



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 462 OF 2011

The State of Maharashtra

...Appellant

Versus

1. Kedarnath S/o Ramnaji Budhwant,
Age: 50, Occu. Service,
R/o. Jalna.
2. Sow Vidya w/o Kedarnath Budhwant,
Age:45 years, Occu. Household,
R/o. Jalna.
3. Rajiv S/o Kedarnath Budhwant,
Age: 25 years, Occu. Service,
R/o. Jalna

...Respondents

- Mr. S. M. Ganachari, APP for the Appellant - State
- Mr. S. S. Chapalgaonkar, Advocate for the Respondents

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : FEBRUARY 04, 2026
PRONOUNCED ON : FEBRUARY 09, 2026

JUDGMENT :

1. This Appeal, at the instant of Appellant - State, arises out of judgment and order dated 15.01.2010 passed by learned Special Court, Jalna in Special Case No. 06/2007 acquitting present Respondent from charges under Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act and under Section 109 of the Indian Penal Code read with Section 13(1)(e) and Section 13(2) of the Act.

2. In short, case of prosecution in trial Court was that, accused, who was working as supervisor in Agriculture Department, during check period from 08.08.1984 to October, 2004, amassed disproportionate property from his known source of income. It was specific case that, known source of accused from salary, agricultural income, rent income was to the tune of Rs. 27,36,825/-. That, he had disclosed expenses to the tune of Rs. 14,02,252/-. That, he had acquired property worth Rs. 48,89,632/- and, therefore, the disproportionate property acquired by him was to the tune of Rs.35,55,159/- for which he could not give proper explanation. It is the further case of prosecution that, accused no. 2 wife and accused no.3 son of accused no.1 had abetted the above offence and, therefore, after investigation, all three were charge-sheeted and tried by learned Special Judge for above offences.

During trial, prosecution adduced evidence of in all 19 witnesses and also rested its case on various panchnama and documentary evidence. On appreciation of the same, leaned Trial Judge held that, prosecution failed to established the guilt of the accused beyond reasonable doubt and by above order, acquitted all three accused, precisely which is assailed in this Appeal by the State.

SUBMISSIONS ON BEHALF OF PROSECUTION

3. Learned APP would point out that, Respondent - original Accused No.1 was an agriculture supervisor. He pointed out that, complaint was received against him for amassing property from ill gotten source. That, on receipt of such complaint, discrete inquiry was said to be conducted, which indeed revealed that, during the period from 08.08.1984 to October, 2004, the salary income of accused no. 1 was Rs.9,77,738/- p.a. That, it was revealed that, he had withdrawn GPF to the tune of Rs.3,15,800/- and borrowed housing loan, car loan from various banks. That, he had also maintained fixed deposits and drawn policies. That, total income of Respondent accused from known source was shown to the extent of Rs.27,36,825/-. That, he had shown expenses to the extent of Rs.14,02,252/- but he had acquired properties worth Rs.48,89,000/- and, therefore, it is his submission that, calculations revealed that, on deducting expenditures incurred by accused to the tune of Rs.14,02,252/- from Rs.27,36,825/-, the leftover to the tune of Rs.13,34,573/- was deducted from his property income i.e. Rs.48,89,732/- and, therefore, disproportionate property was worth Rs.35,55,159/-. That, Respondent accused failed to provide account for the sources of above acquisitions. He would further submit that, his wife and son had abetted him in above act and, therefore, they are also charge-sheeted.

4. Learned APP took this Court through the various prosecution witnesses, who according to him, have verified the values of the properties acquired by accused. That, there was mismatch between the income and the financial capability of accused to acquire said movable and immovable properties. That, as many as 19 witnesses had been examined by prosecution. However, according to him, learned Trial Court has adopted hyper technical approach and has unduly given benefit of doubt to accused even when according to him, there was overwhelming evidence placed by the prosecution before the Trial Court. Resultantly, it is his submission that, due to incorrect and erroneous analysis, acquittal has resulted, which he prays to set aside the impugned judgment and order by allowing the Appeal.

5. Learned Counsel for Respondents - Accused, while justifying the order of acquittal, pointed out that, prosecution has miserably failed to prove the charges. He pointed out that, in fact, investigating officer did not seek explanation of accused regarding the properties and income fetched from the same. He pointed out that, accused had irrigated land, which was distinct source of income apart from salary. That, there were rental incomes also. According to him, excess valuation is done and the valuers, who are engaged and made witnesses, were not experts in the respective fields and, therefore, he

justifies the order of acquittal.

6. He further pointed out that, here, in view of the charge, investigation was expected at the hands of Deputy Superintendent of Police ranking officer but here investigation got done at the hands of Police Sub Inspector and mere formality of filing charge-sheet is done by Dy.S.P. This, according to him, also weighed upon the Trial Court in not accepting the case of prosecution. For said reason, he prays to dismiss the appeal for want of merits.

BRIEF ACCOUNT OF THE EVIDENCE IN TRIAL COURT

7. **PW 1** is panch to the house panchnama of accused, which is at Exhibit 45; **PW 2** is the vendor of seeds and fertilizer and he claims that on 22.06.2005 accused purchased seeds worth Rs.1,675/- by making cash payments and he placed receipt Exhibit 48 to that effect, however, while under cross, he admitted that, the seeds sold by him were of improved quality and, therefore, the same were costly. He further stated that, in 2005 cost of cotton crop having gone up, it fetched 2000-2500 per quintal and for cotton crop, per hector Rs.5000-6000 were required to be expended.

PW 3 is the Dy.S.P, who deposed in his evidence at Exhibit 53, that, Superintendent of Police, Anti Corruption forwarded him an

application for conducting discrete inquiry and after completing the same, he sent the report to that extent. According to him, during the check period from August, 1984 to October, 2004 known source of accused was found to be Rs.27,36,825/-, whereas, expenditure was found to be of Rs.14,02,252/- only and thereby discrete inquiry revealed that, accused had amassed property worth Rs. 48,89,732/-. According to him, after deducting the expenses, disproportionate assets to the extent of 129% of the total known source was revealed and, therefore, he lodged complaint against accused no.1 and accused no.2 wife and son for abetting.

While under cross, above witness admitted that, valuation of immovable property i.e. landed property was shown only on the basis of registered sale deed. He also admitted that, inquiry revealed that, the land purchased by accused and his family were also sold and transacted by way of registered sale deed. He answered that, based on previous experience, he undertook the exercise of deriving agriculture income. He fairly admits that, he does not seek advice of experts in agriculture fields. He also admitted about not collecting chart of land revenue assessment shown in the 7/12 extract. Rest is all denial.

PW 4 is the LIC agent and he deposed about purchasing motorcycle from accused to the tune of Rs.25,000/-.

PW 5 is the goldsmith who, in his evidence at Exhibit 54,

has stated that, accused no.1 and 2 used to visit his shop and get articles prepared of which bill was issued and he identified the bills worth Rs.3,200/- and Rs.26,150/-.

While under **cross**, he admitted that, business is looked by his son and he carries outside transaction. He also admitted that, Exhibit 55 stands in the name of Gajanan Shriram. While under cross, he is unable to state when accused had visited his shop.

PW 6 also another shop owner of fertilizers deposed that accused purchased 7 bags of fertilizer worth Rs. 3,360/- of which he issued bill at Exhibit 57.

While under **cross**, he admitted that accused was progressive farmer and in the Sindkhed vicinity, there is better crop fields from irrigated lands.

PW 7 is panch to panchnama of articles found in the house of accused Exhibit 61. A list of scheduled items was drawn followed by panchnama, which he identified.

While under cross, he admitted that, he is not an expert to determine price of the articles found in the house of accused nor the police officials were experts. He also admitted that, articles were purchased long back. He admitted that, accused gave explanation that, some of the ornaments, clothes were received by him and his family in the form of gift. He is unable to state whether Maruti car was new or

used one.

PW 8 a staff of Urban Cooperative Bank identified fixed deposits Exhibits 63 to 66.

PW 9, who seems to be an assistant engineer in PWD, claims to have carried out valuation of apartment and according to him, its value was worth Rs.20,54,363/- and he identified the valuation report issued by him. He also testified about valuation of properties standing in the name of accused no.3 in Mhada Colony, shop standing in the name of wife.

While under cross, this witness has admitted that, while valuating the property, profit of the contractor and engineer goes to 10 – 15%. He admitted that, property in Mhada Colony was by accepting price of the property, which is determined by Mhada Office.

PW 10 also a Sub-Divisional Engineer deposed about house obtained under Mhada Scheme at Jalna worth Rs.56,000/- and it being sold to accused no. 3 at Rs.55,000/- and installments being paid to Mhada i.e. Rs.591/- per month.

PW 11 is the Official of Mhada and he deposed about PW 10 applying for transfer in the name of accused no. 3 and transfer charges of Rs. 17,298/- being paid.

PW 12 is the Talathi, who, on request of ACB, visited agricultural land of accused at Sawarkhed Tejan owned by accused and

prepared panchnama, issued 7/12 extract, which he identified.

While under cross, he admitted that, land owned and possessed by accused admeasuring 12 acres is irrigated land and of high quality, whereas remaining land was non irrigated. He admitted that, that time irrigated land fetched double the net income and non irrigated fetched Rs.10,000-12,000/-. He also admitted that, accused used to purchase land and later sell it on more price. He also admitted that, accused is a progressive farmer of the village.

PW 13 a Manger of Urban Bank deposed about fixed deposits standing in the name of accused nos. 2 & 3 and same being withdrawn prematurely.

PW 14 also a Branch Manager testified about account of accused no. 2 with the bank and having FDs worth Rs.30,000/- in the name of accused no. 2 but while under cross he failed to bring record of the bank and unable to stated interest accrued over FDS

PW 15 another Branch Manger of District Central Cooperative Bank deposed about 3 FDs in the name of accused no.2 worth Rs.40,000/-.

PW 16 is the Sanctioning Authority.

PW 17 stated about he accompanying Talathi to the landed property of accused but in cross he admitted that, it was not verified as to exact how much land was belonging to accused no. 1 and how much

was purchased and for exactly for what amount.

PW 18 is the RTO Clerk who gave information with regard to Maruti Car and Hero Honda.

PW 19 is the investigating officer, who, in his cross, deposed as under:

4. I calculated the expenditure of the accused to the extent of 33% of gross salary of accused No.1. The gross salary of accused No. 1 for the period from August, 1984 to July, 2005 was Rs. 16,61,332/-. I had shown the plot and land purchased by the accused person during above period in the expenditure. I had also shown the income derived from sale of property in his income. I do not know whether accused No. 2 had purchased land bearing Gat No. 647 situated at village Tejas in the year 1992 and sold on 2.7.1998. There is no specific mention of the total area of the ancestral property and the specific area purchased by the accused in panchnama Ex. 116. I had shown the income derived from the sale of land by the accused person during above period in the income of the accused person. It is not true that I did not show the profit from sale in the income of the accused.

5. Some lands are dry crop lands and some lands are Bagayat lands. I had shown separate income from dry land and Bagavat land. It is not true that I shown income of Rs. 1500/- per year per acre during above period. On the basis of rates of agricultural product available in the office of APMC and Agriculture Commissioner, Pune, and the average income calculated by Agri. Commissioner, Pune, for Buldhana District was taken into consideration while assessing the income of the land of the accused. I have calculated separate income than the income shown by the complainant in his

complaint. I have shown the entire income of accused No. 1 in Schedule-B. At Sr. No. 31 in Schedule-B I had shown the income derived from the land of accused No.1. The accused No. 1 was having Ancestral agricultural land admeasuring 8 before r hectare, 15 R. I cannot tell whether 10 years before raid the father of or L accused No.1 died. It is not true that I shown share of accused no. 1 in ancestral property to the extent of one-sixth, but actually his share was one-fourth. It is not true that accused no. 1 was having total 24 acres agricultural land, including ancestral agricultural land as well as land purchased by him. It is not true that his entire agricultural land was irrigated land. Accused No. 1 was having 8 hectares, 15 R land out of ancestral land and land admeasuring 6 hectares, 1 R land purchased in his name and accused Nos. 2 and 3.

6. Telephone connection installed at the house of the accused was in the name of his relative. The said connection was in the name of father-in-law of accused No.1. I do not know whether his father-in-law was President of District Congress Committee, Buldhana. It is not true that he often used to stay at the house of accused at Jalna. Deposit of telephone is shown as Rs. 10,000/-. It is not true that the accused persons have no concern with the bill of the telephone and deposit. I cannot tell whether in the Maharashtra State cotton is purchased by the Federation (Ekdhikar Kapus Kharedi Sangh). I do not know whether payment of the price of the cotton is (6-being paid by cheque by Federation. I did not collect any information in this regard. It is not true that approximately we have shown very meagre income of land of the accused. I had not shown the income of the accused per acre per year. Witness volunteers that I showed the agricultural income approximately.

Accused in his favour has examined DW 1, who is the father

of Accused no.2.

ANALYSIS

8. At the outset, in view of nature of charge, it is initially to be seen, whether sanction to prosecute is valid as there is controversy to this extent.

9. PW 16 seems to be the Authority, who has accorded sanction. This witness at Exhibit 112 deposed about receiving papers, verifying details therein and *prima facie* convinced for issuing sanction of Accused no. 1, which he identified at Exhibit 113. However, while under cross, he has answered that, he did not verify whether profits received by accused from sale transaction of landed properties were shown or not in the income of accused. He admitted about receipt of draft sanction order and the same being put to use while according sanction. He admitted that, he did not issue show cause notice to the accused.

10. In the trial Court, learned Counsel for Accused has relied on judgment of this Court in ***N. P. Lolitkar vs. CBI & Another***, reported in 1993 Criminal Law Journal 2051, wherein, it has been observed that “in absence of such an opportunity being offered to accused, question of he failing to give satisfactory account or not does not arise. Here also, this

witness admits that, he did not issue show cause notice and seek explanation from accused. In fact, this Court has also noticed that, prosecution has not procured the statements of assets and liabilities, which, every government servant, during the life of his service, periodically expected to handover employer government. For the above reason, coupled with the use of draft sanction, sanction cannot be said to be valid.

11. Now, as regards to remaining case of prosecution is concerned about, amassing assets disproportionate to income, evidence of PW 3, who is a complainant here is already reproduced above. He seem to have admitted that, on receipt of complaint from one Sanjay Bhalerao, discrete inquiry is completed and handed over its report to the S.P., which was the source information for lodging complaint. Though this witness has stated that, during the above said check period, expenses incurred by accused to the tune of Rs. 14,02,252/- and that accused had amassed property worth Rs.48,89,632/-, which according to him, is 129% of total known source of income. While under cross, this witness has admitted that, only on the basis of previous enquiry, experience and agricultural study, figures are deduced. He admitted that, no experts in respective fields were engaged. As pointed out, complainant also is not sure and he has quoted the figures by

approximation. Defence case is deliberate projection of excess income without any basis. Such contentions are not refuted by prosecution.

12. As stated above, witnesses like dealers in seeds, fertilizers, goldsmith are all examined to demonstrate that accused transacted with them. These witnesses have merely placed on record bills and vouchers of articles purchased. Goldsmith has admitted that, his son runs the shop and as such, son is not made to step in the witness box to demonstrate the accused purchased the said articles. Again, whatever articles were allegedly found during home visit, are family acquisition by way of gifts. Though efforts are made to examine Talathi on the point of irrigated land, this witness has merely placed on record 7/12 extract. Prosecution is aware that, accused has over 12 acres irrigated land and prosecution's own witnesses are admitted that, accused was a progressive farmer. Crops like, cotton, which are cash crop, were ripped. There is no evidence to show the agricultural income earned from above agricultural activity. Witnesses like junior engineer in PWD is examined on the point of houses and shops owned by either accused or standing in the name of his son. This witness though has given valuation, he is not shown to be an expert valuer in structures. There is no foundation for the figures deduced by this witness.

13. Witnesses are also examined that, accused, his wife had maintained fixed deposits with various cooperative banks. There is nothing unusual to create fixed deposits when there is other lawful source of income like irrigated agricultural land. Therefore, even on such count, case of prosecution comes under shadow of doubt. Prices quoted by the witnesses are apparently approximation. Resultantly, what basis have been adopted for deducing the valuation of the property is not clarified by the prosecution.

14. Thus, on close scrutiny of above discussed evidence, firstly, no base or foundation is provided for deducing the prices of the properties. As stated above, witnesses are quoting prices on approximation and none of them admittedly are expert valuers in respective fields. Defence case is of deliberate projection of excess figures. As stated above, no explanation has been sought from the accused prior to launching prosecution. Had such exercise been undertaken by investigating machinery, accused would have got opportunity to explain the acquisitions. Therefore, with such weak evidence, this Court does not find any error on the part of Trial Court in refusing to accept the said of prosecution to hold accused guilty. Resultantly, there being no merit in the appeal, the same is deserves to be dismissed being devoid of merits.

15. In view of above discussion, following order is passed:

ORDER

1. Criminal Appeal is dismissed.
2. Pending criminal application(s), if any, stands disposed of.

(ABHAY S. WAGHWASE, J.)

Umesh