

MHWR010012422015	Presented on : 08-07-2015
	Registered on : 08-07-2015
	Decided on : 18-08-2025
	Duration : 10 Years - 1 Months - 10 Days

Special (ACB) Case No.15/2015**Exh.****Form - 'A'**

**IN THE COURT OF THE SPECIAL JUDGE (ACB) AND ADDITIONAL
SESSIONS JUDGE, WARDHA.**

(Present: S.A.S.M. Ali, Additional Sessions Judge)
(18th day of August 2024)

(FIR No.3024/2014 under Sections 7, 13(1)(d) r/w Section 13(2) of the Prevention of Corruption Act 1988).

COMPLAINANT	: The State of Maharashtra, Through Police Station, Ashti, Tah.Ashti, Dist.Wardha.
REPRESENTED BY	: Shri. A. D. Thakre Learned Additional Public Prosecutor.
ACCUSED	: Ganesh Panditrao Raut, Age about 45 years, Occu.: Service, R/o Ashti, Tah. Ashti, Dist. Wardha.
REPRESENTED BY	: Learned Advocate Shri. P.B.Taori

Form- 'B'

Date of offence	: 14.12.2014
Date of FIR	: 14.12.2014
Date of Charge-sheet	: 08.07.2015
Date of Framing of Charges	: 10.01.2020

Date of commencement of evidence	:	09.03.2020
The date on which judgment is reserved	:	-
Date of the judgment	:	18.08.2025
Date of the Sentencing Order, if any	:	-

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.P.C.
1]	Ganesh Panditrao Raut,	14/12/2014	16/12/2014	7, 13(1) (d) r/w 13(2) of P. C. Act	Acquitted	-	-

Form- 'C'**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution:**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS,	EXHIBITS

		EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)	
PW1	Manoj Dhanraj Shende	Panch witness	23
PW2	Sanjay Narayanrao Khallarkar	Police witness	61
PW3	Sarin Eknathrao Durge	Investigation Officer	65
PW4	Sharad Vitthal Misal	Panch Witness	99
PW5	Dattaram Shantram Andare	Other witness	101
PW6	Mukesh Kumar Chunnilal Ganatra	Sanction Authority witness	104

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	NIL	NIL

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
Nil	Nil	Nil

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS.**A. Prosecution:**

Sr. No.	Exhibit Number	Description
1]	Exhibit 24	Letter of Investigating Officer, A.C.B. Wardha to Depot Manager, S.T. Wardha dated 12.12.2014.
2]	Exhibit 25	Letter of Depot Manager, S.T. Wardha to Investigating Officer, A.C.B. Wardha dated 12.12.2014.
3]	Exhibit 26	Consent Letter dated 14.12.2014.
4]	Exhibit 27	Complaint dated 14.12.2014.
5]	Exhibit 33	Annexure A (Mobile conversation)
6]	Exhibit 34	Inquiry Panchanama No.1 of the office of A.C.B. Wardha dated 14.12.2014.
7]	Exhibit 36	Seizure Panchanama No.1 (Currency notes)
8]	Exhibit 37	Seizure Panchanama No.2 (Liquid bottle).
9]	Exhibit 38, 39, 40	Seizure Panchanamas.
10]	Exhibit 41	Annexure B (Written notes of conversation from voice recorder).
11]	Exhibit 42, 43, 44	Hash Generation Certificates.
12]	Exhibit 45	Spot map.
13]	Exhibit 46	Inquiry Panchanama No.2 of the office of A.C.B. Wardha dated 14.12.2014.
14]	Exhibit 47	Panchanama of proceedings of taking natural voice sample of accused dated

		15.12.2014.
15]	Exhibit 48	Letter of Investigating Officer, A.C.B. Wardha to Depot Manager, S.T. Wardha dated 20.12.2014.s
16]	Exhibit 49 and 50	Verbatim transcript of conversation from mobile phone of accused dated 14.12.2014 (Annexure A & B).
17]	Exhibit 51	Hash Generation Certificate.
18]	Exhibit 58	Statement of Witness Shri A.S. Bhagela dated 31.07.2017.
19]	Exhibit 59	Statement of accused dated 14.12.2014.
20]	Exhibit 62, 64	Orders regarding submission to Director, State Forensic Science Laboratory, Hansbhugra Road, Kalina, Santacruz (East), Mumbai dated 30.01.2015.
21]	Exhibit 63	Letter of Investigating Officer, A.C.B. Wardha to Director, State Forensic Science Laboratory, Mumbai dated 30.01.2015.
22]	Exhibit 66, 67, 79	Memory Cards
23]	Exhibit 68	Letter of Investigating Officer, A.C.B. Wardha to Police Inspector, P.S. Ashti dated 14.12.2014.
24]	Exhibit 69	Complaint dated 14.12.2014.
25]	Exhibit 70	First Information Report.
26]	Exhibit 71	Arrest Form of accused
27]	Exhibit 72	Orders regarding submission to Director, Forensic Science Laboratory, Nagpur dated 15.12.2014.

28]	Exhibit 73	Letter of Investigating Officer, A.C.B. Wardha to Deputy Director, F.S.L., Nagpur dated 15.12.2014.
29]	Exhibit 74	Invoice Challan of Muddemal.
30]	Exhibit 75	Examination Report of Chemical Analysis, F.S.L., Nagpur.
31]	Exhibit 76	Panchanama of proceedings of taking natural voice sample of complainant.
32]	Exhibit 77	Verbatim transcript of conversation from mobile phone of complainant dated 14.12.2014 (Annexure A).
33]	Exhibit 78	Transcript of conversation from voice recorder folder of complainant dated 14.12.2014 (Annexure B).
34]	Exhibit 80, 82	Letters of Investigating Officer, A.C.B. Wardha to Forest Range Officer, Ashti dated 15.12.2014.
35]	Exhibit 81	Letter of Deputy Forest Officer, Wardha to Investigating Officer, A.C.B. Wardha dated 16.01.2014.
36]	Exhibit 83	Letter Deputy Conservator of Forests Wardha, to investigation officer of A.C.B., Wardha dated 16.01.2014
37]	Exhibit 84	Letter investigation officer of A.C.B., Wardha to Deputy Conservator of Forests Wardha. dated 22.01.2015.
38]	Exhibit 85	Letter Deputy Conservator of Forests Wardha, to investigation officer of A.C.B., Wardha dated 31.01.2014.
39]	Exhibit 86	Maharashtra Government Gazette

40]	Exhibit 87	Letter investigation officer of A.C.B., Wardha to Superintendent of Police ACB Nagpur dated 22.01.2015.
41]	Exhibit 88	Letter of Nodel Officer, Vodafone, to investigation officer of A.C.B., Wardha dated 08.04.2015.
42]	Exhibit 89	Vodafone Call Data Records
43]	Exhibit 90	Certificate of Nodal Officer, Vodafone Cellular Ltd. under Section 65-B of the Evidence Act.
44]	Exhibit 91	Letter investigation officer of A.C.B., Wardha to Deputy Conservator Officer Wardha. Dated 11.03.2015.
45]	Exhibit 92	Letter of Assistant Conservator, Wardha to Investigating Officer, A.C.B. Wardha dated 17.03.2015.
46]	Exhibit 93	Certificate under Section 65-B of the Indian Evidence Act.
47]	Exhibit 94	Letter of investigation officer of A.C.B., Wardha to Superintendent of Police A.C.B. Nagpur. Dated 13.03.2015.
48]	Exhibit 95	Letter of Superintendent of Police A.C.B. Nagpur to Deputy Conservator Officer Wardha. Dated 24.03.2015.
49]	Exhibit 96	Sanction Order of Deputy Conservator, Wardha.
50]	Exhibit 97	Letter of Superintendent of Police, A.C.B. Nagpur to Police Inspector, ACB Wardha dated 29.04.2015.

B. Defence :

Sr. No.	Exhibit Number	Description
Nil	Nil	Nil

C. Court :

Sr. No.	Exhibit Number	Description
Nil	Nil	Nil

D. Material Objects:

Sr. No.	Material Object Number	Description
1]	Article 1 to Article 3	Bottles concerned with the fingers of both hands and pocket of trousers of accused, where the mixture turned violet.
2]	Article B	26 currency notes of ₹ 500/- each.
3]	Article C1 to C2	Bottles.

JUDGMENT

(Delivered on this 18th day of August, 2025)

The accused is facing 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 "P.C. Act").

In brief, the facts of the prosecution case are as follows:-

2] The complainant, Fahimuddin Jainuddin Kazi (hereinafter referred to as the "complainant"), was running a saw mill at Ashti. The accused, who was working as a Forest Guard and was also the Beat Guard of that area, used to visit the saw mill of the complainant. The accused used to allege that the complainant was cutting Teak (TP) wood and Babul wood without permission. A week before the complaint was lodged, the complainant was called by the accused at the saw mill of one Shri Savvalakhe, but the complainant did not respond. Thereafter, the accused visited the saw mill of the complainant and alleged that he was cutting Babul trees without permission and, therefore, his saw mill would be seized. He asked the complainant to bring the necessary documents for verification. When the complainant objected and stated that he did not cut any wood without permission, it is alleged that the accused demanded a bribe of ₹ 15,000/- to avoid taking action against him. The complainant, therefore, immediately approached the ACB and lodged a report against the accused.

3] PI Sarin Durge, Anti-Corruption Bureau (in short "ACB"), recorded the complaint. Two official panchas from S.T. Depot, Wardha, were called, and in their presence, the complaint was reduced into writing. After verification of the complaint, the complainant was asked to call the accused. Accordingly, the complainant made a conversation with the accused, which was saved in his mobile phone. The conversation was recorded, and its transcript was prepared.

4] The ACB officials decided to lay a trap. Accordingly, the complainant was asked to bring 26 currency notes of ₹ 500/- each. The notes were treated with phenolphthalein chemical. The trap team officials were instructed, and a trap was laid. During the trap, the

accused was caught red-handed while accepting the tainted currency notes from the complainant. The said notes were recovered from the pocket of his trousers. The currency notes were subjected to sodium carbonate solution test, due to which the solution turned violet, confirming the presence of phenolphthalein powder. The numbers of the currency notes were compared and verified that those are the same currency notes, which were given to complainant.

5] A personal search of the accused was taken, and a separate list of the articles found was prepared. After verification, the articles were returned to him. The memory card was taken from the recorder. The conversation was played in the presence of the panchas, and they confirmed that the recorded voice was of the complainant and the accused. Offence came to be registered against the accused under Sections 7 and 13(2) read with Section 13(1)(d) of the P.C. Act. The muddemal articles were sent to the Regional Forensic Science Laboratory, Nagpur. The voice sample of the accused was taken, and the conversation was preserved as Annexures A and B. Similarly, the natural voice samples of the complainant were also taken and marked as Annexures A and B. A panchanama was prepared. After collecting all the necessary documents, sanction to prosecute the accused was obtained. Upon receipt of sanction, the charge-sheet was filed.

6] My learned predecessor has framed the charge against the accused vide Exh.6 under Section 7 and Section 13(2) read with Section 13(1)(d) of the P.C. Act. The contents of the charge were read over and explained to the accused in vernacular. He pleaded not guilty and claimed to be tried.

7] In order to bring home the guilt of the accused, the prosecution adduced oral as well as documentary evidence as described above. After examining the aforesaid witnesses, the prosecution filed closing pursis (Exh.106). Upon closure of the prosecution evidence, the statement of the accused under Section 313(1)(b) of the Code of Criminal Procedure was recorded vide Exh.107. In his statement, the accused took the defence of total denial and false implication. The accused did not lead any evidence in his defence. However, he has filed written statement (Exh.108) wherein he stated that he had demanded loan to the complainant for treatment of his wife, and the complainant handed over ₹ 13,000/- to him at his Saw Mill and at that instant only ACB Officials caught him. As such, according to the accused, it was not bribe but alone taken from the complainant.

8] Heard the learned Additional Public Prosecutor for the State and the learned Advocate for the accused. Having regard to the submissions made at the bar, the following points arise for my determination. I have recorded my findings thereon for the reasons to follow:

Sr. No.	Points	Findings
1)	Whether the prosecution proved that on 14.12.2014, the accused, being a public servant, demanded ₹ 15,000/- from the complainant as a gratification other than legal remuneration, as a motive or reward for doing or forbearing to do an official act, i.e. to save the complainant from the sealing of his saw mill, and thereby committed an offence punishable under Section 7	In the Negative.

	of the P.C. Act ?	
2)	Whether the prosecution proved that on 14.12.2014, at about 3:00 p.m., in the premises of the complainant's saw mill at Ashti, the accused, being a public servant, by corrupt or illegal means, or by abusing his position as a public servant, obtained pecuniary advantage of ₹ 15,000/- for himself from the complainant without any public interest, and thereby committed an offence of criminal misconduct under Section 13(1)(d), punishable under Section 13(2) of the P.C. Act ?	In the Negative.
3)	What offences are proved against the accused ?	No offence proved.
4)	What order ?	Accused is acquitted.

REASONS

As to Points No.1 to 4:

9] At the outset, it is relevant to note that during the pendency of the trial and before the stage of evidence, the complainant in the present case expired, and therefore, the entire case of the prosecution rests on the evidence of the panch witnesses. The prosecution has mainly relied on the evidence of Panch witness Manoj Shende, examined at Exh.23.

10] It is also pertinent to note that reference has been made to the case of **Neeraj Dutta v. State (Government of NCT of Delhi)**, reported in **(2023) 18 SCC OnLine SC 280**. The question referred for consideration in the said judgment was as under:

In the absence of evidence of the complainant (direct/primary, oral/documentary evidence), it is permissible to draw an inferential deduction of culpability/guilt of a public servant under Section 7 and Section 13(1)(d) read with Section 13(2) of the Act based on other evidence adduced by the prosecution.

The Hon'ble Bench, after considering various provisions of the Act, opined that even in case of the death of the complainant, circumstantial evidence available on record can be relied upon. It is permissible to draw an inference of the guilt of a public servant under Section 7 and Section 13(1)(d) read with Section 13(2) of the P.C. Act.

11] Even the issue of presumption under Section 20 of the P.C. Act has been answered by the Constitution Bench, by holding that only on proof of the "facts in issue", Section 20 mandates the Court to raise a presumption that the illegal gratification was for the purpose of motive or reward as mentioned in Section 7 of the P.C. Act.

12] Now, in view of the aforesaid proposition of law, it is necessary to examine whether the prosecution has been able to prove the guilt of the accused beyond reasonable doubt. In order to bring home the guilt of the accused, the prosecution must first prove the demand for illegal gratification and its acceptance as a matter of fact.

13] This fact in issue can be proved either by direct evidence, which may be in the nature of oral or documentary evidence, or by indirect/circumstantial evidence. Presumption of fact with regard to demand and acceptance of illegal gratification may be drawn by the Court by way of inference, only when the evidential facts have been proved by reliable oral or documentary evidence. It is, therefore, clear

that even if the complainant dies during the pendency of the trial, the accused can be convicted provided demand and acceptance are proved through other evidence.

14] Now, coming to the evidence adduced by the prosecution. PW1 Manoj Shende is a Panch witness. He stated that on 14.12.2014, he and another panch witness were present in the office of ACB, Wardha, where the complainant was also present. The complainant showed the complaint filed against Forest Guard Shri Raut and his colleagues regarding illegal demand of bribe. He further stated that at that time, the complainant told them that the accused had threatened to seal his saw mill for cutting wood and had demanded a bribe of ₹ 15,000/- for himself and his colleague Shri Kumare. Accordingly, the complaint was taken down as per the say of the complainant and it was verified.

15] He further deposed that Police Inspector Sarin Durge removed the SIM card from the mobile phone of the complainant and inserted it in the mobile phone of the ACB. Thereafter, the complainant was asked to call the accused. Accordingly, their conversation was recorded, and on verification, it was found that the accused demanded a bribe of ₹ 15,000/-. He also stated that the conversation between the accused and the complainant was typed and preserved as Annexure A.

16] As regards the evidence of PW1, he further stated that the complainant was instructed to bring ₹ 13,000/- in the form of ₹ 500/- currency notes. The solution of sodium carbonate powder was prepared. When the currency notes were dipped in the said solution, the colour of the solution turned purple. Thereafter, the currency notes were kept in one envelope and a panchanama was prepared.

17] He further stated that on 14.12.2014, when he was present in the ACB office, he, the complainant, and other staff members proceeded to Ashti from Wardha in a vehicle and reached a temple situated on Sahur Road. He further stated that instructions were given to the complainant regarding the raid, and he himself (PW1) was instructed to keep watch on the complainant and the accused, as well as to hear the conversation between them.

18] He further deposed that thereafter, the complainant made a phone call to the accused, which was recorded, and as per the said conversation, the accused agreed to accept the money near the saw mill. He further stated that an amount of ₹ 13,000/- was handed over to the complainant. As per the instructions of the Investigating Officer, the said money was kept in the shirt pocket of the complainant. Immediately thereafter, a memory card was inserted into the voice recorder.

19] He further deposed that he then entered into a tin shed along with the complainant. Within some time, the accused came there on a motorcycle, entered the tin shed, and sat on a chair. The complainant took out the money from his shirt pocket with his right hand and handed it over to the accused. The accused accepted the money and started counting it. At that time, a pre-decided signal was given to the ACB officials. Consequently, the raid was conducted.

20] He further stated that the hands of the accused were dipped into the prepared solution, and the colour of the solution changed to violet. He further deposed that the tainted money, which was removed from the pocket of the pant of the accused, was kept on the table, and the numbers of the currency notes were noted down. Again, a solution was

prepared with the help of sodium carbonate, and it was sprinkled on the currency notes. At that time, the colour of the currency notes changed to violet. Thereafter, all the currency notes were allowed to dry and were then kept in a paper envelope, and a panchanama was prepared.

21] He further stated that another solution was prepared, and the complainant was asked to dip the fingers of his left hand into it. The colour of the solution did not change. Thereafter, a fresh solution was prepared, and when the complainant's left shirt pocket was turned inside out and dipped in the solution, the solution turned purple, and a panchanama was prepared. He further deposed that the search of both the complainant and the accused was taken, the list of articles found with them was prepared, and thereafter the said articles were returned to them.

22] It is further deposed that samples of the natural voices of the complainant as well as the accused were taken with the help of a voice recorder. Lastly, the witness identified the voice of the accused when the conversation recorded in the memory card was played before him.

23] During cross-examination, the witness admitted that during his examination-in-chief, he could not remember many things and had taken support from the papers signed by him. He further admitted that when the complainant had made a telephonic call to the accused, at that time, the person on the other side had not disclosed his name, nor were the ACB officials taking any notes at the relevant time. The witness categorically admitted that at the time of the raid, as soon as the complainant gave the pre-decided signal, they all came out of the house, and thereafter the ACB officials caught hold of the accused. The

suggestions which were given to witness by the learned Advocate for accused were denied by the witness.

24] Prosecution witness PW2, Sanjay Khallarkar, deposed that he had received three sealed envelopes along with a request letter, which he submitted to his office. PW3, Sarin Durge, the Investigating Officer, deposed regarding all the formalities of the investigation, including the raid. During cross-examination, he admitted that he had not taken oral permission of the accused for recording his natural voice, nor had he taken oral permission of the complainant. During his examination-in-chief, the recorded conversation was again played, and the Investigating Officer admitted that the said conversation was between the complainant and the accused.

25] During further cross-examination of PW3, he admitted that in Exhibit 69, which is the report, there is no conversation regarding the demand and acceptance of money. He further admitted that while lodging Exhibit 69, he had not handed over copies of Panchanama Nos. 1 and 2 to the accused, though it was necessary as per the ACB Manual. He also admitted that he had not inspected the mobile phone of the complainant.

26] The prosecution further examined PW4, Sharad Misal, who was the panch witness for the voice samples of the complainant and the accused. According to him, in his presence, the Investigating Officer had sought the consent of the complainant and the accused to record their natural voices, to which they consented. He further deposed that the Investigating Officer inserted a 4 GB memory card into the voice recorder. Annexures A and B were handed over to the complainant, who

read them thrice, after which the files were saved in the memory card. Two more files containing the voice samples of the complainant were also prepared.

27] Similarly, PW5, Dattaram Andare, was examined as the Nodal Officer. He stated that mobile numbers 8007575210 and 9545830811 were provided by their service provider, Vodafone, to complainant Faimuddin Kazi and accused Ganesh Raut, respectively. The witness further proved the certificate under Section 65-B of the Indian Evidence Act. In cross-examination, he admitted that he had come only on the basis of documents and the report.

28] Lastly, the prosecution examined the sanctioning authority, PW6, Mukesh Kumar Ganatra. He stated that the Deputy Commissioner of Police had sent the sanction proposal to him for approval. After going through the documents, he found that the accused had demanded a bribe and that the complaint was on merits, and therefore he granted sanction. He admitted that he had read the report sent to him and further admitted that the report at Exhibit 96 does not mention which documents were actually seen by him while granting sanction.

29] This is the entire evidence adduced by the prosecution. As already referred to above, demand is the sine qua non for the offence punishable under Section 7 of the Prevention of Corruption Act. In the present case, as the complainant had expired prior to the conclusion of the evidence, it is necessary to analyse the corroborative or indirect evidence adduced by the prosecution so as to infer about the guilt of the accused. The examination-in-chief of PW1 clearly shows that when he entered into the tin shade with the complainant, within some time the accused came

there on a motorcycle, entered into the tin shade and sat on the chair. The complainant then took out money from his shirt pocket with his right hand and handed it over to the accused, who accepted and started counting the money.

30] Now, in the entire examination-in-chief of this witness, it is nowhere stated by him that the accused demanded money to the complainant in pursuance of which the complainant handed over the money to him. It is a well-settled proposition of law that mere acceptance of the money, without there being a demand on behalf of the accused, does not attract any offence under Sections 7 and 13 of the Prevention of Corruption Act.

31] No doubt, the prosecution has proved that in the presence of PW1, the accused accepted the currency notes from the complainant and that those very currency notes were the same which had earlier been given to the complainant. The prosecution has also established that when the accused dipped his fingers into the chemical solution, the colour of the liquid changed into violet. However, mere recovery of the tainted currency notes from the accused does not establish the fact that the accused had demanded a bribe, nor does it prove that the amount which was given to the accused was in pursuance of any such demand. The prosecution is duty-bound to establish that the money was handed over to the accused in pursuance of a demand made by him.

32] In the present case, as referred to above, the complainant had already expired before the commencement of the evidence, and therefore, it was incumbent upon the prosecution to prove the demand independently. The prosecution has failed to discharge this burden. The

learned Advocate for the accused has rightly argued that the basic and essential ingredients under the Prevention of Corruption Act are demand and acceptance, which have not been proved by the prosecution.

33] Apart from the absence of the basic ingredient of demand, certain material admissions have also come on record. PW1 Manoj Shende has clearly admitted during the cross-examination that he signed the papers whenever the ACB officials asked him to sign. Furthermore, he admitted that he did not know what talks actually took place between the complainant and the accused. That apart, PW3 the Investigating Officer has also admitted that the staff who were standing nearby and watching the complainant and the accused never stated that they had seen the complainant handing over the amount to the accused.

34] It is also relevant to note that at the time of recovery of the money, the Investigating Officer ought to have offered an opportunity to the accused to explain the possession of the money found with him. The record reveals that immediately after the accused was caught by the ACB officials, he gave his explanation at Exhibit 59, wherein he stated that he had taken a loan from the complainant for the medical treatment of his wife and that the said amount was being returned.

35] During the cross-examination, the Investigating Officer admitted that he had not verified this explanation of the accused to ascertain whether the amount recovered was actually towards repayment of the loan and not bribe money. No doubt, the accused could not prove this fact beyond reasonable doubt. However, it is well settled that an explanation offered by the accused at the time of raid carries evidentiary value and can be treated as a circumstance in favour of the accused,

even though he is not required to prove it beyond reasonable doubt.

36] Be that as it may, there is absolutely no convincing and cogent evidence to show that PW1 had heard the accused making any demand of money from the complainant, or that in pursuance of such demand, the complainant had handed over the money to the accused. The prosecution has also failed to examine the other panch witness in this matter. Therefore, I have no hesitation in holding that the essential requirement of Section 7 of the P.C. Act has not been proved beyond reasonable doubt. Mere recovery of the money from the possession of the accused is not sufficient to hold that it was accepted as illegal gratification pursuant to any demand.

37] Now, coming to the aspect of sanction, before considering the evidence adduced by the prosecution, it is necessary to mention that the grant of sanction is not an empty formality or a mere ritual to sanctify the prosecution. It is the bounden duty of the sanctioning authority to analyze the entire record and then grant sanction. It would be appropriate to mention here the object and scope of Section 19 of the P.C. Act, which reads as under:

(i) The prosecution must send the entire relevant record to the sanctioning authority including the FIR, disclosure statements, statements of witnesses, recovery memos, draft charge-sheet and all other relevant material. The record so sent should also contain the material/document, if any, which may tilt the balance in favour of the accused and on the basis of which, the competent authority may refuse sanction;

(ii) The authority itself has to do complete and conscious scrutiny of the whole record so produced by the prosecution independently applying its mind and taking into consideration all the relevant facts before grant of sanction;

(iii) The power to grant sanction is to be exercised strictly keeping in mind the public interest and the protection available to the accused against whom the sanction is sought;

(iv) The order of sanction should make it evident that the authority had been aware of all relevant facts/materials and had applied its mind to all the relevant material.

(v) In every individual case, the prosecution has to establish and satisfy the court by leading evidence that the entire relevant facts had been placed before the sanctioning authority and the authority had applied its mind on the same and that the sanction had been granted in accordance with law.

38] In the present case, PW6 Mukesh Kumar Ganatra, Deputy Conservator of Forest at Wardha, is the sanctioning authority. He has deposed that on 23.04.2015 he received the proposal for sanction to prosecute the accused. He stated that the case papers contained the FIR, documents relating to the seized property and other related documents, from which he found that the accused had demanded a bribe and that the complaint had merit. Therefore, he formed the opinion that the accused had committed the act of corruption and accordingly passed an order granting sanction to prosecute the accused.

39] However, during cross-examination, he stated that the sanction order (Exh.96) does not mention which documents he received or which ones he examined. Furthermore, he was unable to state with certainty which specific documents revealed that the accused had initially demanded a bribe of ₹ 15,000/- and later settled for ₹ 13,000/- and accepted it. He also admitted that he had not confirmed whether there was any specific document among those received along with the report which clearly established that the accused had demanded ₹ 15,000/-,

later reduced to ₹ 13,000/-, and accepted the bribe.

40] From the record, it appears that the sanctioning authority did not apply its mind before granting sanction and that the sanction order was passed mechanically. Furthermore, it appears that the sanction order neither bears the signature on each paper nor does it contain a specific official seal of the competent authority. Therefore, in my considered view, this is not a legal and valid sanction order, which further weakens the case of the prosecution.

41] In this regard, the observations of the Hon'ble Court in **Shri Deelip S/o Kishanrao Dhutmal v. State of Maharashtra, 2025 ALL MR (Cri) 1147** are very much relevant, wherein it has been held that:

Sanction order though reflects wording that sanctioning authority has gone through the papers, however, it is not reflected as to what made him to form an opinion that a case is made out to accord sanction for prosecution. This coupled with an admission in the cross-examination that sanctioning authority had given papers and draft sanction order to his subordinate officer to prepare note. A doubt is certainly created about application of mind by the sanctioning authority.

42] It is also relevant to refer to the observations of the Hon'ble Supreme Court in the case of **Vijay Wasudeo Shende v. State of Maharashtra, 2024 Cri. L.J. 2891**, wherein it has been held that:

Sanction lifts the bar for prosecution and, therefore, it is not an acrimonious exercise but a solemn and sacrosanct act which affords protection to the government servant against frivolous prosecution. There is an obligation on the sanctioning authority to discharge its duty to give or withhold sanction only after having full knowledge of the material facts of the case. The prosecution must send the entire relevant record to the sanctioning authority

including the FIR, disclosure statements, statements of witnesses, recovery memos, draft charge sheet and all other relevant material. It has been further held by the Honourable Apex Court that the record so sent should also contain the material/document, if any, which may tilt the balance in favour of the accused and on the basis of which, the competent authority may refuse sanction. The authority itself has to do complete and conscious scrutiny of the whole record so produced by the prosecution independently applying its mind and taking into consideration all the relevant facts before grant of sanction while discharging its duty to give or withhold the sanction. The power to grant sanction is to be exercised strictly keeping in mind the public interest and the protection available to the accused against whom the sanction is sought. The order of sanction should make it evident that the authority had been aware of all relevant facts/materials and had applied its mind to all the relevant material. In every individual case, the prosecution has to establish and satisfy the court by leading evidence that the entire relevant facts had been placed before the sanctioning authority and the authority had applied its mind on the same and that the sanction had been granted in accordance with law.

In view of the settled principles of law as referred above, it is crystal clear that the sanctioning authority has to apply its own independent mind for its satisfaction. The sanctioning authority should not act mechanically or under pressure while granting sanction. A perusal of the sanction order in the present case clearly shows that there was no proper application of mind in granting sanction. Thus, the present case is not only vitiated by the absence of the essential ingredient of demand, but also by the absence of a proper and valid sanction.

43] Given the above discussion, I conclude that the prosecution has failed to prove the charges levelled against the accused beyond

reasonable doubt. No other offence is proved against the accused. Hence, I answer Points No.1 to 3 in the Negative and proceed to pass the following order for Point No.4.

ORDER

(i) Accused Ganesh Panditrao Raut is acquitted of the offences punishable under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988, vide Section 235(1) of the Code of Criminal Procedure, 1973.

(ii) The earlier bail bonds of the accused and his surety stand cancelled.

(iii) The seized property i.e. tainted currency notes shall be deposited in the Government Treasury through proper channel after the appeal period is over. The memory card being part of evidence shall be preserved. The remaining muddemal property, being worthless, shall be destroyed after the appeal period is over.

(iv) The accused shall comply with the provisions of Section 437A of the Code of Criminal Procedure by furnishing PR and SB of ₹ 15,000/- for his appearance before the Hon'ble High Court of Bombay, if an appeal is preferred against this order.

Judgment dictated and pronounced in open Court.

SYED AMEER SYED
MOHAMMAD ALI

Digitally signed by SYED
AMEER SYED MOHAMMAD ALI
Date: 2025.08.28 13:40:35
+0530

Date: 18.08.2025

(S.A.S.M. Ali)

Special Judge (ACB) and
Additional Sessions Judge,
Wardha.

CERTIFICATE

I affirm that the contents of this P.D.F. file are same word to word as per the original order.

Name of Stenographer	: Madhav A. Chaudhari
Court Name	: In the Court of District Court-1 and Additional Sessions Judge, Wardha.
Judgment delivered on	: 18.08.2025
Dictated on	18.08.2025
Transcribed on	20.08.2025
Judgment checked and signed by Presiding Officer on	: 28.08.2025
Order Uploaded on	: 28.08.2025