IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 716 OF 2009

The State of Maharashtra
(Through Anti-Corruption Bureau, Pune) ...Appellant
(Orig. Complainant)

Versus

1. Maruti Bhikaji Borkar
   Age Adult, Occu-Service,
   R/at- Tahsildar Niwas,
   Indapur, Dist.-Pune.

2. Shri Ramesh Dhondiba Ware
   Age Adult, Occu.-Service,
   R/at- Shitole Vasti,
   Indapur, Dist-Pune.

3. Shri Shrikant Sopan Gaikwad
   Age Adult, Occu.-Nil,
   R/at.-Savata Mali Nagar,
   Tembhurni Naka, Indapur,
   Dist-Pune. ...Respondents
   (Orig. Accused Nos.1 to 3)

Ms. Anuja Sunil Gotad, *APP for the Appellant-State.*
Mr. Uday Dube, *Senior Advocate, with Balwant Salunkhe, for the Respondent Nos.1 and 2.*
Mr. Saurabh Butala, *for the Respondent No.3.*

CORAM **Dr. Neela Gokhale, J.**
RESERVED ON: **21st November 2025**

PRONOUNCED ON: 1st December 2025

JUDGMENT :-

1. This Appeal assails the Judgment and Order dated 2nd September, 2008, passed by the Special Judge at Baramati, District Pune, acquitting the Respondents herein (Original Accused Nos.1 and 2) from the offences punishable under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 (for short '**PC Act**') and acquitting the Respondent No.3 (Original Accused No.3) from the offence punishable under Section 12 of the PC Act.

2. By an order dated 18th June 2009, this Court, by a reasoned order opined that a triable issue was made out by the Appellant-State of Maharashtra, to be dealt with in this Appeal, to ascertain the correctness and legality of the impugned Judgment and Order. Hence, this Court allowed the Leave Petition and admitted the Appeal.

3. The facts of the case, in brief, are as under:

3.1 The Respondent No. 1/Accused No.1 (A/1) was a Tahsildar posted at Indapur. The Accused No.2/Respondent No.2 (A/2) was working as a clerk in the Tahsildar's office, and the Accused No.3/Respondent No.3 (A/3) was another person in the office of the Tahsildar.

3.2 The Informant's father died on 19th June 2005 and he thus, made an application before the Talathi, seeking to enter the names of his father's legal heirs on the revenue records of the agricultural land owned by his father. The Talathi carried out the mutation entry. The same was challenged by one Vijay Gulumkar, a cousin brother of the Informant. Hence, the Application was forwarded to the A/1 for decision. Notices were issued to the parties calling upon them to appear before the Tahsildar on 31st October 2005. Written statements were submitted, and the matter was closed for orders.

3.3 On 22nd December 2007, the Informant (PW/1) went to the office of the Tahsildar to enquire about the pending case. The Tahsildar demanded Rs.3,000/- in lieu of clearing the file

and passing an order in favour of the Informant. The Informant indicated his inability to pay the said amount prompting the Tahsildar to reduce the demand to Rs.1,000/-. The Informant met A/2 who also conveyed the demand of '*Saheb*' to him. Again at 05:00 pm. on the same date, the Informant met the Tahsildar and his clerk in his office, who asked him as to whether he had brought the amount with him. They told him that he should pay the money and collect the order. The Informant assured the A/1 and A/2 that he will come on the following day with his brother and bring the money.

3.4 The Informant then, made a complaint with the Anti-Corruption Bureau, Pune ('**ACB**') on 28th December 2005, (Exhibit-30) narrating the demand of the A/1 and A/2. The ACB Pune laid a trap on the same day. The amount of Rs.1,000/- (10 currency notes of Rs.100/- denomination) was taken from the Informant and the numbers of the currency notes were noted; anthracene powder was applied on the

currency notes on both sides; and these notes were returned to the Informant to be given to A/1 - Tahsildar. A pre-trap panchanama was recorded (Ex.33). One panch, Shri Ganesh Krishna Chillal (PW/2) accompanied the Informant in the office of the Tahsildar. The Tahsildar informed him that a copy of the order was sent to the Talathi and also inquired about the bribe money. On the instructions of the Tahsildar, the Informant met A/2 - clerk who pointed to the A/3, namely Shrikant Gaikwad, who accepted the money on behalf of the A/1. Two copies of the order were handed over to the Informant. After paying the money to A/3, the Informant signaled the officers as per their instructions and he came out of the room. The pancha accompanying the Informant remained in the room as per predetermined plan. The members of the raiding party went in the room on a predetermined signal and caught A/3 red handed. The amount was recovered from the drawer of the computer room in A/2's cabin, where the A/3 had kept the same.

3.5 The numbers of the currency notes recovered from the computer room were tallied with the numbers noted by the ACB officials. Anthracene powder was found on the said currency notes and on A/3's hand and the drawer of the computer room. The documents of the mutation entry case were collected from the Tahsildar's office, a panchanama was recorded (Exhibit-34). Shri Sudam Darekar (PW/4), Deputy SP, ACB, conducted the investigation. A sanction for prosecution of the A/1 and A/2 was sought and granted by the sanctioning authority (Sanction Order at Ex.40) and upon completion of the investigation, the charge-sheet was filed before the JMFC, Indapur. The offence punishable under Sections 7 and 13 of the PC Act, being exclusively triable by the Sessions Court, was committed by the JMFC, Indapur, to the Court of Sessions, for trial.

3.6 By an order dated 26th March 2008, the Special Judge, Baramati, framed charges against the A/1 and A/2 for offences punishable under Sections 7 and 13(1)(d) r/w

Section 13(2) of the PC Act, and against A/3 for offence punishable under Section 12 of the PC Act.

3.7 After framing of the charges, the Accused pleaded not guilty and sought to be tried.

3.8 During the course of the trial, the prosecution examined four witnesses. The witnesses examined are as follows:

PW/1 Sukhdeo Rangnath Gulumkar (First Informant)

PW/2 Ganesh Krishna Chillal (Panch No.1)

PW/3 Shantaram Sitaram Kudale
(Under Secretary Forest Section- Proposal for sanction received by his office).

PW/4 Sudam Vitthal Darekar
(ACP of the Anti -Corruption Bureau)

3.9 Thereafter, the Trial Court recorded the statements of the Respondents (Accused Nos.1, 2 and 3) under Section 313 of the Code of Criminal Procedure, 1973 ('Cr.P.C.'). The defence of the accused was that of false implication. The learned Special Judge, Baramati, by its Judgment and Order

dated 2nd September 2008 acquitted A/1 and A/2 for the offences punishable under Sections 7, 13(1)(d) read with Section 13(2) of the PC Act and acquitted A/3 for the offence punishable under Section 12 of the PC Act. Aggrieved by the acquittal, the State of Maharashtra has filed the present Appeal. By an order dated 18th June 2009, Leave Petition was allowed, and the Appeal was admitted. The Record and Proceedings were called and received.

4. Notice was duly served on all the Respondents and Mr. Balwant Salukhe represented the Respondent Nos.1 and 2. None appeared for the Respondent No.3.

5. Before adverting to the rival submissions, it is necessary to discuss the principles laid down by the Supreme Court governing the scope of interference by the High Courts in an appeal filed by the State, assailing the finding of acquittal of the accused by the Trial Court. The Supreme Court in its

decision in the matter of ***Rajesh Prasad v. State of Bihar & Anr.***[1] held as below:-

> *"29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words: (Chandrappa case [Chandrappa v. State of Karnataka, (2007) 4 SCC 415]*
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> > *"42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:*
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> > *(1) An appellate court has full power to review, re-appreciate and reconsider the evidence upon which the order of acquittal is founded.*
> >
> > *(2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.*

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1 (2022) 3 SCC 471

(3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseology are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate

court should not disturb the finding of acquittal recorded by the trial court."

6. Further, in the case of ***H.D. Sundara & Ors. v. State of Karnataka***[2] the Supreme Court summarized the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 of Cr.P.C. as follows:

"8. ….8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to re appreciate the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

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2 (2023) 9 SCC 581

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible."

7. Thus, it is beyond the pale of doubt that the scope of interference by an Appellate Court for reversing the judgment of acquittal recorded by the Trial Court in favour of the Accused has to be exercised within the four corners of the following principles:-

(a) That the judgment of acquittal suffers from patent perversity;

(b) That the same is based on a misreading/omission to consider material evidence on record;

(c) That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

8. The Appellate Court, to interfere with the judgment of acquittal, would have to record pertinent findings on the above factors if it is inclined to reverse the judgment of acquittal rendered by the trial Court.

9. In the light of above legal principles, I now proceed to analyze the evidence before the Trial Court, leading to the acquittal of the accused.

10. The PW/1, the Informant, in his examination-in-chief has clearly narrated the incident of 22nd December 2005, i.e., the day on which the first demand was made by A/1. He specifically stated that A/1 demanded an amount of Rs.3,000/- for deciding the application in his favour. There were some negotiation and A/1 agreed to accept a reduced amount of Rs.1,000/- in lieu of passing an order in favour of the Informant. The PW/1 visited the Tahsildar office once

again, when he was again told by A/1 to pay the money to A/2, who was instructed by A/1 to prepare the order and give copy of the same, after receiving the amount. In his cross-examination, PW/1 has categorically denied that he was unable to meet A/1 on the said date as he was on tour from 8.00 am to 5.00 pm. It is also revealed from the cross-examination that PW/1 learnt about the decision on his application only when he went on the assigned date to pay the bribe amount. Once, he assured that he had the amount, he was directed to pay the money to A/2 and collect the order passed in his favour from the Talathi, to whom the order was dispatched. Nothing was elicited from the cross-examination to indicate that A/1 was out of his office on 22nd December 2005, i.e., the day on which the demand was made. One of the defence of A/1 was that he was not present in the office on the date of first demand.

11. The second demand was made at the time when PW/1 and PW/2, i.e., one of the panchas, accompanying PW/1 went

to the Tahsildar's office, pursuant to the trap laid by the ACB. The deposition of the pancha confirms the demand made by A/1 once again. He deposed that he accompanied PW/1 in the cabin of Tahsildar on 28th December 2005, when the Tahsildar told PW/1 in his presence that his work is ready, one copy was sent to the Talathi and another is with A/2 and that he should collect the order from A/2. A/1 met A/2 after which A/2 asked PW/1 as to whether he had brought the money. Thereupon A/2 directed PW/1 to give the money to A/3. The money exchanged hands, A/3 counted the amount and pocketed it, confirmed to A/2 that money was paid after which PW/1 was given a copy of his order. PW/2 further confirmed that in his presence and on a signal given by PW/1 as prearranged, the ACB officials entered the Tahsil office. On A/3's admission, money was recovered from the drawer of the computer-room. The currency notes were checked for anthracene powder, and the numbers were tallied with the pre-trap panchanama. Anthracene was found on the hands and pocket of A/3 and the drawer in the computer-room. The

entire sequence of events has been deposed by PW/2 to have taken place in his presence. Even on intense cross-examination, his testimony could not be shaken.

12. PW/3 is the Under-Secretary of Forest Section and has deposed regarding sanction to prosecute the Accused. The same has not been seriously contested by the Accused.

13. PW/4 is the ACP of the ACB. In his deposition, he has narrated the facts regarding complaint of PW/1, the action taken by him and other officials in laying the trap including, applying anthracene powder on Rs.100/- notes, which were to be given by PW/1 to the Accused, the recording of the pre-trap panchanama and the actual raid carried out. In his cross-examination, an attempt was made by the defence to establish that the work of PW/1 was done by the Accused before the bribe money was paid. However, this witness remained steadfast in his testimony that the fact of the order passed in favour of PW/1 was noticed after the trap. Hence, nothing

beneficial to the Accused was elicited from his cross-examination.

14. I have perused the pre-trap panchanama and the panchanama recorded after the bribe money was recovered. The deposition of the witnesses is consistent with the panchanamas.

15. I have perused the Judgment and Order acquitting the Accused carefully. The finding of the acquittal is only on the basis of a certified copy of a log-book of the Government vehicle, claimed to have been used by A/1 to travel out of Indapur to nearby villages for official work on 22nd December 2005, i.e., on the date on which PW/1 claims that the first demand was made. The learned Special Judge has relied on the statement of A/1 recorded under Section 313 of the Cr.P.C., that on the date of demand, he left his residence at 8.00 a.m. and visited villages - Wadapuri, Bhodni, Lakhewadi, Chakati, Redni and Warkude (Khurd). The Special Judge has recorded that a copy of the bill of TA and DA paid to the

driver Kale, as per entry in the log-book and the certified copies of the statements of the persons recorded at the time of spot inspection at Mauje-Wadapuri on 22nd December 2005 are on record and sufficient to show that the A/1 was not in office on the date of demand. Hence, only on this basis, the Special Judge has disbelieved the deposition of PW/1. Secondly, the Special Judge appears to be swayed by the statement of A/1 that the application was already decided in favour on 27th December 2005, i.e., one day before the trap. On these two grounds, the Special Judge acquitted the Accused.

16. I have perused the Record & Proceedings. There is a copy of the log-book certified by the Tahsildar himself, which has an entry of the vehicle leaving Indapur at 8:00 am and returning at 9:00 pm traveling to the villages mentioned herein above. There are also other entries in the log-book of the movement of the Government vehicle on other dates, including on 28th December 2005 from 9:00 am to 6:00 pm.

However, it is an admitted fact that, on 28th December 2005, between 5:00 pm and 5:45 pm, a trap was laid by the ACB in A/1's office and all the accused were very much present in the office. The trap and the recovery of the bribe amount accepted by Accused is proved by statements of PW/1, PW/2 and PW/4. It is also not the case of any of the Accused, that they were not present in the office on 28th December 2005. Thus, the entries in the log-book are only indicative of movement of the Government vehicle from Indapur to various places. The log-book entries by themselves are not evidence of travel of A/1 in the Government vehicle. If it was his case that the Government vehicle is used only by A/1, then, there possibly cannot be an entry regarding travel by A/1 on 28th December 2005, i.e., on the date of trap. The defence has nowhere attempted to establish that the Government vehicle was used only by the Tahsildar, leading the trial court to believe absence of A/1 in the office on the first demand date. On the contrary, the prosecution has beyond any doubt proved the demand

made by A/1 by cogent oral evidence, which the defence was unable to demolish.

17. The Special Judge has also accepted the statement of overtime TA/DA given to one Mr. A.J. Kale stated to be the driver attached to the Tahsil office in Indapur. The statement of TA/DA is from 1st December 2005 to 27th December 2005 and 3rd January to 28th February 2006. Contrary to the log-book entry of movement of the vehicle from 9:00 am to 6:00 pm on 28th December 2005, there is no explanation forthcoming regarding absence of the allowance on 28th December 2005. Thus, this is a major contradiction on the part of defence, rendering the story of the Accused completely unbelievable.

18. There are many documents placed on record by the defence to show that some applications were made by the residents of Wadapur regarding requirement of a road in their village. Of the plethora of documents placed on record, only two statements relate to 22nd December 2005 signed by

persons stated to be villagers of Wadapur. The place of recording of the statements is not visible on the documents. Most pertinently, none of the persons including any villager, pancha, driver-Kale nor any person maintaining the log-book of the Government vehicle is examined by the defence. In view of the discrepancies in the log-book as compared with TA/DA statement of the driver, it was imperative for the defence to examine some witness corroborating the story of the Accused.

19. The defence of the Accused appears to be that of a plea of *alibi.* In the decision in ***Binay Kumar Singh v. State of Bihar***[3]. The Supreme Court has considered the question of alibi meaning 'Elsewhere' and observed that the said plea would be available only if that 'Elsewhere' is a place far-off making it impossible or improbable for the person concerned to reach the place of occurrence of offence. The Apex Court held as under:

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3 1996 INSC 1260

".....Once the prosecution succeeds in discharging the burden it is incumbent on the Accused, who adopts the plea of alibi, to prove it with absolute certainty so as to exclude the possibility of his presence at the place of occurrence. When the presence of the accused at the scene of occurrence has been established satisfactorily by the prosecution through reliable evidence, normally the court would be slow to believe any counter-evidence to the effect that he was elsewhere when the occurrence happened. But if the evidence adduced by the accused is of such a quality and of such a standard that the court may entertain some reasonable doubt regarding his presence at the scene when the occurrence took place, the accused would, no doubt, be entitled to the benefit of that reasonable doubt. For that purpose, it would be a sound proposition to be laid down that, in such circumstances, the burden on the accused is rather heavy. It follows, therefore, that strict proof is required for establishing the plea of alibi. This Court has observed so on earlier occasions (vide Dudh Page 13 of 19 Nath Pandey v. State of U.P. [(1981) 2 SCC 166; State of Maharashtra v. Narsingrao Gangaram Pimple [(1984) 1 SCC 446."

20. In the facts of the present case, the demand of the bribe money is established satisfactorily by the prosecution, through reliable evidence. Hence, it was incumbent on the

defence to adduce evidence of the alibi by strict proof. The defence has completely failed to establish the plea of alibi. There is absolutely no evidence establishing presence of A/1 at the place other than the spot of the occurrence of the offence. In these circumstances, I am of the considered view that there is a mis-reading/omission on the part of the Special Judge in considering the material evidence on record. There is thus, a patent infirmity in the Judgment and Order impugned herein.

21. The other basis of acquittal as per the Special Judge is that, there was no motive for the demand of bribe as the order in favour of the Informant was passed on 27th December 2005 itself. This finding is also contrary to the evidence on record. The prosecution has established the factum of demand and acceptance of bribe money by A/1 and A/2 beyond reasonable doubt. It has come on record that PW/1 was informed regarding the order passed on 27th December 2005 when he along with PW/2-Pancha went to the office of the

Accused to pay the money, pursuant to the trap laid by the ACB. The PW/1 was told that his order was sent to the Talathi's office and categorically A/2 was directed by A/1 to take money from PW/1. The entire transaction was that of a simultaneous give and take. The fact of passing of the order was informed to him at the same time when the bribe money was accepted from him. Hence, the finding of the Special Judge in this regard is quite distorted, in this regard, as well.

22. Section 7 of the PC Act deals with public servants accepting or attempting to accept illegal gratification other than their legal remuneration. It's essential ingredients are (i) that the person accepting the gratification should be a public servant; and (ii) that he should accept the gratification for himself, and the gratification should be as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official function, favour or disfavour to any person. Insofar as Section 13(1)(d) of the PC Act, it was amended by the Prevention of Corruption

(Amendment) Act, 2018, with effect from 26th July, 2018. However, in view of Section 6 of the General Clauses Act, 1897, Section 13(1)(d) prior to the amendment, is applicable to the facts of the present case, as the offence was stated to have been committed on 22nd December 2005 and 28th December 2005. Thus, its essential ingredients are (i) that he should have been a public servant; (ii) that he should have used corrupt or illegal means or otherwise abused his position as such public servant, and (iii) that he should have obtained a valuable thing or pecuniary advantage for himself or for any other person. The facts in the present case not only bring home the guilt to A/1 but also A/2, who directed the Informant to hand over the bribe money to A/3 and in lieu of the same, gave a copy of the order to the Informant. Thus, A/1 and A/2 are both complicit in commission of offence. As far as A/3 is concerned, the prosecution has been unable to establish beyond reasonable doubt, the abetment of the offence by A/3. The prosecution has failed to establish the active role and knowledge of A/3 that the money given to him

was bribe money. Hence, the acquittal of A/3 cannot be faulted.

23. The Supreme Court in its decision in the case of ***State of Karnataka v. Chandrasha***[4] has reproduced its observations in an earlier decision in the matter of ***Swatanter Singh v. State of Haryana***[5]

> *"6……. Corruption is corroding, like cancerous lymph nodes, the vital veins of the body politic, social fabric of efficiency in the public service and demoralizing the honest officers. The efficiency in public service would improve only when the public servant devotes his sincere attention and does the duty diligently, truthfully, honestly and devotes himself assiduously to the performance of the duties of his post. The reputation of being corrupt would gather thick and unchaseable clouds around the conduct of the officer and gain notoriety much faster than the smoke."*

24. Corruption on the part of public officers erodes the faith reposed by the citizens and has a pervasive impact on

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4 2024 INSC 899

5 (1997) 4 SCC 14

governance and democracy. Undoubtedly, the amount of bribe is a mere Rs.1,000/- however, it is settled law that it is not necessary for the amount involved to be substantial to draw the presumption under Section 20 of the PC Act. As per Section 20(3) of the PC Act, the Court has a discretion to refrain from drawing adverse presumption against the public servant if the amount involved is trivial. In the case of ***Chandrasha*** *(Supra)*, the Supreme Court held that the presumption becomes irrelevant when the agreement to receive gratification is factually proved. The presumption under Section 20 of the PC Act provides that where it is proved that the public servant has accepted or obtained any undue advantage, unless the contrary is proven, it shall be presumed that such acceptance of undue advantage was with a motive or reward under Section 7 of the PC Act. The value of gratification is to be considered in proportion to the act to be done or not done, to forebear or not to forebear, favour or disfavour sought, so as to be trivial to convince the Court, not to draw any presumption of corrupt practice. In any case, the

fact of demand and receipt of demand stand proved in the present case.

25. Being conscious of the settled law that, in an appeal against acquittal, if two views are possible and the Court below has acquitted the accused, the Appellate Court would not be justified in setting aside the acquittal merely because another view is possible. In the present case however, the demand, the recovery of the bribe money from A/1 and A/2 being proven, in the absence of any concrete material supporting the defence, brings home guilt to them beyond reasonable doubt. Once, the 'demand' and 'acceptance' of the bribe amount is established beyond reasonable doubt, in my opinion, no two views are possible in that matter. The defence has made no attempt to establish the alibi theory attempted to be put forth by A/1. Thus, the Judgment and Order impugned herein, is unsustainable. The Judgment and Order dated 2nd September, 2008, passed by the Special Judge at Baramati, District Pune, acquitting the Respondents herein (Original

Accused Nos.1 and 2 from the offences punishable under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 is quashed and set aside. For reasons mentioned herein above, A/3 remains acquitted and the Judgment and Order impugned in so far as relating to A/3 is confirmed.

26. Having convicted the Respondent Nos. 1 and 2 for the offences punishable under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, the next consideration is the quantum of punishment that may be imposed on them. Hence, I proceeded to hear the Respondent Nos.1 and 2 on the aspect of sentencing on 21st November 2025.

27. Heard Mr. Uday Dube, learned Senior Counsel appearing for the Respondent Nos.1 and 2.

28. Mr Dube, submitted that as many as 17 years have elapsed from the time that the accused were acquitted. He

further submitted that the A/1 is due for retirement next year and has also aged considerably. Similarly, he submitted that the A/2 has few more years of service and has a family with children. Both the Accused are the sole earning members in their families and hence, lenient view be taken in the matter of sentencing.

29. Admittedly, as many as 17 years have elapsed from the time, the accused were acquitted. The A/1 is due for retirement next year and the A/2 has few more years of service and has a family with children. Considering the gravity of the offence, the circumstances of the Accused and the time taken in deciding the present Appeal, I am inclined to impose minimum sentence provided for the said offence at the relevant time. The A/1 and A/2 are directed to undergo 6 months of simple imprisonment and liable to pay fine of Rs.500/- each. The A/1 and A/2 are directed to surrender before the Trial Court within a period of 12 weeks from today and the Trial Court is directed to take steps to commit them in

prison to undergo the period of sentence and recover the fine imposed on them.

30. The Appeal is accordingly, partly allowed.

(Dr. Neela Gokhale, J)

SHAMBHAVI NILESH SHIVGAN

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