai and police constable Kiran Khedkar, alongwith voice recorder, were asked to go to meet the accused. Accordingly, the complainant and said panch Satish on one motorcycle and Kiran Khedkar on another motorcycle proceeded towards the house of accused. Near Moha Fata, Yavatmal, they stopped. There, Kiran Khedkar kept the voice recorder into the complainant's shirt's pocket, by switching it on. Thereafter, the complainant and panch Satish went to the house of accused by motorcycle, at Chandore Nagar, Yavatmal. The accused was present in the hall. By gesture, the complainant told panch Satish that he was the same Talathi. Thereafter, the complainant alone entered into the house of accused and talked to him. Panch Satish was outside the

house. The accused had no blank 7/12 extract and Form 8-A, and hence, the complainant brought those blank forms from his motorcycle and gave the same to the accused. The accused filled up those forms. Thereafter, the accused gave him those filled up 7/12 extracts, form No.8-A and mutation extract. Thereafter, the complainant told the accused that he was leaving. The accused told him that he has done his work, and hence, he asked the complainant to spend something. The accused told him that Government Fee was Rs.75/-, and asked him to give Rs.100/-. Hence, the complainant gave him Rs.100/-. Thereafter, they again talked to each other. At that time, the accused said that he has done the work, and he demanded Rs.300/- for himself as bribe, and asked the complainant to bring the same at Babhulgaon. The complainant answered in the affirmative. Thereafter, the complainant came outside his house and met panch Satish and thereafter, they, by motorcycle, came to Moha Fata. There, Kiran Khedkar took voice recorder from him and switched it off. From there, they, by two motorcycles, returned to ACB office. One Maroti Adhaoo was present there as a panch No.2. Dy.S.P. Deshmukh introduced the complainant to said panch No.2, and the complainant narrated him his grievance. Thereafter, the report Exh.14 was given to him, and after reading it, he also signed it. Thereafter, the complainant, both these panchas and Dy.S.P. Deshmukh listened to the conversation in that voice recorder. The transcript of that voice recorder was prepared on a computer. Thereafter, it was decided to lay a trap. The complainant gave Rs.300/- to Dy.S.P. Deshmukh for using the same in the trap. Thereafter, the characteristics and the practical of Anthracene powder

and ultraviolet lamp were shown to the complainant and panchas. Thereafter, the anthracene powder was applied on all the three currency notes of Rs.100/- denomination and their practical was shown to them. Thereafter, those tainted currency notes were kept in the rightside pocket of the complainant's pant. Thereafter, necessary instructions were given to him and both the panchas. It was decided that after acceptance of bribe by the accused, the complainant has to move his left hand over his head repeatedly for giving signal to the raiding party. Thereafter, the complainant, both the panchas and ACB staff went to Babhulgaon Tahsil Office. Thereafter, the complainant and panch No.1 Satish entered the Tahsil office, but the accused was not seen. After sometime, the complainant made a phone call to the accused. The accused told the complainant that he would be coming to Babhulgaon after sometime. Thereafter, the complainant and the panch No.1 came outside the Tahsil office and met the raiding party. After sometime, the complainant and the panch No.1 again went to Tahsil office, and the other members of the raiding party followed them, by keeping some safe distance. At that time, the voice recorder was kept in the pocket of the complainant. At that time also, the accused was not seen in the office. Hence, they waited for him. Thereafter, the complainant received a phone call from the accused on his mobile, and he told the complainant that he was in S.Kumar Dosa Center, near Bank of India, and asked the complainant to come there. Thereafter, the complainant started to proceed towards the said Dosa Center, and he was followed by the panch No.1 and the other members of the raiding party. As he could not see the accused, he made a phone call to the accused. The accused came outside the said Dosa Center and showed his hand to the complainant and called

him in the Dosa Center. Thereafter, the complainant went inside the Dosa Center. The accused was taking breakfast. Thereafter, the accused asked the complainant, whether the complainant brought money. The complainant drew out the tainted currency notes of Rs.300/- from his pocket and with his right hand, gave the same to the accused, which the accused accepted with his left hand. The complainant asked him to count the money, but he did not count, and after looking towards it, kept it into his shirt's left pocket. Thereafter, the complainant came outside the Dosa Center and gave a pre-determined signal to the raiding party. Thereafter, the raiding party apprehended the accused. One of the ACB Constables took the voice recorder from the complainant and switched it off. Dy.S.P. Deshmukh asked the complainant to go outside said Dosa Center. Hence, the complainant went outside and stayed there. After sometime, the complainant, along with the members of the raiding party, returned to ACB office, Yavatmal. There, Dy.S.P. Deshmukh seized the photo copies of 7/12 extract, Form 8-A and mutation extract from him, which he had received from the accused. Its seizure panchanama Exh.20 was prepared.

16. He further stated, after listening to the first voice file in the first folder in the memory card Exh.1/Exh.A, that the first voice in this voice file is of him, the second voice is of panch No.1 Satish Gawai, the third voice is of panch No.2 Sagar Hande and the fourth voice is of Dy.S.P. Shri Deshmukh. This recording was done in his presence on 23.06.2015 in the ACB office, Yavatmal. He further stated, after listening to the first voice file in the second folder in the

memory card Exh.1/Exh.A, that there is his voice and the voices of the accused and the sounds of vehicles. This recording was done on 24.06.2015. When he and the panch No.1 went to the Tahsil office at Babhulgaon to meet the accused. At that time, he and the accused talked on phone. He further stated, after listening to the first voice file in the first folder in the memory card Exh.2/Exh.C, that there are his voice and the voices of one customer and the panchas. This recording was done on 24.06.2015, when he and panch No.1 went to Babhulgaon Tahsil Office. Thereafter, there is his voice and the voice of accused on phone and thereafter, he went to the hotel. Thereafter, there is a conversation between him and the accused in that hotel, which is also recorded in the second voice file. This conversation took place at the time of trap. He further stated, after listening to the first voice file in the first folder in the memory card Exh.3/Exh.E, that the first voice in this voice file is of panch No.1, the second voice is of panch No.2 Maroti Adhav, the third voice is of the accused. This recording was not done in his presence.

17. He further stated that he searched the original 7/12 extract, form 8A and mutation extract in respect of his field, which was received from the accused, but he could not find it. Exhs.21 to 23 are the copies thereof. He identified the currency notes at Article-P-1. The mobile number of the accused was 98 23 77 74 84 and his own mobile numbers were 98 60 50 79 59 and 82 75 85 06 63. After the trap, they came to ACB office where the conversation recorded in the voice recorder was listened to and its transcript was prepared.

18. He stated in his cross-examination that he did not complain to the Circle Inspector or to any other superior officer about the demand of bribe. He admitted that at the time of verification of the demand, he asked the panch No.1 to stay outside the house of the accused. He admitted that at the time of verification, the accused gave all the documents to him. He could not assign any reason, as to why it is not mentioned in his statement that the accused asked him in the Dosa centre, as to whether he brought money or not. He denied all the other relevant adverse suggestions put to him, as per the defence taken.

19. PW2 Satish Bhimrao Gawai, the panch No.1, stated in his examination-in-chief that on 23.06.2015, he came to be introduced to the complainant in the office of the A.C.B. Yavatmal. The complainant narrated his complaint, which was typed and signed by the complainant, both the panchas and Dy.S.P. Deshmukh. It is Exh.14. A constable produced a voice recorder of Sony make and a memory card of Scandic make. It was ascertained, by playing it, that there was no voice therein. Thereafter, Dy.S.P. Deshmukh gave necessary instructions. Thereafter, the voices of both the panchas, Dy.S.P. Deshmukh and the complainant were recorded. The complainant disclosed that he was called by the accused on 24.06.2015, in the morning. The voice recorder and the memory card were covered and sealed in an envelope. The panchas were asked to approach the ACB office on the next day morning. The panchanama Exh.27 was prepared. On 24.06.2015, in the morning, at the office of the ACB, the voice recorder with the memory card, was handed over to the

complainant. Dy.S.P. Deshmukh gave necessary instructions. He and the complainant on one motorcycle and ACB constable Kiran Khedkar on another motorcycle proceeded towards Chandore Nagar, for the verification of the demand. At Moha fata, Kiran Khedkar switched on the voice recorder. He himself and the complainant approached the house of the accused on a motorcycle. The complainant asked him to stay outside, and the complainant entered into the house of the accused. After sometime, the complainant carried documents from the dickey of the motorcycle. After sometime, the complainant came out, and the duo approached near Moha fata. Kiran Khedkar switched off the voice recorder. All of them reached the ACB office. The panch No.2 was replaced by one Maroti Adhav, to whom the complaint was narrated. He signed the complaint. Thereafter, the complainant narrated, whatever transpired during the verification of demand. The conversation in the voice recorder was listened to. C.D. was also prepared. The memory card and the C.D. were kept in an envelope and were sealed with the signatures of the panchas and Dy.S.P. Deshmukh. Thereafter, the belongings from the person of the complainant were removed. Dy.S.P. Deshmukh took three currency notes of Rs.100/- each from the complainant. An experiment of anthracene powder and ultraviolet lamp was displayed. The numbers of the currency notes were taken down. Anthracene powder was applied to the notes. The ACB officer kept the currency notes into the rightside pocket of the pant of the complainant. Thereafter, a voice recorder and a blank memory card and a blank C.D. came to be produced. Dy.S.P. Deshmukh instructed the complainant about the particular signal to be given, upon the successful trap. The hands of the raiding party were examined under the ultraviolet lamp. A

panchanama Exh.29 came to be prepared, accordingly. Thereafter, the entire members of the raiding party proceeded to Tahsil office, Babhulgaon. Dy.S.P. Deshmukh gave necessary instructions. The police constable switched on the voice recorder and placed the same inside the shirt of the complainant. The complainant, followed by the raiding party, proceeded towards the Tahsil office. The complainant entered into the Tahsil office and came out, whereafter the police constable switched off the voice recorder. The complainant told that the accused was not present. After sometime, the police constable switched on the voice recorder and handed over the same to the complainant. The complainant was present in the vicinity of the Tahsil office for sometime. He made conversation on phone and came out of the Tahsil office. The complainant proceeded by two wheeler towards the bus stand at Babhulgaon and stopped his motorcycle near a Dosa centre. The raiding party followed him. The complainant entered into the Dosa centre. He had conversation with the accused. The complainant took out money from his pocket and handed over the same to the accused. The complainant came out of the Dosa centre and gave a pre-decided signal, whereupon the raiding party entered into the Dosa centre. The police constable caught hold the wrist of the left hand of the accused. Dy.S.P. Deshmukh asked the accused, as to where the bribe amount was kept, whereupon the accused stated that it was kept by him in his left pocket. The panch No.2 took out the said amount, as per the instructions from Dy.S.P. Deshmukh. The numbers of the currency notes were tallied, with the numbers mentioned in the panchanama Exh.29. Thereafter, the hands of the raiding party and the accused were examined under the

ultraviolet lamp. Anthracene powder was noticed on the fingers and the palm of the left hand of the accused. The shining of anthracene powder was also found in the pocket of the shirt of the accused, when it was examined under the ultraviolet lamp. The shining of anthracene powder was found on the three currency notes, under ultraviolet lamp. Anthracene powder was found on the right hand and the right pocket of the pant of the complainant. Thereafter, the raiding party proceeded to the office of the ACB. The copies of 7/12 extract, Gav Namuna 8-A and mutation Exhs.20 to 23 were seized by Dy.S.P. Deshmukh. The police prepared the seizure panchanama Exh.31 in respect of the currency notes. The shirt of the accused M.O. No.A came to be seized, vide the seizure panchanama Exh.33. Dy.S.P. Deshmukh got the conversations in the voice recorder played. The transcript thereof was prepared. The conversation was copied into a C.D. also. The C.D. and the memory card were seized, vide the seizure panchanama Exh.34. Thereafter, Dy.S.P. Deshmukh called the panchas on 25.06.2015. A voice recorder, a memory card and a C.D. came to be played, and it was ascertained that the same were blank. The voices of the panchas came to be recorded therein. Thereafter, the copy of the transcript was given to the accused. The accused read out the transcript, which was recorded in the memory card with the voice recorder. The police copied the data into a C.D. also. A panchanama Exh.35 was prepared.

20. He stated in his cross-examination that he did not state during his statement that the complaint was typed on a computer in his presence. He admitted that the complainant had asked him to stay outside the house of the accused. He admitted that the work was

done by the accused, and till then, no bribe was demanded, and that, no demand of bribe of Rs.2,000/- was made. He admitted that the complainant contacted the accused on phone. He could not assign any reason, as to why it is not mentioned in his statement that Kiran Khedkar switched on the voice recorder at Moha Fata and handed over the same to the complainant, and the voice recorder was switched off at Moha Fata. He admitted that the complainant himself made a phone call to the accused at the Tahsil office. He admitted that some other persons were also taking snacks at the Dosa centre. He admitted that the owner and the employees of the Dosa centre were also present in the Dosa centre. He had stated to the police that the complainant took out the money from the pocket of his pant and handed over the same to the accused. He stated that the panchas entered into the Dosa centre, after the signal was given by the complainant. He admitted that he did not narrate anything to the ACB officer at the time of the panchanama. He admitted that except the voice sample of the accused, nobody's sample was obtained. He denied all the other relevant adverse suggestions put to him, as per the defence taken.

21. PW3 Vikas Rajaram Mane stated that he was the SDO at Yavatmal since 2015. On 24.06.2015, a proposal was sent to him for sanction to prosecute the accused. He perused all the documents and studied the same. He arrived at the conclusion that there was *prima facie* evidence against the accused that he demanded and accepted a bribe amount of Rs.300/-. He granted the sanction at Exh.45. He

stated that an SDO is the appointing and the removing authority of a Talathi.

22. He stated in his cross-examination that the appointment order of the accused was signed by the Collector, Yavatmal, which is at Exh.47. He stated that he was informed that correction was required in the order of sanction. He volunteered that he had accorded sanction for prosecution under section 197 of the Cr.P.C. He had sent the letter for correction, received by him. He came to know that the work was done by the accused, before the verification panchanama. He stated that the name of the accused is not mentioned in the complaint at Exh.14. He denied the other adverse suggestions put to him in the cross-examination.

23. PW4 Satish Deshmukh, the then Deputy Superintendent, stated that on 23.06.2015, the complainant approached the ACB office, whereafter his complaint at Exh.14 was typed. The panchas examined the said complaint from the complainant and signed the same. Necessary instructions were given to the complainant and the panchas. Thereafter, the complainant contacted the accused on phone and informed that the complainant was called by the accused at his residence on the next day morning. A voice recorder was sealed and panchanama Exh.27 was prepared. On the next day morning, necessary instructions were given to the panch No.1, the complainant and one ACB officer, and a voice recorder was handed over to the complainant. After some time, the panch No.1, the complainant as well as the ACB officer returned to the office. The entire conversation on the voice recorder was listened to, taken down and a C.D. was

prepared. Enquiry was made with the complainant and the panchas about the incident. The voice recorder, the memory card and the transcript were sealed and kept in the office.

24. He further stated that the use of anthracene powder and UV lamp was explained to the complainant and the panchas. A panchanama was prepared. Three notes of Rs.100/- each were taken from the complainant and their serial numbers were recorded in that panchanama. Anthracene powder was applied to the said notes and demonstration of UV lamp was done and the notes were placed by the employees in the right pocket of the complainant's pant. Necessary instructions were given to the complainant and the panchas, it relating to the trap, including the signal to be given. The said panchanama is at Exh.29. Thereafter, the raiding party and the complainant left for Babhulgaon. Again, instructions were given to the complainant and the panchas at the Tahsil office, Babhulgaon. Voice recorder was handed over to the complainant. The complainant informed that the accused was not present. The complainant and the panch No.1 went to the Tahsil office again, with the voice recorder. Thereafter, after some time, the complainant and the panch No.1 came outside, and the raiding party followed them. The complainant stopped near a Dosa centre. Thereafter, the complainant came out and gave a signal, whereafter the raiding party entered into the Dosa centre. The complainant pointed out the accused, whereafter the employees caught hold both the hands of the accused. The accused stated that the amount was kept in the pocket of his shirt, on being asked. The luster of the anthracene powder was found on the left

hand of the accused, on examination. Anthracene powder was found on the currency notes. A panchanama was prepared. Seizure panchanamas Exhs.31 to 33 were prepared. The photocopy of 8-A and 7/12 extract were taken from the register lying in the bag of the accused. The conversation in the voice recorder was transcribed and its C.D. was prepared and sealed. A panchanama of all the proceedings was prepared, as per Exh.34. He stated about the lodging of the report Exh.61 and the FIR Exh.62 by him. The accused was arrested. The samples of his voice were taken at Exh.35, and the same were sealed. The voice conversations and the voice samples were sent to the forensic science laboratory, vide the letter Exh.65. The statements of the complainant and the panchas were recorded. CDR and SDR of the mobile phones of the complainant and the accused were obtained.

25. He admitted in his cross-examination that there is no endorsement on the complaint Exh.14 that the panchas went through the same. He admitted that there is no mention in the said complaint that the accused demanded Rs.2,000/-. During verification, it transpired that the name of the accused is Sanjay Nakshane. He admitted that during verification, it was noticed that the work asked for, was already completed. He admitted that customers were sitting in the closed side of the Dosa centre. He admitted that the person inside the Dosa centre was visible only after he came out of the Dosa centre. He stated that the complainant did not state in his statement that while he was in Dosa centre, the accused asked, as to whether he had brought the amount and after that, the complainant paid Rs.300/-. Satish Gawai did not state that Kiran Khedkar turned on

the voice recorder, and on coming to Moha Fata, he turned it off. Gawai did not state that the complainant paid Rs.300/- from the pocket of his pant to the accused and at that time, the accused was taking breakfast. He admitted that the panch No.1 was instructed by him to remain with the complainant and hear the conversations between the complainant and the accused. He admitted that during verification, it was not noticed that the accused demanded bribe of Rs.2,000/- from the complainant. He stated that he did not collect the voice samples of others, except the accused. He denied the other relevant adverse suggestions put to him in the cross-examination.

APPRECIATION OF EVIDENCE

26. Upon the perusal of the testimony of PW1 Sandip Gulhane, the complainant, it can be seen that, initially, the accused is said to have demanded a sum of Rs.2,000/- as an illegal gratification, by pretending that the same was to be paid to the Circle Officer, in connection with the task of mutation, thereby impliedly meaning the certification of the mutation to be carried out by the accused. Indisputedly, barring the testimony of the complainant, there is absolutely no iota of evidence, in relation thereto. The said alleged demand of Rs.2,000/- is not at all, either said to have been repeated by the accused, nor the accused is said to have even uttered a single word, in relation thereto, during the verification of demand. In the light of this factual matrix, it would be unsafe to rely upon the sole uncorroborated testimony of the complainant, in relation thereto, though this court is abstaining from expressing any opinion as

regards the truthful version or otherwise of the complainant, in relation to the said demand of Rs.2,000/-. However, the fact, which cannot be lost sight of, is that the complainant set the Anti-corruption Bureau into motion, may be, perhaps, because there has been any such demand, as the consequence whereof, the complainant expected the demand during the verification of demand by the Anti-corruption Bureau. In the light of the foregoing observations, this court does not have any hesitation to hold that the prosecution could not prove it beyond reasonable doubt that the accused demanded a sum of Rs.2,000/-, for being paid to the Circle Officer.

27. Now, coming to the question of demand of a sum of Rs.300/- towards illegal gratification, in connection with the preparation of 7/12 record and the issuance of the extract thereof. The complainant (PW1) testified that on 23.06.2015, he got in touch with the accused at the residence of the accused, whereupon the complainant was informed of the *factum* of the completion of the task of mutation. He further stated that, thereafter, the complainant was called upon to ring the accused in the evening, in connection with 7/12 extract, whereafter the complaint was lodged with the Anti-corruption Bureau. The factual score, that is visible from these circumstances, is that, notwithstanding the task of completion of the mutation work, which was *sine qua non* for 7/12 extract, the complainant thought of setting the law into motion, by knocking the doors of the Anti-corruption Bureau. Such a course of action *per se* speaks in volumes, that the complainant was aware of the fact that the accused would be putting forth a demand of illegal gratification. Had it not been so, there could not have been any occasion for the

complainant to knock the doors of Anti-corruption Bureau. The factual matrix, which is evident therefrom, is that the accused had unveiled his desire to secure illegal gratification. Indisputedly, the above apparent factual score cannot *ipso facto* prove the *factum* of demand, *de hors* the verification of the demand.

28. The prosecution came forward with the case that the accused completed the task of preparation of the record, pertaining to 7/12 and Namuna 8-A, the copies whereof came to be handed over to the complainant, before the raising of the demand of illegal gratification, to the tune of a sum of Rs.300/-. It came to be impressed upon on behalf of the accused, through his learned counsel, that in the light of the *factum* of the task having already been accomplished, there does not crop up the question of demand of illegal gratification. In this regard, it would not be out of the place to pen down here that, what is warranted by section 7 of the Act is the obtaining of or an attempt to obtain any gratification, other than legal remuneration, as a motive or reward for **the doing of any official act** (Emphasis supplied). It, therefore, follows that the illegal gratification must have connection with the doing of any official act, notwithstanding whether the official act has already been completed or whether the same is agreed to be completed in the future. It is not the legal requirement of section 7 of the Act that the official act must not have been done, at the time of the demand of illegal gratification. In the light of this legal scenario, there is absolutely no substance in the various submissions made by the learned counsel for the accused, that there is no question of demand of illegal gratification or the

payment thereof, as the task was accomplished, before the raising of the alleged demand.

29. The complainant (PW1) deposed about the use of a voice recorder, at the time of verification of the demand. He testified that the accused asked him to make some expenses, while the complainant sought for leave from the accused, upon the completion of the task relating to 7/12 extract. He further testified that the accused demanded Rs.100/-, by stating that the legal fees was Rs.75/-, whereupon the complainant paid Rs.100/- to the accused. He further stated that upon holding further talk *inter se* the duo, the accused demanded Rs.300/-. It was agreed to be paid at Babhulgaon. The said conversation can very well be accessed to, by laying hands on the memory card Exh.1, which duly corroborates the testimony of the complainant, *qua* the demand. The said conversation, firstly, reveals that the accused asked the complainant to pay, as per his own wish. Thereafter, the accused demanded Rs.100/-, by uttering that a sum of Rs.75/- was legally payable. The accused again reiterated that the complainant should pay, as per his own wish, in addition to the sum of Rs.100/-. It is further seen therefrom that the conversation *inter se* the duo proceeded ahead, whereafter, the accused uttered that Rs.200/- to Rs.300/- should have been paid, by uttering in Marathi, “तेच दोन तिनशे देल्ले असते. काय?”, though in the transcript in the panchanama Exh.29, it is mentioned as “तेच दोन तिनशे देल्ले असते काय”, which transcript, thus, does not connote the intended meaning. Thus, the accused is seen to have unequivocally raised a demand of a sum of Rs.300/-, in connection with the task of preparation of 7/12 record by him. It is needless to observe here that a witness may lie,

but a document or an electronic record, may not lie. It is safe to rely upon the said conversation. It would not be out of the place to mention here that there is absolutely no suggestion put to any of the witnesses on behalf of the accused that the said conversation in the memory card was not between the complainant and the accused, thereby impliedly admitting the said conversation to be *inter se* the duo. Apart from the same, the examination report from the forensic science laboratory at Exh.67 very well clarified that the voice of the accused in the specimen voice was similar to the alleged voice of the accused in the said conversation, contained in the said memory card, as well as the memory card, relating to the proceeding of the trap, to which I shall be coming in the forthcoming paragraphs.

30. Regarding the fact that the accused agreed to accept the bribe amount at Babhulgaon, the complainant (PW1) stated so in his testimony. The same is corroborated by the conversation contained in the memory card Exh.1, coupled with the transcript in the panchanama Exh.29, which reveals that the accused expected the complainant to pay the demanded bribe at any time, whereafter conversation continued, and the complainant apprised the accused of his plan of visit at Babhulgaon, whereupon the accused expressed that there was no problem, impliedly meaning thereby that the accused had agreed to accept the said bribe amount at Babhulgaon.

31. Regarding the *factum* of acceptance of the amount of bribe, the complainant (PW1) testified that in the Dosa centre at Babhulgaon, the accused asked the complainant, as to whether the

money was brought, whereupon, the complainant took out the tainted currency notes of the sum of Rs.300/- from his pocket and paid the same to the accused, who in turn, accepted the same with his left hand. He further deposed that when he asked the accused to count the same, the accused abstained from doing so, and merely kept the amount in the left pocket of his shirt. The testimony of the complainant is duly corroborated by the conversation, contained in the memory card Exh.2, as to the material particulars deposed to by the complainant, which material conversation appears to have been transcribed in the panchanama Exh.34. It is seen from the said conversation that the complainant sought for the leave from the accused and asked the accused to ascertain, whereupon the accused appears to have said 'okay'. The complainant again appears to have called upon the accused to ascertain, by uttering something like 300/-, though the said voice is very low and not clear. However, the careful listening to the said voice reveals that the figure '3' appears to have been uttered by the complainant therein (The same is missing in the transcript, may be, due to very low voice. This court listened to the said conversation carefully, by using personal earphones, to have clarity of the low voice). Thereafter, the accused is seen to have said that there was no problem. This conversation manifestly renders it clear that there has been the payment of the bribe amount, and the said conversation relates thereto, thereby duly corroborating the testimony of the complainant. It is needless to reiterate that the examination report from the forensic science laboratory at Exh.67 unveils the similarity *inter se* the voice sample of the accused *vis-a-vis* the said conversation, allegedly made by the accused, apart from the *factum* of abstention on behalf of the accused to deny the

conversation contained in the memory card to be *inter se* the complainant and the accused.

32. Indisputedly, there is an omission, as to whether the accused asked the complainant, as regards the bringing of money. The conversation between the complainant and the accused also does not reveal that the accused asked so to the complainant. However, the said omission does not go to the root of the case, for, the fact in issue, that has to be dealt with, is the *factum* or otherwise of the payment of illegal gratification, only. The omission, as to whether the payment was made in the Dosa centre or outside the Dosa centre, is also of no legal consequence, *qua* the fact in issue. Thus, I do not find any substance in the contrary submissions canvassed by the learned counsel for the accused. I am in agreement with his submission that there was no demand during the trap. However, it is of no legal consequence, as the demand was already raised, prior thereto.

33. The testimony of PW2 Satish Gawai corroborated the testimony of the complainant, as to the various material particulars deposed to by him. He appears to have testified, as to the *factum* of use of a blank memory card, at the time of using a voice recorder, during the verification of demand, the laying of trap and the recording of voice samples. He further testified about the use of a voice recorder during the verification of demand and the laying of trap. He further testified that the complainant entered into the house of the accused, at the time of verification of demand. That apart, he

deposed that the complainant had been to the Dosa centre, where he allegedly paid the bribe amount to the accused. Though he stated that the complainant paid the bribe amount to the accused, he stated in his cross-examination that he entered into the Dosa centre, after the signal was given by the complainant, which *prima facie* reveals that this panch was staying outside, at the time of the payment of the bribe amount. Hence, his testimony, to the extent of the said payment, is not of any help. He further stated that a police constable caught hold the wrist of the accused, and that, the shinning of anthracene powder could be noticed on the fingers and the palm of the accused, upon the use of ultraviolet lamp. He further stated that similar was the position, as regards the left pocket of the shirt of the accused, although the accused came forward with the defence that the said sum of money was thrust by the complainant into his pocket. Even if, for an instance, it is believed that the complainant thrust the bribe amount into the pocket of the accused, there is no reason suggested to this witness or any of the witnesses examined by the prosecution, as to why the anthracene powder applied on the currency notes could reach to the palm of the accused. It has not been suggested to any of the witnesses that the accused inserted his palm into his pocket. In the light of this factual scenario, the only unequivocal inference, that can be arrived at, is that the accused accepted the bribe amount with his hand, thereby resulting into his palm coming into contact with the anthracene powder, applied on the tainted currency notes. The *factum* of preparation of the transcripts and the taking of the voice sample of the accused, while reading the transcript, has also been deposed to by this witness.

34. The cross-examination of PW2 Satish Gawai, as regards whatever transpired from the conversation contained in the memory card, is of no legal consequence, for the simple reason that the same can be and has to be perused by this court itself. Though it is sought to be submitted on behalf of the accused that there has been omission in his statement, no material omission could be pointed out. I am in agreement with the submission made by the learned counsel for the accused that PW2 Satish Gawai was not present, at the time of acceptance of bribe amount. Though he stated that the panchanama was not prepared, as per the instructions given by him, the same cannot, in any manner, displace the case of the prosecution.

35. PW4 - Dy.S.P. Satish Deshmukh also appears to have corroborated the testimony of the complainant (PW1), to certain extent. He deposed to the *factum* of use of a voice recorder, during the verification of demand and the laying of trap. He further deposed about the use of anthracene powder, during the trap, and the *factum* of presence of the anthracene powder on the finger and the pocket of the accused, apart from the presence thereof on the tainted currency notes. He further deposed about the taking of the voice sample, and the forwarding thereof, together with the conversation contained in the memory cards, for examination by the forensic science laboratory. Though certain omissions came to be proved through this witness, none of the omissions could be shown to be going to the root of the case, muchless to discredit the case put forth by the prosecution.

36. Now, looking at the scenario from another angle, to ascertain as to whether there can be said to be any reason for the complainant to see that the accused is convicted, in spite of being innocent. The defence taken by the accused is to the extent that the accused came to be falsely implicated, as the consequence of the requirement of waiting period of 15 days for obtaining 7/12 extract, as undergone by the complainant. Even if, for an instance, it is believed that the complainant was thereby aggrieved or prejudiced, the same cannot, by any stretch of imaginations, be said to be so grave, as to cause one to set the law into motion, thereby falsely implicating another by leveling the allegations of demand of bribe. There is not said to be any enmity *inter se* the complainant and the accused, so as to force the complainant to implicate the accused falsely. The testimony of the complainant appears to be quite natural and trustworthy, duly corroborated by the electronic evidence, in the nature of conversations, contained in the memory cards, which are the primary evidence of the voice, as recorded, within the meaning of section 62 of the Indian Evidence Act, 1872, and thus, directly admissible.

37. In the light of the foregoing observations, I am in agreement with the submission made by the learned APP that the testimonies of the witnesses deserve credence, and that, the prosecution could establish the *factum* of demand and acceptance. Insofar as his submission, *qua* the presumption contained in section 20 of the Act, is concerned, it is seen that the presumption, as envisaged therein, is to the extent of motive or reward, only, which follows the proof of *factum* of demand and acceptance. There is no

substance in the submission made by Shri Bhutada, learned counsel for the accused, that the said presumption came to be rebutted. There is no substance in his next submission that the complaint was lodged by the complainant, even in the absence of demand, although this court observed that the *factum* of the earlier demand of Rs.2,000/- has not been established beyond reasonable doubt. There is no substance in his next submission that the complainant did not approach the accused, as a wrong name of the Talathi is mentioned in the complaint Exh.14, as “Nashine”, instead of “Nakshane”, more particularly when it is clearly mentioned that he was the Talathi from Gharphad. There is no substance in his next submission that the conduct of the complainant is doubtful, merely because he did not lodge a complaint with the Anti-corruption Bureau, immediately. In this regard, it can be seen that the complainant might be thinking of getting the task of mutation completed, instead of hampering the same, by lodging a complaint with the Anti-corruption Bureau, and once the task was completed, he, being a sensible citizen, thought of setting the law into motion, as against the sorry state of affairs. There is no substance in his next submission that the complainant is a habitual complainant, merely because he was required to lodge the complaint hereinbefore also, upon the completion of his work, as per Exh.79. There is no substance in his next submission that there was an objectionable conduct on the part of the complainant, as he repeatedly made phone calls to the accused, in connection with the trap. *Per contra*, that was expected of any prudent person, at the time of the trap, with a view to unveil the truth. There is no substance in his next submission that there is nothing to show, as to how the

original demand of Rs.2,000/- was reduced to Rs.300/-. On the contrary, it is seen that the original demand was allegedly made in the name of the Circle Officer, whereas the later one was made for the accused for himself. There is no substance in his next submission that the conduct of the complainant reveals his intention to harass the government officers.

38. I am in agreement with the next submission made by Shri Bhutada, the learned counsel for the accused, that the panch No.1 must have accompanied the complainant. However, the abstention on the part of the said panch, on account of the request made by the complainant, does not, in any manner displace the case of the prosecution. Had the panch accompanied the complainant, at the time of the actual verification in the house of the accused, it could have yielded an additional evidence. There is no substance in his next submission that there is an omission in the statement of the complainant, as regards the demand. There is no substance in his next submission that the complainant wanted to involve the accused deliberately, in the light of the overall conduct of the complainant. There is no substance in his next submission that the panchanama No.1 was prepared subsequently, as Nakshane is mentioned in the panchanama, though the name Sanjay Nakshane came to be revealed during the verification of demand. There is no substance in his next submission that the statements of independent witnesses must have been recorded. It is needless to observe here that there is no requirement of multiplying the witnesses. What is expected is the quality of the evidence, and not the quantity thereof. There is no substance in his next submission that the conversation between the

other people should also have been mentioned in the transcript, for the simple reason that the same has got no relevance *vis-a-vis* the fact in issue. It is true that the inculpatory text should not have been used for the voice sample, in the light of the guidelines issued by the Hon'ble Apex Court. However, the use of the inculpatory text cannot, in any manner, be fatal to the case of the prosecution, in the absence of any legal provision or any authority, to the contrary. There is no substance in his next submission that it was necessary to obtain the voice sample of the complainant. The *factum* of demand and acceptance of amount in the recorded conversation can be proved through the mouth of the accused, notwithstanding the fact, as to whosoever was in conversation with the accused. Even otherwise, the complainant identified his own voice in the said conversation. Moreover, the accused did not deny the voice of the complainant, by putting any adverse suggestion to the complainant or any other witness, in that regard.

39. In order to prove the offence punishable under section 7 of the Act, it is incumbent on the part of the prosecution to prove that the accused, being a public servant, accepted or obtained or agreed to accept or attempted to obtain, for himself, any gratification, other than legal remuneration, as a motive or reward for the doing of any official act. As the accused is undisputedly a public servant, and as the accused obtained the illegal gratification, by raising a demand and accepting the sum of money, which was certainly as a motive or reward for the doing of an official act, i.e., the preparation of 7/12 record, the accused committed the offence punishable under section

7 of the Act. In order to prove the offence of criminal misconduct, punishable under section 13(2) read with section 13(1)(d) of the Act, the prosecution is required to prove that the accused obtained any pecuniary advantage for himself, by corrupt or illegal means. As the accused obtained the pecuniary advantage by both the corrupt and the illegal means, the commission of the said offence is also established.

40. In the light of the foregoing observations, I do not have any hesitation to hold that the prosecution proved it beyond every reasonable doubt that the accused committed the offences punishable under sections 7 and 13(2) read with section 13(1)(d) of the Act.

APPRECIATION, RELATING TO THE GRANT OF SANCTION

41. PW3 Sub-Divisional Officer – Rajaram Mane testified that he perused and studied the entire documents sent to him and thereby, arrived at the *prima facie* conclusion that there was evidence against the accused, as regards the demand and acceptance of bribe, whereafter he accorded sanction for the prosecution of the accused. However, he stated that the appointment order of the accused at Exh.47 has been signed by the Collector. It being so, it is crystal clear that the Sub-Divisional Officer was not the appointing authority of the accused, and consequently, he was not the removing authority of the accused. Resultantly, he was not a competent authority to accord sanction for the prosecution of the accused. In the light thereof, I am not in agreement with the submission made by the learned APP that the S.D.O. was the appointing authority of the accused,

notwithstanding the Rules, as sought to be pressed into service. In the backdrop thereof, I am in agreement with the submission made by Shri Bhutada, the learned counsel for the accused, that the sanction for the prosecution was invalid.

42. The next limb of submission made by Shri Bhutada, the learned counsel for the accused, is that, as this witness had carried out some correction, in relation to the sanction order, it reflects that a draft thereof was sent by the ACB to the SDO. I am not in agreement with this submission, as nothing could be elicited in the cross-examination from the mouth of this witness, in that regard. I am not in agreement with his submission that the sanction order was granted mechanically, as corrections were made therein and as the work was already completed by the accused, before the demand. *Per contra*, this witness unequivocally testified that he perused and studied the documents and arrived at the said particular conclusion.

43. Now, dealing with the legal scenario, as to the effect of an invalid sanction. An authority in the case of **Maruti Subrao Shinde (supra)** came to be relied upon on behalf of the accused, wherein His Lordship of the Hon'ble Bombay High Court was pleased to lay down that the trial, held on the basis of an invalid sanction, was vitiated.

44. Section 19 of the Act deals with the entire scenario, relating to the question of sanction for prosecution. Sub-section (1) thereof debars the court of law from taking cognizance, except with the previous sanction of the authority, competent to remove the

public servant from his office. Thus, what has been barred by sub-section (1) is the taking of cognizance of the offence. Sub-section (3) (a) debars the reversal of findings, sentence, etc., even by the Appellate Court, on the ground of error in the sanction, unless the error in the sanction order resulted into failure of justice. Sub-section (3)(b) debars the stay to the proceeding under this Act, on the ground of error in the sanction, unless the error in the sanction order resulted into failure of justice. As per Explanation (a) appended to section 19, “error” includes competency of authority to grant sanction. As per sub-section (4) to section 19, in determining whether the error in the sanction resulted into the failure of justice, the court must have regard to the fact, as to whether the objection could and should have been raised at any earlier stage in the proceeding.

45. Upon the perusal of section 19 of the Act, it is seen that as the order of sanction was granted by an authority, who was not competent to grant sanction, it was “an error” in the order of sanction. However, notwithstanding the same, even the Appellate Court cannot interfere with the findings or sentence, on account of the said error. Moreover, the proceeding under this Act cannot be stayed, either by the higher courts or by this court, and the judgment has to be pronounced, without awaiting a valid sanction order. The mandate, as embodied under sub-section (4) to section 19 of the Act is to the extent that the aspect, as to whether objection could and should have been raised at any earlier stage in the proceeding, relating to the aspect as to whether the error resulted into failure of justice or not, has to be taken into consideration. Indisputedly, the said error could and should have been objected to on behalf of the

accused hereinbefore itself. Apart from the same, the said error does not appear to have resulted into the failure of justice, nor could it be pointed out that any failure of justice resulted, thereby.

46. Though the authority in the case of **Maruti Subrao Shinde (Supra)** has been pressed into service on behalf of the accused, the authority in the case of **Prakash Singh Badal and another ..Vs.. State of Punjab and others, AIR 2007 Supreme Court 1274** holds the said field, wherein Their Lordships of the Hon'ble Apex Court were pleased to observe that a mere error, omission or irregularity in the sanction cannot be considered to be fatal, unless it has resulted into failure of justice or failure of justice has been occasioned, thereby. In the light of this ratio laid down by the Hon'ble Apex Court, the invalidity of sanction order is of no legal consequence, in the absence of any failure of justice, having been resulted thereby. No failure of justice could be pointed out.

ANSWERS TO POINTS

47. In the light of the foregoing observations, I answered the point Nos.1 and 2 in the affirmative. I stop here, to hear the accused on the question of sentence.

Date: 17/03/2026
Place: Yavatmal.

Sd/-
(S.U. Baghele)
Special Judge, Yavatmal.

QUESTION OF SENTENCE

POINT NO. 3 :-

48. I have heard the accused, his learned counsel and the learned APP, on the question of sentence. It is submitted by the accused that he is getting retired in the next month, due to which, minimum punishment may be awarded. Upon the queries put by this court, the accused submitted that his salary is around Rs.50,000/- per month. He has to maintain his son, aged between 28 to 29 years, daughter, aged between 26 to 27 years, wife and old aged parents.

49. It is submitted by Shri Bhutada, the learned counsel for the accused, that the accused is not a habitual offender. He is about to retire. His complete family is dependent upon him. The accused is suffering from diabetes and hypertension. Leniency may be taken.

50. *Per contra*, it is submitted by Shri N.N. Pande, the learned APP for the prosecution, that bribery is at rise, which is sending a wrong message to society. To curb this mentality, maximum sentence of imprisonment and maximum fine may be awarded.

51. Here is the case, wherein a Talathi demanded illegal gratification, in connection with the preparation of 7/12 record. Bribery is indisputedly at rampage, and has literally engulfed the entire nation. The public at large is constrained to undergo the rigor of bribery, as prevalent in the public offices, notwithstanding their unwillingness to pay the same. Deterrence is certainly warranted *qua* the menace of corruption. The courts of law cannot shun their eyes towards this evil. Taking into consideration that, only the theory of deterrence can be adhered to, in the cases of corruption, a stringent

view is warranted, notwithstanding the circumstances put forth by the accused, for the purpose of showing leniency. A balance is certainly required to be struck between the need of the hour, which is deterrence, and the scenario put forth for showing leniency. The balance certainly tilts towards deterrence, considering the societal interest. While awarding the sentence of fine as well, the earning of the accused and the need of deterrence will have to be paid attention to. In the light of the foregoing observations, I proceed to pass the following order:-

ORDER

- 1] Accused Sanjay Sheshrao Nakshane is hereby convicted of the offence punishable under section 7 of the Prevention of Corruption Act, 1988, vide section 235 of the Code of Criminal Procedure, 1973, and is hereby sentenced to undergo rigorous imprisonment for five years, and to pay fine of Rs.1,00,000/- (Rs. One Lakh only), and in the case of default in the payment thereof, to undergo further rigorous imprisonment for a term of one year.

- 2] Accused Sanjay Sheshrao Nakshane is hereby convicted of the offence punishable under section 13(2), read with section 13(1)(d) of the Prevention of Corruption Act, 1988, vide section 235 of the Code of Criminal Procedure, 1973, and is hereby sentenced to undergo rigorous imprisonment for seven years, and to pay fine of Rs.2,00,000/- (Rs. Two Lakhs only), and in the case of

default in the payment thereof, to undergo further rigorous imprisonment for a term of one year and six months.

- 3] Both the substantive sentences of imprisonment shall run concurrently.
- 4] The accused shall be entitled to set off under section 428 of the Code of Criminal Procedure, 1973, in respect of the period of detention undergone by him.
- 5] On the deposit of the amount of fine, Rs.5,000/- shall be paid to complainant Sandip Ramdas Gulhane, towards compensation, after the lapse of period of appeal. The remaining amount of fine shall be retained by the State government.
- 6] The seized tainted currency notes worth Rs.300/- be credited to the State government, after the lapse of period of appeal. The other three currency notes of Rs.100/- each and the seized driving license be returned back to the accused, after the lapse of period of appeal. The seized shirt, being worthless, be destroyed, after the lapse of period of appeal. The seized memory cards, pen drive and C.D. be treated as documents, and be dealt with, in accordance with the rules in operation, in relation to the destruction of documents.
- 7] An authenticated copy of this Judgment be provided to the accused, free of cost, immediately.

- 8] An authenticated copy of this Judgment be sent to the District Magistrate, for information.
- 9] An authenticated copy of this Judgment be also sent to the head of the department, under whom the accused has been serving, for necessary action.

Date: 17/03/2026
Place: Yavatmal.

(S.U. Baghele)
Special Judge, Yavatmal.