

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.491 OF 2005

Sayaji Dashrath Kawade
Age : 45 years, Occ. : Service
as Sub-Divisional Engineer,
R/o Plot No.8, Jai Bhavani
Housing Society, Swami Samarth
Mandir, Garkheda, Aurngabad,
Taluka and District Aurangabad. ... Appellant

Versus

The State of Maharashtra ... Respondent

....
Mr. R.N. Dhorde, Senior Counsel i/b Mr. V.R. Dhorde,
Advocate for the Appellant
Mr. S.P. Deshmukh, APP for the Respondent/State
....

CORAM : SHRIKANT D. KULKARNI, J.

RESERVED ON : 10 AUGUST, 2022

PRONOUNCED ON : 30 AUGUST, 2022

Judgment :-

1. Feeling aggrieved by the impugned judgment and order of conviction passed in Special Case No. 4 of 2000 by the Special Judge (P.C. Act), Aurangabad, the appellant/original accused has preferred this appeal.

2. The facts giving rise to this appeal in brief are as under:

3. The appellant was serving as Sub Divisional Engineer in the Department of Telecommunications at Aurangabad at the relevant point of time. The complainant (PW-1) Devidas Mohite had applied for installation of STD/PCO booth at Aurangabad. One Mr. Anil Agrawal was STD machines dealer and he contacted to the complainant that he should purchase machine from him. Accordingly, the complainant received demand note of Rs.5,000/-, and the complainant deposited the same in the telephone office. The site inspection was conducted when the appellant refused to give connection in the said premises on account of change of site. Mr. Anil Agrawal informed to the complainant that if he wanted to install the STD booth in the same premises, he had to pay Rs.2,000/-. Accordingly, the complainant agreed to pay the said amount. But he was not ready to pay bribe. The complainant went to ACB office at Aurangabad and lodged complaint against the appellant and pre-trap panchanama was prepared. On the very next day, trap was laid in the office of the appellant at 4.40 p.m.. According to the prosecution, the appellant had accepted bribe amount of Rs.2,000/- from the complainant. The appellant was found with currency notes of Rs.2,000/- with anthracene power.

The post-trap panchanama was drawn. Accordingly, crime No.II-3022 of 1998 came to be registered for the offences punishable under Sections 7, 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as “the Act” for the sake of convenience) at Jawahar Nagar Police Station , Aurangabad. After completing the procedural part and after obtaining the sanction, charge-sheet came to be filed in the special court.

4. The learned Special Judge, after appreciating the evidence and argument advanced on behalf of both the sides was pleased to convict the appellant for the offence punishable under Section 7 of the Act and sentenced to suffer rigorous imprisonment for one year and to pay of Rs.500/- with default stipulation. The appellant was also convicted for the offences punishable under Section 13(1)(d) and 13(2) of the Act and sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs. 1,000/- with default stipulation.

5. The impugned judgment and order of conviction is challenged before this Court on various grounds.

6. Heard Mr. R.N. Dhorde, learned senior counsel for the appellant and Mr.S.P. Deshmukh, learned APP for the respondent/State.

Submission of learned Senior Counsel for the appellant

7. Mr. Dhorde, learned senior counsel invited my attention to the evidence of the complainant/PW-1 Devidas Mohite and PW-2 (Panch Witness) Prakash Nikam. He pointed out that both the important witnesses have turned hostile and not supported to the prosecution case. Another witness PW-5 Abhay Agrawal, who alleged to have played role as a mediator for settling the amount of bribe and to get the work done from the appellant as per the prosecution case, he has also not supported to the prosecution case. Mr. Dhorde, learned senior counsel, therefore, submitted that three important witnesses have not supported to the prosecution case. He submitted that the complainant had shown one site in his application for STD booth and at the time of site inspection, another premises was shown, and therefore, the appellant had made it clear that now complainant cannot change the site. The complainant any how wanted the STD

telephone booth in the same premises, and accordingly, made plant to falsely implicate the appellant in this case.

8. Mr. Dhorde, learned senior counsel submitted that there is no direct demand of Rs.2,000/- by the appellant to the complainant Mr. Mohite. So called recovery of bribe amount is from the socks of the appellant, which is unreliable having regard to the evidence of PW-1 Mr. Mohite and PW-2 Mr. Nikam (Panch Witness).

9. Mr. Dhorde, learned senior counsel submitted that alleged bribe amount was put on the table of the appellant by the complainant at the time of trap according to the prosecution case. As such, the recovery from the socks of the appellant is nothing but a concocted story put forth by the prosecution, which is liable to be discarded in view of the evidence of PW-2 Mr. Nikam (Panch Witness)

10. Mr. Dhorde, learned senior counsel vehemently submitted that the demand and acceptance of bribe by the appellant/accused is a *sine qua non*. Mere recovery of currency notes from the appellant/accused without proof of demand do not constitute the offences under Sections 7, 13(1)(d) and 13(2) of the Act.

11. Mr. Dhorde, learned senior counsel has placed his reliance on the following citations in support of his submissions.

- (i) *M.R. Purushotham Vs. State of Karnataka* reported in (2015) 3 SCC 247.
- (ii) *B. Jyraj Vs. State of Andrapradesh* reported in (2014) 13 SCC 55.
- (iii) *A. Subair Vs. State of Kerala* reported in 2010 AIR SCR 1115.
- (iv) *V.Venkata Subbarao Vs. State represented by Inspector of Police A.P.* reported in AIR 2007 Supreme Court 489.
- (v) *Subash Parbat Sonvane Vs. State of Gujarat* reported in AIR 2003 Supreme Court 2169.

12. Mr. Dhorde, learned senior counsel further submitted that presumption under Section 20 of the Act can be raised only when demand by accused is proved according to the Act. In the present case, demand and acceptance of bribe is not proved, and as such, presumption available under Section 20 of the Act cannot be drawn in favour of the prosecution. Mr. Dhorde has placed his reliance on the following citations in support of his submission.

- (i) ***State of Maharashtra Vs. Dnyaneshwar Laxman Rao Wankhede*** reported in ***2009 AIR SCW 5411.***
- (ii) ***V.Venkata Subbarao Vs. State represented by Inspector of Police A.P.*** reported in ***2007 CRI. L.J. 754.***
- (iii) ***Subhash Parbat Sonvane Vs. State of Gujrath*** reported in ***AIR 2003 Supreme Court 2169.***
- (iv) ***Darshan Lal Vs.The Delhi Administration*** reported in ***1974 Cri. L.J. 307***

13. Mr. Dhorde, learned senior counsel also took me through the sanction order, which is below exhibit 27 with the evidence of sanctioning authority PW-3 Mr. Pradhan Saran at exhibit 26. Mr. Dhorde submitted the sanctioning authority has also not considered the fact that the complainant himself is not sure about who demanded the bribe either Mr. Agrawal or Mr. Kawde. As such, the sanction order is bad in law. Mr. Dhorde, learned senior counsel has placed his reliance on following decision of the Apex Court in support of his submission.

- (i) ***State of Karnataka Vs. Ameerjan*** reported in ***(2007) 11 SCC 273.***

14. Mr. Dhorde, learned senior counsel while concluding the argument submitted that the impugned judgment and order of conviction rendered by the learned Special Judge is liable to be quashed and set aside. The appellant/original accused may be acquitted out of the charges under Act, and he may be set at liberty.

Submissions of learned APP for the State

15. Mr. S.P. Deshmukh, learned APP for the respondent/State strenuously submitted that though PW-1/original complainant Mr. Mohite and PW-2 Mr. Prakash Nikam (panch witness) turned hostile and not supported to the prosecution case, their evidence cannot be thrown away in entirety. Their evidence need to be examined as a whole and whatever part of evidence is found reliable can be accepted. The learned trial Judge has accordingly accepted reliable part of evidence of PW-1/original complainant Mr. Mohite and PW-2 Mr. Prakash Nikam (panch witness). The learned trial Judge has also recorded reasons to that effect for accepting their testimony. He submitted that at the relevant point of time, the appellant/accused was working as a Sub Divisional Engineer in the telephone office at Aurangabad. He was looking after the work of sanctioning

STD booth. He had inspected site and disapproved the site and in that context compelling to the complainant to pay Rs.2,000/- by way of bribe to sanction STD telephone booth in the same premises. This particular aspect may be considered.

16. Mr. Deshmukh, learned APP invited my attention to the impugned judgment, more particularly, paragraph Nos.23 and 24. He also invited my attention that the amount of bribe was recovered from appellant's right leg sock smeared with anthracene powder. No satisfactory explanation is offered by the appellant.

17. Mr. Deshmukh submitted that tainted currency notes were found in conscious possession of the appellant. The tainted currency notes were concealed by the appellant which demonstrate that he had accepted the bribe. Mr. Deshmukh submitted that once acceptance of tainted currency notes is established the presumption of Section 20 of the Act must be drawn. Mr. Deshmukh has placed his reliance on citation in case of ***T. Shankar Prasad Vs. State of Andhrar Pradesh*** reported in (2004) 3 SCC 753, which is referred in the impugned judgment.

18. Mr. Deshmukh, learned APP further submitted that it is a presumption under law and casts an obligation on the Court to operate it in every case brought under Section 7. The presumption though rebuttable, the appellant has failed to rebut the presumption. As such, the learned Additional Sessions Judge/Special Judge (POCSO Act) has rightly held the appellant guilty under Sections 7, 13(1)(d) and 13(2) of the Act. He submitted that the learned Special Judge has recorded sound reasons while awarding the sentence, which are in tune with the provisions of the Act. No interference is required.

19. I have considered the submissions of both the sides. I have also gone through the citations relied upon by Mr. Dhorde, learned senior counsel and Mr. Deshmukh, learned APP for the respondent/State.

20. I have also gone through the evidence of PW-1 Mr. Devidas Mohite (complainant), PW-2 Mr. Prakash Nikam (panch witness), PW-3 Mr. Pradhan Saran (sanctioning authority), PW-4 Mr. Kakade PW-5 Mr. Abhay Agrawal mediator for bribe. PW-6 Subhash Joshi, PW-7 Mr. Tandale (investigating officer).

21. In addition to above referred stock of oral evidence, the prosecution has also pressed into service the following stock of the documentary evidence.

- (i) Pre trap Panchanama (exhibit 20),
- (ii) Post trap Panchanama (exhibit 21),
- (iii) Arrest Panchanama of the appellant (exhibit 22),
- (iv) Sealed container of anthracene powder (exhibit 23),
- (v) The copy of the scene of offence (exhibit 24),
- (vi) Sanction order (exhibit 27),
- (vii) Statement of the complainant PW-1 Mr. Mohite (exhibit 17) dated 11.06.1998.

Admitted factual scenario

22. At the relevant point of time, the appellant was working as a Sub Divisional Engineer at Aurangabad telephone office. PW-1 Mr. Devidas Mohite (complainant) had filed an application for getting STD telephone booth connection. PW-1 Mr. Devidas Mohite has deposited Rs.5,000/- with the Treasury as per demand note on 10.06.1998. The appellant and his junior engineer Mr. Wagh conducted spot inspection where STD/PCO was to be installed. It was found that place mentioned in the application was not same where the connection was demanded. The connection was demanded at some other

place and the complainant Mr. Devidas Mohite was insisting to have PCO connection in the said premises. This is the alleged staring point which prompted PW-1 Mr. Mohite to start dealing with Mr. Agrawal (telephone contractor) and accordingly bribe amount was settled at Rs.2,000/-. Soon after the trap, the F.I.R. vide Crime No.3022 of 1998 came to be registered against the appellant at Jawahar Nagar Police Station, Aurangabad and further investigation part was completed including obtaining sanction.

23. The entire prosecution building is depend on the testimony of PW-1 Mr. Devidas Mohite (complainant), PW-2 Mr. Prakash Nikam (panch witness) and PW-5 Mr. Abhay Agrawal (supplier/contractor of STD Booth machines). On going through the evidence of PW-1 Mr. Devidas Mohite (complainant) and PW-2 Mr. Prakash Nikam (panch witness), it is evident that both of them have not supported to the prosecution case. They have not stated about demand and acceptance of bribe of Rs.2,000/- by the appellant when trap was laid on 11.06.1998. It is well settled position of law that the evidence of witness must be read as a whole. The part of testimony of a hostile witness can be accepted, which is found to be reliable and trustworthy. The question is

whether the evidence of above two witnesses on the material point of demand and acceptance of bribe is found reliable and inspired confidence of the Court to award the conviction.

24. On going through the evidence of PW-1 Mr. Mohite (complainant) and PW-2 Mr. Prakash Nikam (panch witness) very carefully, it is evident that their evidence does not focus any light positively about the demand and acceptance of bribe by this appellant/accused, when the trap was laid in his office.

25. The relevant part of the evidence of PW-1 Mr. Devidas Mohite (complainant) on the point of demand and acceptance is reproduced hereunder.

“ श्री.निकम व मी त्या टेलिफोन कार्यालयात गेलो. ते दुस—या माळयावर होते. श्री.तांदळे व पथकातील इतर सभासदर आमच्या मागे आले व सोयीच्या जागी थांबले. श्री.कवडे हे त्यांचे कक्षात हजर असल्याचे मला दिसून आले. त्यांचे समोर दोन—तीन लोक बसून होते. ते मला काचेतून दिसले. ते लोक तिथे बसलेले असतांनाच कवडे कक्षाच्या बाहरे आले व ते जात आहेत असे मला वाटले म्हणून मी त्यांना दरवाजातच थांबवले. मी त्यांना अनिल अग्रवालने पैसे घेउन पाठविले असे म्हणालो. ते नंतर त्यांच्या कक्षात गेले. ते लोक तेथे बसूनच होते. कवडे

कक्षात बसले असतांना मी त्यांना अनिल अग्रवालने सांगितल्यानुसार तुम्हाला देण्यांस पैसे आणलेत असे सांगितले. त्यावर त्यांनी मला पैसे लागत नाही तुमचे काम होत नाही असे म्हटले. मी त्यांना पैसे घेउन काम करण्यास विनंती केली. मी त्या पावडर लावलेल्या नोटा काढून त्यांच्या टेबलावर ठेवल्या. मी कवडेंशी हस्तांदोलन करून बाहेर आलो. त्यानंतर मी तळमजल्यावर येउन नियोजित इशारा केला. निकम माझेसोबतच होता. त्याचवेळी कवडे देखील तळमजल्यावर आले होते. इशारा मिळाल्यावर साध्या वेशातील दोन पोलिस तेथे आले. मी त्यांना माझे बाजूचा इसम कवडे असून त्याने पैसे घेतल्याचे सांगितले. त्यांनी त्यास पकडले व त्याच्या कार्यालयात वर घेउन गेले”.

26. So also, the relevant part of the evidence of PW-2 Mr. Prakash Nikam (panch witness) on the point of demand and acceptance is reproduced hereunder.

“ कवडेंच्या कक्षालगत इतर सहा ते सात कक्ष होते. प्रत्येक कक्षाच्या बाहेर संबंधित कर्मचा—यांची बसण्याची व्यवस्था होती. त्या कार्यालयात अनेक लोक येत जात होते.

खाली उतरत असतांना कवडे व माझेपासून मोहीते हे आठ ते दहा पाय—यांच्या अंतरावर होते. कवडेंनी पैसे घेतले नाही असे म्हटल्यावर त्यांची अंगझडती घेण्यात आली होती. त्यात त्या नोटा आढळून आल्या नाहीत. तेथे

गदी झाल्यामुळे कवडेंना त्यांचे कक्षात नेण्यात आले होते. मोहीतेस विचारल्यावरून मोहीतेनी नोटा टेबलावर ठेवल्या होत्या असे सांगितले. म्हणून टेबल व त्यावरील संचिका तपासण्यात आली. त्यांनतर टेबलाचे कप्पे व कपाट /आलमारी तपासण्यात आले. त्यांनंतर कवडेंची इजारीच्या चोर खिशासह पूर्णपणे अंगझडती घेण्यात आली. परंतु त्यांचे अंगझडतीत पावडर लावलेल्या नोटा आढळून आल्या नाहीत”.

27. According to the prosecution, the bribe money was recovered from the possession of the appellant/accused. In this context, after having microscopic examination of the above referred two important witnesses, the prosecution does not get any support from the evidence of PW-1 Mr. Devidas Mohite (complainant) and PW-2 Mr. Prakash Nikam (panch witness) on the crucial point of demand and acceptance of bribe by the appellant/accused. It appears from the evidence of PW-1 Mr. Devidas Mohite (complainant) that he had put the bribe amount on the table of the appellant/accused, when he was sitting in his chamber. There was no demand of bribe of Rs 2,000/- from the side of the appellant. More so, PW-1 Mr. Devidas Mohite (complainant) did not state that the appellant has accepted the bribe amount and accordingly put it in his drawer or cupboard. As

such, so called bribe amount of Rs.2,000/- seems to have been put on the table of the appellant/accused without any demand from the side of the appellant/accused. There was no such conversion about demand and acceptance of the bribe from the appellant/accused. Much was argued by Mr. Deshmukh, learned APP for the respondent/State about the recovery of the tainted currency notes from the right leg sock of the appellant, and thereby laying hand on the presumption under Section 20 of the Act, but I do not find any merit in his submissions in view of weak quality of above referred two witnesses.

28. A useful reference can be made in case of ***M.R. Purushotham Vs. State of Karnataka*** (supra), wherein it is held by the Hon'ble Supreme Court that when demand of bribe is not proved by the prosecution, mere possession and recovery of currency notes from the accused without proof of demand do not constitute offence under Section 13(1)(d) read with Section 13(2) of the Act.

29. In ***B. Jayraj Vs. State of Andhra Pradesh*** (supra), wherein it is held by the Hon'ble Supreme Court that the demand of illegal gratification by the appellant/accused must

be proved beyond the reasonable doubt. It is held by the Hon'ble Supreme Court that the demand must be proved beyond reasonable doubt that accused voluntarily accepted money knowing it to be bribe. In absence of proof of demand for illegal gratification or use of corrupt or illegal means or abuse of position for obtaining any valuable thing or for gaining pecuniary advantage, the above said offences do not stand established. Mere possession and recovery of currency notes not sufficient to constitute offence. Presumption against public servant under Section 20 of the Act can be drawn only after demand for acceptance of illegal gratification is proved. Such presumption is applicable only in respect of offence under Section 7 of the Act, but not under Section 13 (1)(i) and (ii) of the Act.

30. In *A. Subair Vs. State of Kerala* (supra), *V. Venkata Subbarao Vs. State represented by Inspector of Police, A.P.* (supra), *Subhash Parbat Sonvane Vs. State of Gujrat* (supra) and *State of Maharashtra Vs. Dnyaneshwar Laxman Rao Wankhede* (supra), the Hon'ble Supreme Court has reiterated the same view.

31. Having regard to the above legal position made clear by the Hon'ble Supreme Court, and in view of the quality of evidence of PW-1 Mr. Dividas Mohite (complainant) and PW-2 Mr. Prakash Nikam (panch witness), it is clear just like day light that the prosecution has miserably failed to prove the basic legal requirement of demand and acceptance of bribe as contemplated under Section 13 (1)(d) read with Section 13(2) of the Act. The prosecution story is collapsed since both the material witness (supra) have not extended any support to prove the basic legal requirement of demand and acceptance of bribe by the appellant/accused for installation of STD booth in the premises of the complainant PW-1 Mr. Devidas Mohite (complainant).

32. There is also suspicion about the so called recovery of tainted currency notes/illegal gratification. According to PW-1 Mr. Devidas Mohite (complainant), he had put the bribe amount on the table. Tainted currency notes were recovered from the right leg sock of the appellant. It is further evident from the above referred witnesses as well as investigating officer that initially search was made in the cupboard of the appellant, but tainted currency notes were not found. Another attempt was made to search tainted currency notes

in the table drawer of the appellant, but that attempt also went fruitless. Lastly, recovery alleged to have made from the appellant's right leg sock. How far this is reliable evidence? Certainly not! When PW-1 Mr. Devidas Mohite (complainant) has nowhere stated that the appellant/accused had put the tainted currency notes in his right leg socks. So this recovery is also found to be a doubtful exercise in view of the above factual scenario.

33. Apart from that quality of evidence, even for the sake of argument it is accepted that tainted currency notes of Rs.2,000/- were allegedly recovered from the appellant's right leg sock, this alleged recovery of tainted currency notes from the appellant/accused can be accepted, in absence of demand of bribe, the definite answer is no in view of decision in case of *M.R. Purushotham Vs. State of Karnataka* (supra), wherein it is made clear by the Hon'ble Supreme Court that mere possession and recovery of currency notes from accused without proof of demand do not constitute offence under Section 13(1)(d) read with Section 13(2) of the Act.

34. Now coming to the evidence of PW-5 Mr. Abhay Agrawal, who alleged to have played role of a mediator in

completing the deal of bribe. On going through the testimony of this important witness PW-5 Mr. Abhay Agarawa, it is clear that he has also not supported to the prosecution case. He has turned hostile. He has candidly stated that the appellant/accused never told him to inform PW-1 Mr. Devidas Mohite (complainant) to pay him Rs.2,000/- for getting STD booth connection by way of illegal gratification. It is, therefore, clear that this important witness PW-5 Mr. Abhay Agrawal has also given severe blow to the prosecution case.

35. Having regard to the appreciation of evidence of above referred three witnesses PW-1 Mr. Devidas Mohite, PW-2 Mr. Prakash Nikam (panch witness) and PW-5 Mr. Abhay Agrawal (mediator) to fix the bribe amount, the entire prosecution edifice is collapsed. The basic legal requirement of demand and acceptance of bribe as contemplated under Sections 7, 13(1)(d) read with Section 13(2) of the Act is not proved by the prosecution. The learned Special Judge/Additional Sessions Judge though observed that above said three witnesses have turned hostile and not supported to the prosecution case, went ahead under wrong presumption and convicted the appellant/accused for the above said offences. The findings recorded by the learned

trial Judge are found perverse having regard to the evidence on record. The learned Special Judge/Additional Sessions Judge has driven himself on morality and ethics and convicted the appellant/accused for the above said offences, when the prosecution has failed to prove the basic legal requirement of demand and acceptance of bribe within four corners of law.

36. The last point is about sanction order. Whether it is valid and legal and according to the mandate of provisions of the Prevention of Corruption Act, 1988. Mr. Dhorde, learned senior counsel invited my attention to the evidence of PW-3 Pradhan Saran vide exhibit 26. He pointed out that Pradhan Saran is examined by the prosecution as a competent authority/sanctioning authority. While facing the cross-examination, he has admitted that he did not make any enquiry with the subordinates regarding the allegations made against the appellant. He simply relied upon the investigation papers. He submitted that the sanction order vide exhibit 27 is mechanical one and bad in law. I found merit in the submissions of Mr. Dhorde, learned senior counsel. On perusing the cross-examination of PW-3 Pradhan Saran (sanctioning authority), it would be clear that the

sanctioning authority has not applied his mind before according the sanction in the case. He has not applied his mind independently having regard to the facts of the case. He has simply relied upon the investigation papers and accorded sanction, which may be termed as mechanical sanction order. Certainly, the sanction order vide exhibit 27 issued by PW-3 Mr. Pradhan Saran is bad in law. Reliance can be placed in case of *State of Karnataka Vs. Ameerjan* (supra), wherein the Hon'ble Supreme Court has held that an order of sanction should not be construed in a pedantic manner. It is also well settled that the purpose for which an order of sanction is required to be passed should always be borne in mind. Ordinarily, the sanctioning authority is the best person to judge as to whether the public servant concerned should receive the protection under the Act by refusing to accord sanction for his prosecution or not. For the aforesaid purpose, application of mind on the part of the sanctioning authority is imperative. The order granting sanction must be demonstrative of the fact that there had been proper application of mind on the part of the sanctioning authority.

37. If the evidence of PW-3 Pradhan Saran (sanctioning authority) is considered in the background of legal position made clear by the Hon'ble Supreme Court (referred above), it is clear that the sanctioning authority has not applied his independent mind before according the sanction for prosecution. He has not even considered whether the material collected by the Investigating Officer would *prima facie* establish the offence by the public servant concerned. Certainly, the sanction order vide exhibit 27 is bad in law.

38. There is no need to discuss rest of the evidence of the prosecution witnesses, when the basic legal requirement of demand and acceptance of bribe and sanction order are not proved by the prosecution. It would be the futile exercise.

39. The corruption is spreading like cancer in our great nation. The disease of the corruption has been with us since long time. The common man is facing this rampant corruption, but a person for the charges of corruption under the Act cannot be convicted on moral and ethics. When the law provides certain mandatory requirements for proving offence, no shortcut is permitted. In the result, the appeal succeeds.

ORDER

- (i) The criminal appeal stands allowed
- (ii) The impugned judgment and order of conviction passed in Special case No. 4 of 2000 by the Special Judge (P.C. Act), Aurangabad dated 15.06.2005 is hereby quashed and set aside.
- (iii) The appellant/accused is hereby acquitted of the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 and he is set at liberty.
- (iv) The appellant/accused shall furnish PR Bond of Rs.20,000/- (Rupees Twenty Thousand only) with one solvent surety of the like amount so as to appear before the Higher Court as and when such Court issues notice in respect of any Appeal or Petition filed against the Judgment of this Court and such Bail Bonds shall remain in force for six months, in view of Section 437-A of the Code of Criminal Procedure Code, 1973, before the special Judge (P.C. Act), Aurangabad.
- (v) Record and Proceedings be sent back to the trial court.
- (vi) The Criminal Appeal is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane