IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPEAL NO.304 OF 2014

APPELLANT :- Ganesh Ranbahadur Maharwad,
Aged about 55 years, Occ. Service, R/o Surjatola, Gondia, Tah. Gondia, Distt. Gondia.

..VERSUS..

RESPONDENT :- The State of Maharashtra, through Anti Corruption Bureau, Gondia, Distt. Gondia.

Mr. Amol S. Mardikar, Advocate for Appellant.
Mrs S.V. Kolhe, A.P.P. for Respondent/State.

CORAM : MEHROZ K. PATHAN, J.

DATE OF RESERVING THE JUDGMENT: 17.09.2026
DATE OF PRONOUNCING THE JUDGMENT:12.10.2026

JUDGMENT :

1. Heard.

2. The present criminal appeal is filed assailing judgment and order dated 23.04.2014 passed by the learned Additional Sessions Judge, Gondia, in Special Criminal Case No.01 of 2011 by which the present appellant has convicted for the offence punishable under Section 7 of the Prevention of

Corruption Act, 1988 (hereinafter referred to as "P.C. Act of 1988") and sentenced to suffer rigorous imprisonment for three years and directed to pay fine of Rs.10,000/- and also the appellant has convicted for the offence punishable under Section 13(1)(d) of the P.C. Act, 1988 and sentenced to suffer rigorous imprisonment for three years and directed to pay fine of Rs.10,000/-.

3. The brief facts giving rise to present prosecution as revealed from the complaint (Exh.8) and evidence placed on record can be summarized as under:-

The complaint was filed by Chavindra Waghmare against one Ganesh Maharwad, working as Assistant Lineman, to the Office of MSEDCL, Gondia informing that his father has applied to the office of MSEDCL for new electricity connection to their newly constructed house. After doing the necessary inspection, the Assistant Lineman Ganesh informed him that he is required to pay Rs.7000/- for installation electricity meter and that the complainant would require to deposit Rs.2500/- against the demand notes in the office and will require to pay him Rs.5000/- for the necessary completion

of work and further asked the complainant to make him a phone call after making the necessary arrangement of money.

4. That on 25.08.2010 complainant received the phone call of Ganesh inquiring about arrangement of Rs.5000/-. As the complainant was not willing to pay the said amount he approached the office of ACB, Gondia on 26.08.2010 with the complaint vide Exh.8. On receipt of the said complaint, Dy. SP Purnadare attached to the ACB Office, Gondia arranged for the presence of independent witnesses namely Rameshwar Sarode and Onkar Gaidhane, Jr. Clerks attached to the Road Transport Office, Gondia on the very same day and accordingly the panch witnesses were directed to remain present in the office.

5. After arrival of the panch witnesses, the Trap Laying Officer, Shri. Purandare introduced the panch witnesses to the complainant, Chavindra Waghmare and also gave the report of Chavindra to them for verification of facts from the complainant and obtained their signature on it. Thereafter, Trap Laying Officer completed the pre-trap formalities under panchanama (Exh.20) and gave certain instructions to the Complainant and Panch witnesses. At the material time, the

Trap Laying Officer also verified the demand of money by Ganesh from the complainant under a verification panchanama at Exh.19.

6. The Trap Laying Officer also prepared the necessary panchanama of the events of the phone call of Ganesh received by the complainant/Chavindra in the evening on the same day wherein the Ganesh called Chavindra to his house for acceptance of bribe amount.

7. Thereafter, Trap Party proceeded towards the house of Ganesh situated near Shakti Mandir, Suryatola, Gondia. Thereafter the complainant and shadow witness Sarode went to the house of Ganesh. After some time, the complainant came outside the office and gave the pre-decided signal to the trap party. The members of the trap party on getting the signal, rushed into the house of Ganesh. The complainant and shadow witness confirmed regarding the demand and acceptance of bribe by the accused. Trap party recovered the bribe money of Rs.5000/- from the right hand of the accused. The number of notes which were recovered from accused tallied with the numbers mentioned in the Pre-trap panchanama (Exh.20). The

fingers of both hands of the accused were washed with separate freshly prepared solutions of Sodium Carbonate which turned violet in colour and the same were kept in separate bottles and seized and sealed under the signature of panch witnesses. Solution of Sodium Carbonate was also sprinkled to tainted currency notes which also gave the positive result. Accordingly, a detailed panchanama vide Exh.15 was prepared and the tainted money used in the trap, as well as the other currency notes as above mentioned were separately seized under seizure memorandum. The Trap Laying Officer also seized the necessary documents pertaining to the case of complainant Chavindra from Ganesh. Accused was arrested and was brought to the Police Station, Ramnagar, Gondia where Trap Laying Officer Purandare lodged complaint vide Exh.33 against accused and investigated the matter further.

8. On completion of investigation, the Investigating Officer forwarded the proposal to the office of accused in order to get sanction to prosecute the accused under the provisions of the P. C. Act of 1988 and secured necessary sanction vide Exh.27 against the accused and thereafter filed the chargesheet

against the accused for the offence punishable under Section 7, 13(i) (d) punishable under section 13(2) of the Prevention of Corruption Act, 1988 on 02.11.2010.

9. The charge framed on 29.10.2012 was read over and explained to the accused, to which accused pleaded not guilty and claimed to be tried.

10. The prosecution has examined seven witnesses to establish its case which were as under :-

Sr. No.	PW	Name	Status	Exhibit
1.	PW-1	Chavindra Rizaram Waghmare	Complainant	Exh.7
2.	PW-2	Rameshwar Zibal Sarode	Panch/Shadow witness	Exh.14
3.	PW-3	Gukul Raqmbhau Rasal	Mobile Service Provider	Exh.21
4.	PW-4	Mahesh Jagdish Jaiswal	Jr. Engineer, MSEDCL Office	Exh.24
5.	PW-5	Anup Arvind Deshpande	Witness	Exh.25
6.	PW-6	Youraj Dinkarrao Meshram	Executive Engineer, Sanctioning Authority	Exh.26
7.	PW-7	Sanjay Vasantrao Purandare	Dy.SP. Trap Laying Officer	Exh.29

11. The learned trial Court after appreciating the evidence led by the prosecution has found the appellant guilty convicted the appellant for the offence punishable under Sections 7 and 13 of the P.C. Act of 1988. The appellant is thus challenging the impugned judgment of conviction dated 23.04.2014.

12. Mr. Mardikar, learned Advocate submits that the demand allegedly made by the appellant is not even proved and in the absence of the demand being proved beyond doubt. Section 7 cannot be said to be made out against the appellant. He relied upon the testimony of PW-1 who, according to the appellant, has turned hostile and as such the entire deposition of PW-1 needs to be rejected. It is further submitted that, the complainant PW-1, Chavindra Waghmare, had himself not supported the case of the prosecution and has stated in his examination-in-chief that at the relevant time when the accused went inside to bring water, he removed the bribe amount from his pocket and kept the same on the bed. The complainant then took the glass of water and came out the house of the accused and gave the pre-decided signal to the trap team. This, according to Mr. Mardikar, is a serious discrepancy which goes to the root of the matter and therefore demolishes the entire prosecution case which is based upon the fact that the complainant had handed over the said amount to the appellant. Further discrepancy pointed out that can be seen as the complainant has categorically averred that the appellant had

made a demand of Rs.5000/- at his home, during the telephone conversation. However, later on in the cross-examination, the complainant has denied recording of such conversation by the police authority. The said witness was declared hostile on the request of the learned A.P.P. who sought permission to cross-examine the said witness. In the cross-examination, certain admissions were elicited by the prosecution which instead of assisting the prosecution, rather establishes the probable defence taken by the appellant. The portion mark 'A' was also put to the said witness by the learned A.P.P., which the witness PW-1 has categorically denied to have stated in his statement recorded by the police. The witness complainant further stated that he cannot assign any reason why portion mark 'A' is written in his statement.

13. Thus, the aforesaid discrepancy goes to the root of the matter as the demand itself could not be established, and the final acceptance on the part of the present appellant also could not be established by the prosecution. The appellant has been able to establish the probable defence to rebut the case of the prosecution, hence, the impugned judgment convicting the appellant on such

shaky evidence of PW-1 is liable to be quashed and set aside, thereby acquitting the appellant.

14. Mr. Mardikar further relied upon the testimony of PW-2, the shadow witness, to submit that the said shadow witness specifically averred that the conversation between Maharwad (accused) and Waghmare (complainant) was recorded by the Anti Corruption Bureau officials. However, the said fact was denied by the Investigating Officer and was also not specifically averred by the complainant. The investigating officer also did not state that the conversation between the appellant and the complainant was recorded. Thus, there is serious improvement in the version of the prosecution case wherein the shadow panch has tried to improve upon recording of the conversation between the appellant and the complainant on a phone call. The said witness therefore cannot be said to be a reliable witness.

15. The other witness assailed by defence is Mahesh Jaiswal, PW-4, who is the Junior Engineer of MSEDCL. Mr. Mardikar submits that when the application was handed over to the accused on 21.08.2010 for making the necessary scrutiny of the application, the trap was laid on 26.08.2010 and during that period, no survey report had been submitted by the accused. The learned counsel

submits that the said witness PW-4 Mahesh Jaiswal has specifically stated that the estimated cost for erecting one electric pole was Rs.3000/- and apart from the same, the purchase of service wire and galvanized wire would cost Rs.1000/- and the consumer is required to spend about Rs.500/- for the test report.

16. It was further elicited in the cross-examination by the defence that the appellant was working as a lineman and that without the orders of the Assistant Engineer, no lineman could install the electric meters in the house of the appellant. Thus, the entire claim that the amount was demanded by the appellant/lineman only for the purposes of installing the electric meter to the house of appellant is itself misconceived as the Assistant Engineer is also not made an accused and the allegations are inherently improbable. The defence has brought its case within the realm of preponderance of probability as the amount required for installing a new electric pole could be the amount which was handed over by the appellant.

17. Mr. Mardikar, learned counsel further submits that the evidence led by the prosecution is at variance with each other. The credibility of the star witness i.e. the complainant, Chavindra, is itself doubtful as there is contradiction in the testimony of the

complainant, wherein the complainant has in fact supported the defence of the accused. The cross-examination on behalf of the learned A.P.P. could not also elicit any admissions on the part of the complainant. The complainant has categorically mentioned that the portion mark 'A' in his statement was not stated by him and as such the testimony of the complainant needs to be discarded. If the testimony of the complainant is discarded, there is no credible evidence which can be said to be sufficient enough to base upon the conviction of the appellant in the said crime.

18. Insofar as the allegations pertaining to the initial demand of Rs.7000/- and reducing the same to Rs.5000/-, there is no corroboration to the said allegation. The complaint filed by PW-1 before the ACB, Gondia, is not by itself sufficient enough to prove the demand made by the appellant. The witnesses specifically stated that the Investigating Officer admitted that the phone call between the appellant and the complainant was not recorded. The testimony of the hostile witness i.e. the complainant, thus cannot be solely relied and sufficient enough to bring home the guilt of the appellant for the offence punishable under Section 7 of the P.C. Act of 1988. The prosecution has miserably failed to prove that the accused had demanded and accepted or obtained any gratification other than

legal remuneration as a motive or reward for doing an official act. The fact that the complainant has himself stated that when the appellant went inside the room to bring water for the complainant, the cash amount was thrown on the bed, itself would suggest that the attempt was made deliberately to somehow trap the appellant in the said crime. The contrary statements and depositions made by all other witnesses is therefore without any corroboration and lacks credibility and brings the prosecution case under the clouds of suspicion.

19. Mr. Mardikar, learned counsel further submits that in the absence of cogent evidence being led by the prosecution, the presumption under Section 20 of the P.C. Act of 1988 was resorted to and the appellant is convicted of the aforesaid offence. The presumption under Section 20 of the P.C. Act of 1988 is not absolute and is a rebuttable presumption. The appellant has discharged sufficient burden to rebut the presumption under Section 20 of the P.C. Act of 1988. Whereas on the other hand, the prosecution has miserably failed to prove its own case and discharge the initial burden lying upon the prosecution by substantially establishing the guilt of the appellant beyond doubt. As the demand itself is missing and not proved, the initial burden lying upon the

prosecution cannot be said to be discharged by the prosecution and hence the presumption under Section 20 of the P.C. Act of 1988 is not applicable. Hence, the reliance upon Section 20 of the P.C. Act of 1988 is misconceived and is liable to be rejected.

20. The learned trial Court has observed that in the statement under Section 313 of the Cr.P.C. there appears a defence of the accused that on the day of the incident complainant/Chavindra visited his house at around 7:30 P.M. and asked for a glass of water and after having water, he went outside the home. After some time, the trap laying team rushed to his house and asked Chavindra about the money and that Chavindra informed that he had kept the bribe amount on the bed diwan. Thus, the acceptance of the amount is also specifically denied by the appellant in the 313 statement, which is well supported by the complainant in his testimony. The judgment imposing conviction upon the appellant, is based on surmises and hypothetical considerations as the learned trial Court has observed that it would be undigestable that the trap team could have foisted the trap money in the hands of the accused. The accused is allowed to take all the defences available to him to rebut the case of the prosecution. However, the learned trial Court has specifically observed that the

defence did not examine the witness like his wife who was present on the spot as mentioned in the post-trap panchanama who would corroborate the probability putforth by the accused. Merely because the appellant did not examine his wife to counter the claim made by the prosecution that the bribe amount was accepted by the appellant and kept in the pocket, by itself would not be sufficient enough to establish the guilt of the present appellant in the said crime. The defence specifically put up by the accused, not only in his 313 statement but also in the cross-examination of the prosecution witnesses, was corroborated in the examination-in-chief of the complainant who categorically made a statement that the amount was kept on the bed while the appellant went to fetch a glass of water. The defence thus putforth by the accused, is a probable defence and discharges the burden put on the appellant/accused to bring his case within the realm of preponderance of probability. As such, the conviction needs to be set aside.

21. The learned trial Court has further relied upon the observations of this Court in the case of ***Rajesh ..vs.. CBI*** reported in **2012 Bom CR (Cri) 618**, wherein it is held that at times it becomes difficult for the complainant to give evidence against the accused as the complainant is required to visit such office in future also in

connection with the work and many times the employees show unity and there is always a possibility of harassment. This is one of the grounds relied upon by the trial Court to establish the guilt of the present appellant. The learned trial Court has decided the case on the ground that there is no previous enmity of PW-2 or PW-7 against the accused for deposing before the Court and only on that basis rejected the probable defence placed by the appellant is therefore misconceived and liable to be rejected.

22. The learned counsel for the appellant submits that Mr. Gaidhane was an important panch witness who was asked to remove the bribe amount from the hands of the accused during the trap was also not examined by the prosecution, which creates a serious doubt in the prosecution story. The said panch witness was one of the best witnesses to establish the case of the prosecution. However, for reasons known to the prosecution, the witness was not examined, ignoring such a vital aspect of the matter makes the judgment and order liable to be quashed and set aside.

23. The learned trial Court though observed that the grant of sanction is not an ideal formality but a sacrosanct act which affords protection to the honest servants against frivolous prosecution and must therefore be strictly complied with, however, failed to take into

consideration the admissions made on the part of the sanctioning authority. The Sanctioning Authority, Executive Engineer, MSEDCL, Gondia, has granted the sanction mechanically on the draft prepared by the office as he did not receive any papers from the office about the procedure to be followed in the matter of the complainant. The Sanctioning Authority, MSEDCL, Gondia, PW-6 Mr. Youraj Meshram, specifically averred that as the grievance was about measurement by the lineman, hence the papers were not forwarded to him. Thus, the sanction granted to prosecute the appellant was mechanically granted by the Executive Engineer without looking into the papers. The sanction order dated 20.10.2011 specifically shows that copies of paper Nos.1 to 63 were received as per index, however, the admission on the part of PW-6 that the other papers were not forwarded to him clearly shows non-application of mind. Thus, there is a serious discrepancy in the sanction order as well as in the testimony of PW-6 who is the sanctioning authority. The sanction granted by the competent authority thus cannot be said to be a valid sanction in the eyes of law and the sanction thus vitiates. In the absence of the valid sanction, the cognizance taken by the trial Court is therefore illegal and the impugned order needs to be set aside on this ground also.

24. As against this, Mrs. Kolhe, learned A.P.P. vehemently submits that the prosecution has been able to establish its case beyond doubt. The pre-trap panchnama was conducted by raiding party comprising of two independent witnesses. The witnesses were accompanying the complainant when the appellant made a demand of Rs.5000/-. The bribe amount was found in the possession of the accused while conducting the raid. The currency notes marked were recovered from the accused and was also collected. The aforesaid evidence clearly established that the accused has accepted the bribe amount.

25. The CA reports clearly showed the positive results of the hand wash. The conversation between the accused and the complainant during the trap clearly shows the demand and the offence under Section 7 can be said to be made out against the appellant.

26. The evidence of the complainant is corroborated with the evidence of PW-2 and PW-7 and as such, the prosecution has established the guilt of present appellant beyond all reasonable doubt. The prosecution witnesses has specifically denied the suggestion putforth by the defence and that the defence has not been able to rebut the presumption under Section 20 of the P.C. Act

of 1988. The impugned judgment and order convicting the appellant for the offences punishable under Section 7 and 13 (1) (D) of the P.C. Act is therefore just and proper and thus liable to be maintained. The appellant may be directed to undergo the remaining sentence by issuing a conviction warrant.

27. I have gone through the judgment dated 23.04.2014 passed by the learned Additional Sessions Judge, Gondia, whereby the appellant is convicted. I have also gone through the evidence of the prosecution witnesses. The deposition of PW-1 (Chavindra Waghmare), would show that the complainant was declared hostile as the complainant failed to support the case of the prosecution. The complainant clearly stated that when the accused went inside to bring water, he took out the bribe amount from his pocket and kept the same on the bed. The complainant then took the glass of water, came out of the house of the accused showing signal. This statement in the deposition is contrary to the statement of the complainant. The complainant, PW-1 was cross-examined by the prosecution by seeking permission from the trial Court, wherein he specifically averred that it is not true that the money took out from the pocket of the shirt was handed over to the accused, which he accepted, counted and kept in his right hand and that he was told his work

would be done. Portion mark 'A' was also put to the complainant, which he specifically denied. Thus, the complainant, prosecution witness No.1 has failed to support the case of the prosecution and the same has caused a serious dent in the prosecution case in proving the demand as well as the acceptance.

28. Although the complainant identified his complaint Exh.8 dated 26.08.2015, however, in his cross-examination, he flatly denied that the accused demanded money from him when he told that he should do his work at the earliest. Thus, the complaint and the demand cannot be said to be proved by the prosecution beyond doubt. The cross-examination of the said witness by the prosecution, instead of assisting the prosecution, rather establishes the probable defence taken by the appellant. With the demand itself not being established, proof of acceptance of illegal gratification can only follow if there is proof of demand, as the primary facts on the basis of which a legal presumption under Section 20 can be drawn are wholly absent.

29. The important witness Mr. Gaidhane who was asked to remove the bribe amount from the hands of the accused during the trap was also not examined by the prosecution, which creates a serious doubt in the prosecution story. The said panch witness was

one of the witnesses who could have established the case of the prosecution that whether the amount was kept on bed or was handed over to the appellant/accused.

30. It also appears that the Sanctioning Authority, Executive Engineer, MSEDCL, Gondia has granted the sanction mechanically on the draft prepared by the office as they did not receive any paper from the office about the procedure to be followed for grant of electricity meter. The sanction order dated 20.10.2011 shows that the document No.1 to 63 were received as per index. However, PW-6, Youraj Meshram clearly admits that the papers were not forwarded to him, as in the present matter the grievance occurred at the time of measurement by the lineman. The said witness, Youraj Meshram, Executive Engineer, MSEDCL sanctioning authority had also admitted that the investigating agency has also forwarded the draft of the sanction order. Thus, the overall consideration of the witness on sanction examined by the prosecution, would clearly show that the sanction is invalid.

31. The PW-2 (the shadow witness) stated that the conversation between the accused/ appellant (Maharwad) and the complainant (Waghmare) was recorded by the Anti Corruption Bureau officials. However, the said fact was denied by the

Investigating Officer in his cross-examination. The deposition of PW-7 (Trap Laying Officer, Anti Corruption Bureau) states that at the time of verification of the demand, he did not record the phone conversation between the appellant/accused and the complainant which took place on mobile phone and after the panchnama of verification at Exhs.19 and 20, they left the office for the trap. The Investigating Officer has also admitted in his cross-examination that he did not personally verify as to whether the complainant, Waghmare has filed any application to the concerned department of MSEDCL for supply of an electricity meter. Thus, the testimony of PW-2, Shadow Panch shows that there is an improvement in the version of the prosecution where the shadow panch has stated that the conversation between the appellant and the complainant on the phone call was recorded by the prosecution. The said witness thus cannot be relied due to the aforesaid improvement that goes to the root of the matter.

32. The Deputy Engineer of the MSEDCL was examined by the prosecution to submit that an illegal gratification was demanded by the appellant/accused to carry out official work. In his cross-examination, this witness admitted that the cost of erecting one electric pole was Rs.3,000/-, the cost of galvanized and service wire

was Rs.1,000/- and Rs.500/- was required for preparing a test report. Thus, a probable defence was putforth by the accused that the amount which was received by the appellant/accused, was the amount required for completing the work of erecting the electric pole and providing electricity to the complainant.

33. The Assistant Engineer, with whose permission the lineman was to install the electric meter, was not arrayed as accused. The allegation though are not against the Assistant Engineer, the appellant established a probable defence that such official work could not have been carried out without the permission of the competent authority, i.e. the Deputy Engineer.

34. The credibility of the star witness i.e. complainant/Chavindra, is itself doubtful as there is contradiction in the testimony of the complainant and hence complainant was declared as hostile. The cross-examination of hostile witness complainant, PW-1 also did not reveal any evidence which could assist the prosecution. The cumulative effect of hostility of PW-1 is that the demand cannot be said to be proved beyond doubt and the prosecution case cannot stand on such shaky piece of evidence where the prosecution has failed to prove the demand itself.

35. The defence taken by the appellant/accused is well

supported by the complainant as he stated that the cash amount was kept on the bed and was not handed over to or accepted by the appellant/accused. The evidence thus cannot be relied upon to base a conviction under the P.C. Act of 1988. The absence of cogent evidence, led by the prosecution is itself insufficient to invoke the presumption under Section 20 of the P.C. Act of 1988 on the basis of which the appellant could be convicted. The prosecution has failed to establish initial burden lying upon it by substantially establishing the alleged demand made by the appellant. The appellant also taken a probable defence in his Section 313 statement that the complainant visited his house at 7:30 P.M. and asked for a glass of water and when the accused went inside, the raiding party thereafter rushed in and found the bribe amount kept on the diwan. This probable defence have been established by the accused and which has brought his case within the realm of a preponderance of probability.

36. It appears that the trial Court was swayed itself by the fact that the appellant did not examine his wife, who could have thrown light on the probability putforth by the accused that the amount was kept on the Diwan and not handed over to the accused. A conviction based upon such observations suffers from conjectures

and surmises and as such, the impugned judgment convicting the appellant on such reasoning cannot be allowed to stand. The defence putforth by the accused is a probable defence and had potentially discharged the burden put on the appellant.

37. The case of ***Rajesh ..vs.. CBI*** (supra), was relied upon by trial Court to observe that it has become difficult for the complainant to give evidence against the accused as the complainant is required to visit such office in future also in connection with the work and many times the employees show unity and there is always a possibility of harassment. The impugned judgment convicting the appellant based upon the aforesaid reasoning thus cannot be permitted to stand, particularly when the prosecution has failed to establish the demand by leading a cogent evidence. The Hon'ble Supreme Court in the case of ***B. Jayaraj ..vs.. State of A.P.*** reported in (2014) 13 SCC 55, was pleased to hold as under:-

> *"7. In so far as the offence under Section 7 is concerned, it is a settled position in law that demand of illegal gratification is sine qua non to constitute the said offence and mere recovery of currency notes cannot constitute the offence under Section 7 unless it is proved beyond all reasonable doubt that the accused voluntarily accepted the money knowing it to be a bribe. The above position has been succinctly laid down in several judgments of this Court. By way of illustration reference may be made to the decision in C.M. Sharma Vs. State of A.P. and C.M. Girish Babu Vs. C.B.I.*
>
> *9. In so far as the presumption permissible to be drawn under Section 20 of the Act is concerned, such presumption can only be in respect of the offence under Section 7 and not the*

offences under Section 13(1)(d)(i)(ii) of the Act. In any event, it is only on proof of acceptance of illegal gratification that presumption can be drawn under Section 20 of the Act that such gratification was received for doing or forbearing to do any official act. Proof of acceptance of illegal gratification can follow only if there is proof of demand. As the same is lacking in the present case the primary facts on the basis of which the legal presumption under Section 20 can be drawn are wholly absent."

38. In the present case, the complainant has turned hostile and has not supported the prosecution case, complainant himself has turned hostile. The shadow panch cannot be said to be a reliable witness as there is a serious improvement in his version. The investigating officer has specifically denied to have verified as to whether complainant/Waghmare had filed any application to the concerned department of MSEDCL for supply of the electric meter. The investigating officer has also straightaway denied that any conversation was recorded between the complainant and the accused. The sanctioning authority also admitted that no papers were received and he received a draft sanction order.

39. Thus, in the absence of any cogent evidence to establish the demand and the acceptance also not being proved, the impugned judgment passed by the learned trial Court convicting the appellant cannot be sustained. Hence, I am inclined to pass the following order:-

ORDER

(a) The appeal is **allowed**.

(b) The impugned judgment and order dated 23.04.2014, passed by the learned Additional Session Judge, Gondia in Special Criminal Case No.01 of 2011, is quashed and set aside.

(c) The appellant is acquitted for the offences punishable under Section 7 and 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988.

(d) Bail bonds if any shall stands cancelled.

Rule is made absolute in above terms. No order as to costs.

(MEHROZ K. PATHAN, J.)

C.L. Dhakate

Signed by: Mr. C.L. Dhakate
Designation: PA To Honourable Judge
Date: 12/10/2026 15:38:38