2025 INSC 397

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPEAL NO. 1405/2019**

**STATE REP. BY THE DEPUTY SUPERINTENDENT OF POLICE, VIGILANCE AND ANTI CORRUPTION CHENNAI CITY-I DEPARTMENT ...APPELLANT(S)**

**VERSUS**

**G. EASWARAN ...RESPONDENT(S)**

**J U D G M E N T**

**PAMIDIGHANTAM SRI NARASIMHA, J.**

1. This appeal arises out of the final judgment of the High Court of Madras[1], by which criminal proceedings against the respondent under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988[2] for possessing assets disproportionate to known sources of income were quashed while exercising jurisdiction under Section 482 of the Code of Criminal Procedure, 1973[3].



[1] Crl. O.P. No. 5835 of 2017 dated 21.04.2017, wherein the High Court has quashed the C.C. No. 30 of 2013.
[2] Hereinafter "PC Act".
[3] Hereinafter "Cr.P.C".

2. *Facts*: The relevant facts are that the respondent joined government service as a surveyor in 1980 and was working as Assistant Director with Nagercoil Local Planning Authority at the relevant time. Upon receipt of a complaint that the respondent is hoarding assets disproportionate to known sources of income earned during check period 01.01.2001 to 31.08.2008, an investigation was conducted, which revealed that he had, in fact, acquired assets worth Rs. 26,88,057/- disproportionate to his income. An FIR bearing number 11/AC/2009/CC-III was registered under Sections 13(2) read with 13(1)(e) of the PC Act on 27.07.2009, and the State government granted sanction to prosecute the respondent on 08.07.2013. After investigation, the chargesheet was filed on 23.09.2013.

3. The respondent filed a discharge application under Section 239 of the Cr.P.C. before the Special Court, Chennai, which came to be dismissed vide order dated 27.01.2016. While deciding the discharge application, the Special Court considered the matter in detail and noted that the prosecution has, in fact, accepted the explanation regarding: (i) the valuation of the house owned by the respondent at Poona Nagar and revised the amount from Rs.17,19,541/- to Rs.10,48,861/- after leaving out the value of the

first floor constructed after the check period; and (ii) value of the asset with respect to the loan of Rs.3,00,000/- obtained by the respondent's wife for the purchase of a car from Kotak Mahindra. Ultimately, the total value of the disproportionate assets was modified from Rs.43,78,383/- to Rs. 37,07,703/- and thereafter to Rs. 26,88,057. On the other hand, the explanation with respect to the non-deduction of the claim of: i) income earned by the wife through real estate business, ii) gift said to have been received by the respondent's daughter from her grandfather, and iii) income said to have been earned by the respondent's son were not interfered with on the basis of a prima facie finding. The relevant portion of the order of the Special Court is as follows:

> *"**11**…The case is in the stage of framing of charge and the validity of the said documents viz gift deed, source of income of Chinnasami to make a gift of Rs.7,80,000/- and the regarding income of the petitioner's wife which was not relied upon by the prosecution cannot be decided at this stage. It is a settled law that at the stage of framing of charges the court has got a limited jurisdiction only to see whether a prima facie case has been made out by the prosecution against the accused to frame charge. The appreciation of evidence for the purpose of arriving at the conclusion whether the prosecution has proved the case against the accused beyond reasonable doubt would arise only after all the evidence are brought on record after trial…though the petitioner counsel contends that income of other family members were not considered by prosecution, but the prosecution had contended that there is no document to substantiate the income of petitioner's wife and the alleged gift of Rs.7,80,000/- to the petitioner's daughter by her Grandfather is an afterthought as the gift deed is not registered and no source of income for the said Chinnasami. Hence the validity of the same cannot be decided at this stage so known source of income at this stage has to be*

*considered only the sources of income known to the prosecution and the document viz books of account not produced and relied upon by the prosecution cannot be considered and analyzed and the court cannot conduct a mini trial at the stage of framing of charges."*

4. In view of the above, while dismissing the application for discharge, the Special Court concluded:

> *"**14...**At this stage the court has to consider whether the prima facie case has been made out against the accused on the basis of evidence produced by the prosecution and the court cannot make elaborate enquiry by sifting and weighing the materials to find out the case against the accused beyond reasonable doubt which has to be done only at the time of final hearing. From the documents produced by the prosecution, the prosecution has facie establishes that Investigation Officer has considered the explanation offered by the petitioner under Document No. 70 and the contention of the petitioner is that his wife had earned Rs.18,51,028/-during the relevant period as a Real Estate Broker and the gift of Rs. 7 lakhs was given to the petitioner's daughter by her Grandfather and whether the petitioner's daughter's grandfather had source of income to gift Rs. 7,80,000 /- are all can be considered only after full trial after appreciating the validity of the documents and statements of the petitioner. At this stage, the documents produced by the prosecution prima facie establishes there are materials for framing charges against the accused u/s 13(2) r/w 13 (1)(e) of Prevention of Corruption Act 1988. In view of the above discussions this petition is dismissed."*

5. The respondent assailed the above findings and dismissal of the discharge application by filing a revision petition before the High Court. Having considered various grounds raised by the respondent and having examined the matter in detail, the High Court came to the conclusion that the findings of the Special Judge were correct and that the contentions about the income earned by the respondent's wife and daughter cannot be considered at the

stage of discharge. While affirming the findings of the Special Court, the High Court dismissed the revision petition in the following terms:

> ***"22...****But, in my considered view, prime facts, the material available on record show that before filing the charge sheet, the investigation agency has duly considered all the relevant materials including the proof of possession of properties/income beyond the known sources of income, and hence, the said submission cannot be countenanced.*
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> ***23.*** *With regard to the revisional powers of this Court under Section 397 and 401 Cr.P.C., as relied on by the learned counsel for the petitioner/ accused, the Supreme Court in-extensu dealt with the same in the decision reported in Amit Kapoor v. Ramesh Chander,*[4] *and following the said decision of the Apex Court, in this case, this Court finds that all the material records were placed by the prosecution, and therefore, it is incorrect to state that the since the said letter, dated 05.01.2009 was not placed, the trial court ought to have allowed the discharge petition.*
>
> ***24.*** *Hence, in my considered opinion the submissions made by the learned counsel for the petitioner/ accused with regard to the merits of the case, as discussed supra, are all not the grounds for discharge of the petitioner from the criminal case. Hence, I do not find any valid ground to interfere with the impugned order of the trial Court, as this Court does not find any illegality or infirmity in the same and hence, the impugned order is liable to be confirmed.*
>
> ***25.*** *Accordingly, this Crl.R.C. is dismissed, with liberty to the petitioner/ accused to put-forth all his contentions during the course of trial. The trial Court shall complete the trial as early as possible, for which, the petitioner/ accused and the prosecution shall co-operate."*
>
> (emphasis supplied)

[4] 2012 (9) SCC 460.

6. Within seven months, the respondent filed a petition under Section 482 for quashing the criminal proceedings, virtually on the same grounds as those taken in the discharge application.

7. It is not in dispute that the Special Court, while dismissing the discharge application, as well as the High Court while dismissing the revision petition, arrived at clear findings that there was a prima facie case, and this conclusion was drawn after examining the allegations as they stand. The impugned order operates against the established law that while the bar under section 397(3) of the CrPC does not curtail the remedy under Section 482, it is trite that inherent powers must be exercised *sparingly*. This Court, in ***Krishnan v. Krishnaveni***,[5] has held:

> *"**8.** The object of Section 483 and the purpose behind conferring the revisional power under Section 397, read with Section 401, upon the High Court is to invest continuous supervisory jurisdiction so as to prevent miscarriage of justice or to correct irregularity of the procedure or to mete out justice. In addition, the inherent power of the High Court is preserved by Section 482. The power of the High Court, therefore, is very wide. However, the High Court must exercise such power sparingly and cautiously when the Sessions Judge has simultaneously exercised revisional power under Section 397(1)....*
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> ***10.** Ordinarily, when revision has been barred by Section 397(3) of the Code, a person — accused/complainant — cannot be allowed to take recourse to the revision to the High Court under Section 397(1) or under inherent powers of the High Court under Section 482 of the Code since it may amount to circumvention of the provisions of Section 397(3) or Section 397(2) of the Code...As stated earlier, it may be*

[5] (1997) 4 SCC 241.

> *exercised sparingly so as to avoid needless multiplicity of procedure, unnecessary delay in trial and protraction of proceedings. The object of criminal trial is to render public justice, to punish the criminal and to see that the trial is concluded expeditiously before the memory of the witness fades out…"*
>
> (emphasis supplied)

8. In a later decision in ***Renu Kumari v. Sanjay Kumar***,[6] where the High Court had entertained and allowed a petition under Section 482 Cr.P.C. in similar circumstances to quash the proceedings after a petition for discharge was dismissed by the Magistrate and the subsequent revision petition was dismissed by the Sessions Judge, this Court set aside the High Court's quashing order and held as follows:

> *"9. (….) In R. P. Kapur v. State of Punjab[7] this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings:*
> *(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;*
> *(ii) where the allegations in the first information report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged;*
> *(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge. (AIR p. 869)*
>
> *In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 CrPC, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable*

[6] (2008) 12 SCC 346.
[7] AIR 1960 SC 866.

> *appreciation of it accusation would not be sustained. That is the function of the trial Judge…It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with…"*
>
> (emphasis supplied)

9. In the present case, the inherent power under Section 482 Cr.P.C. for quashing the criminal proceedings was invoked after the dismissal of the discharge application and the consequent revision petition. In ***State by Karnataka Lokayukta, Police Station, Bengaluru v. M.R. Hiremath***,[8] this Court examined a similar situation where the High Court entertained a petition under Section 482 Cr.P.C. filed against the dismissal of a discharge petition. Setting aside the judgement of the High Court, this Court held:

> *"**25.** The High Court ought to have been cognizant of the fact that the trial court was dealing with an application for discharge under the provisions of Section 239 CrPC. The parameters which govern the exercise of this jurisdiction have found expression in several decisions of this Court. It is a settled principle of law that at the stage of considering an application for discharge the court must proceed on the assumption that the material which has been brought on the record by the prosecution is true and evaluate the material in order to determine whether the facts emerging from the material, taken on its face value, disclose the*

[8] (2019) 7 SCC 515; also see the decision of this Court in *State of T.N. v. R. Soundirarasu*, (2023) 6 SCC 768 where this Court set aside the judgement of the High Court quashing the criminal proceedings clearing setting out the limits of interference with an order passed under Sections 239 and 240 Cr.P.C for discharge.

> *existence of the ingredients necessary to constitute the offence. In State of T.N. v. N. Suresh Rajan,*[9] *adverting to the earlier decisions on the subject, this Court held:*
>
> > *29. … At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage.*
>
> *26. For the above reasons we are of the view that the appeal would have to be allowed. We accordingly allow the appeal and set aside the judgment and order of the High Court dated 27-4-2017.…We accordingly maintain the order passed by the learned trial Judge on 5-12-2016 dismissing the discharge application filed by the respondent."*

10. It is not disputed that in the instant case, the Special Court, as well as the High Court, while dismissing the petition for discharge, examined the allegations and arrived at clear findings that there was a prima facie case against the respondent. The impugned order revisits the earlier decisions without any statable change in the facts and circumstances of the case, traverses to the extreme end of the spectrum, and concludes that: i) the wife of the accused purchased the properties in the name of the daughter having power of attorney; ii) that there was no satisfactory evidence

[9] (2014) 11 SCC 709.

of Benami; iii) even if allowed to prosecute, the chances of conviction were bleak; or iv) the probability of conviction is low; and v) the statements of witnesses do not warrant prosecution. It is clear that the High Court jumped to the probable conclusion of trial by not appreciating the limited scope of Section 482 Cr.P.C. Instead of determining *"whether or not there is sufficient ground for proceeding against the accused"* based on the material, it asked the wrong question as to, *"whether that would warrant a conviction"*[10]. We are of the clear opinion that the High Court has exceeded the well-established principles for exercising jurisdiction under Section 482 of the Cr.P.C.

11. The next issue before us is regarding the validity of the sanction granted to prosecute the respondent. Dealing with the same, the impugned order goes into the merits of the sanction, taking into account the statement of LW-1 Mr. Thanga Kaliyaperumal, who is the Secretary of Housing and Urban Development, Government of Tamil Nadu and is the sanctioning authority. Perusing the statement of LW-1, the High Court makes

[10] In *State of T.N. v. N. Suresh Rajan*, (2014) 11 SCC 709, this Court held:
"*32.4…the court has not sifted the materials for the purpose of finding out whether or not there is sufficient ground for proceeding against the accused but whether that would warrant a conviction. We are of the opinion that this was not the stage where the court should have appraised the evidence and discharged the accused as if it was passing an order of acquittal. Further, defect in investigation itself cannot be a ground for discharge.*"

a finding regarding the sanction being invalid and belated in the following terms:

> *"36. From the above circumstances enumerated under clauses a, b & c, the following crucial questions are arisen for the consideration of this Court:*
>
> *(1) The request made by the Director, Vigilance and Anti-Corruption, seeking order of sanction dated 15.08.2012 was received by the Government on 20.12.2013 i.e., after one year four months and five days. What is the reason for the abnormal delay of one year and above to receive the report from the Director, Vigilance and Anti-Corruption even though it is dated back to 15.08.2012.*
> *(2) It is revealed that the Governor had accorded sanction for the prosecution. When such being the case how the petitioner was authorized to speak about the order of sanction for the prosecution against the petitioner. Where is the authorization letter from the Government or from the Governor?*
> *(3) Who had perused the First Information Report, statement of witnesses and connected documents and who had subjective to satisfaction after perusal of the records to launch prosecution against the petitioner. These questions are remained unanswered by the prosecution.*
>
> *37. From the statement of LW-1 Mr. Thanga Kaliyaperumal it revealed that the Governor vide Government Order in G.O. Ms. No. 178, Housing and Urban Development (UD2(1)) Department, Government of Tamil Nadu had accorded sanction for the prosecution on 08.07.2013. The requisition of the Director of Vigilance and Anti-Corruption in RC306/09/RDP/CC-III was made on 15.08.2012: But the requisition was received by the Government on 20.12.2013. When the request of the Director, Vigilance and Anti-Corruption dated 15.08.2012 was received on 20.12.2013, how the Governor could have accorded sanction for the prosecution on 08.07.2013 i.e., with anti-date. This serious defect or lacuna has not been explained by the prosecution.*
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> ***
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> *39. Insofar as this Court is concerned the above narrated circumstances leave scope to suspect the order of sanction. This Court also is of view that the order of sanction might have been passed without application of mind, mechanically at the behest of higher officials.*

> ***
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> *43. On coming to the given case on hand, as a matter of fact, at no stage the grievance of the petitioner regarding delay in granting sanction has been disputed by the respondent State. Not only that, but no justification has even been put forward explaining the delay in prosecution.*
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> ***
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> *45. It is also to be noted here that the delay in granting order of sanction itself is fatal to criminal investigation as well as to the trial. It gets worse if it can be attributed to lethargic and investigation lackadaisical manner of investigation.*
>
> (emphasis supplied)

12. Learned counsel for the State submits that the conclusions drawn by the High Court about the impossibility of granting sanction on 08.07.2013 when the government received the request only on 20.12.2013, was not raised at any point of time, neither in the discharge application before the Special Judge nor before the High Court in revision petition. He further submits that the argument is not even mentioned in the quashing petition under Section 482 Cr.P.C. filed before the High Court. He also submits that this question was not put to LW-1, whose statement is the sheet anchor for the High Court to question the validity of the sanction. The State also explained the actual position in the Special Leave Petition. It is explained that the misconception about the dates arose because of a typographical mistake of mentioning the letter requesting sanction as 20.12.2013, instead of the correct

date being 20.02.2013. This is typically the problem that would arise when the High Court seeks to interdict proceedings and quash the criminal case before the relevant material to support the case of the prosecution is brought on record.[11] Findings regarding the legality, validity, or delay in grant of sanction were premature. Validity of the sanction is an issue that must be examined during the course of the trial. In ***Dinesh Kumar v. Chairman, Airport Authority of India***,[12] this principle is reiterated as follows:

> ***"10.*** *In our view, invalidity of sanction where sanction order exists, can be raised on diverse grounds like non-availability of material before the sanctioning authority or bias of the sanctioning authority or the order of sanction having been passed by an authority not authorised or competent to grant such sanction. The above grounds are only illustrative and not exhaustive. All such grounds of invalidity or illegality of sanction would fall in the same category like the ground of invalidity of sanction on account of non-application of mind—a category carved out by this Court in Parkash Singh Badal,[13] the challenge to which can always be raised in the course of trial."*
>
> (emphasis supplied)

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[11] See, generally, *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335:
*"103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice"*
Further, in *Amit Kapoor v. Ramesh Chander* (2012) 9 SCC 460, this Court held:
*"27.3. The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge".*
[12] (2012) 1 SCC 532; followed in CBI v. Pramila Virendra Kumar Agarwal, (2020) 17 SCC 664.
[13] (2007) 1 SCC 1.

13. Similar view was taken in ***Director***, ***Central Bureau of Investigation v. Ashok Kumar Aswal***[14], where it was held that:

> *"15. All the above apart, time and again, this Court has laid down that the validity of a sanction order, if one exists, has to be tested on the touchstone of the prejudice to the accused which is essentially a question of fact and, therefore, should be left to be determined in the course of the trial and not in the exercise of jurisdiction either under Section 482 of the Code of Criminal Procedure, 1973 or in a proceeding under Articles 226/227 of the Constitution."*
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> (emphasis supplied)

14. Thus, there is no doubt that the High Court committed an error in quashing the prosecution on the ground that the sanction to prosecute is illegal and invalid. In conclusion, we find that the objections raised in the revision petition against the Special Court's order dismissing the discharge application were identical to the grounds raised in the petition under Section 482 Cr.P.C., from which the present appeal arises. Second, apart from being congruent and overlapping, the respondent could not demonstrate any material change in facts and circumstances between the dismissal of the revision petition by the High Court and the filing of the quashing petition under Section 482 Cr.P.C. Third, the validity of the sanction can always be examined during the course of the trial and the problems due to the typographical error as

[14] (2015) 16 SCC 163.

alleged by the State could have been explained by producing the file at the time of trial. Fourth, it is settled that a mere delay in the grant of sanction for prosecuting a public authority is not a ground to quash a criminal case.

15. For the reasons stated above, we are of the opinion that the reasoning adopted by the High Court for interdicting the criminal proceedings is contrary to the well-established principles laid down by this Court. We, therefore, set aside the judgment while reiterating the correct position of law.

16. The appeal is allowed accordingly. In view of the aforesaid, we restore C.C. No. 30/2013 to the record of the Court of the Special Judge, Prevention of Corruption Act Cases, Chennai, for the continuation of the trial from the stage the trial was interdicted. Since the matter pertains to the check period 2001-2008, we request the Trial Court to conclude the trial as expeditiously as possible.

.....J.
[**PAMIDIGHANTAM SRI NARASIMHA**]

.....J.
[**MANOJ MISRA**]

**NEW DELHI;**
**MARCH 26, 2025.**