

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Crl R No. 58/2023

Sudershan Mehta

.....Appellant(s)/Petitioner(s)

Through: Ms. Uma Kapahi, Adv. vice
Mr. Parveen Kapahi, Adv.

vs

Mr. R. K. Goyal Financial Commissioner
(Home), JK UT

..... Respondent(s)

Through: None.

Coram: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

ORDER
24.12.2024

ORAL:

1. The instant part heard criminal revision petition after hearing the counsel for the petitioner on 11.12.2024 came up for further consideration on 17.12.2024, on which date, neither the petitioner nor his counsel appeared. Today when the matter came up for consideration in the first session, the matter was passed over at the request of proxy counsel appearing on behalf of the arguing counsel for the petitioner and upon being taken up for further consideration in the second session, it is being reported by the said proxy counsel that the arguing counsel for the petitioner has left the Court.
2. Be that as it may, since the matter has been heard in part and being a criminal revision, the Court is taking up the petition for disposal in absence of the arguing counsel for the petitioner on its own merits.
3. In the instant criminal revision, order dated 11.08.2023 has been called in question by the petitioner herein passed by the Special Mobile Magistrate, Electricity, Jammu in complaint titled as **Sudershan Mehta vs. R. K.**

Goyal and others being a complaint having been filed by the petitioner herein against the respondents herein under section 499 read with section 500 IPC.

4. Perusal of the record would reveal that the petitioner herein in the complaint (supra) had stated that he being a retired Deputy Superintendent of Police and a former Ranji Trophy Player have had remained actively involved with the game of cricket and also four times Joint/Honorary Secretary of the Jammu and Kashmir Cricket Association Jammu Wing and that he-the complainant has a multifaceted personality having earned his name and reputation in the Police Department as well as in the field of sports and that he, the complainant was also representing a Cricket Club namely, Modern Cricket Club in Jammu and Kashmir Cricket Association being its elected office bearer and that the accused 4 in the complaint, in league with a rival faction of said Modern Cricket Club hatched a conspiracy to oust the complainant petitioner herein from the presidentship of the said Cricket Club and in the process, got fake registration certificates of the Club, processed and managed under the Societies Registration Act, whereupon coming to know about the same, the complainant petitioner herein filed an application under section 156(3) Cr.P.C. against the accused 4 as well as other co-conspirators, owing to which the accused 4 and other 11 persons in the month of September, 2008 got the investigation closed by the Crime Branch, got set into motion by the complainant petitioner herein, which investigation, however, was again ordered through the intervention of the order of the court of City

Judge, Jammu, in retaliation whereof, the accused respondent herein lodged a complaint against the petitioner herein *qua* his simultaneously working as a police officer as well as Honorary/Joint Secretary of the J&K Cricket Association and that the case against the accused respondents therein came to be charge sheeted before the court of CJM Jammu and later transferred to the court of City Judge, Jammu, whereafter yet another complaint came to be filed by the accused respondents therein against the complainant petitioner herein before the various authorities including the then Governor of the erstwhile State of Jammu and Kashmir leveling serious allegations against the complainant petitioner herein and commission of various offences and that the complainant petitioner herein acquired the knowledge about the said complaint in the month of May 2022, upon receiving a letter from the Home Department on 18.05.2022 which letter provided for holding of a departmental enquiry against the complainant petitioner herein and also received a memorandum dated 12.05.2022 signed by the accused respondent herein and that the accused respondent 4 in order to destroy the reputation of the complainant petitioner herein circulated in local newspapers namely, Daily Excelsior and State Times on 17.11.2022 besides on the Facebook page of State Samachar that the complainant petitioner herein had enjoyed “Ladoo” from JKCA and that it would be deducted from his pension and that the accused 2, 3 and 5 therein in the complaint, without ascertaining the truth of the allegations, for their TRP, injured the image and reputation of the complainant petitioner herein with impunity and further accused

respondent 5 abused his official position by tarnishing the image of the complainant petitioner herein in the public as well as in the office circles and that as such, the accused respondent herein committed the offence under section 499 read with section 500 IPC rendering them liable for prosecution.

5. The court below after entertaining the complaint supra and hearing the complainant petitioner herein as also his counsel representing him, in terms of the impugned order dated 11.08.2023 opined and concluded to have *prima facie* material to proceed against accused 2, accused 3, accused 4 and accused 5 respondents therein in the complaint for commission of offence under section 500 IPC and consequently, while taking cognizance of the said offence summoned the said accused respondents 2 to 5 therein, however, dismissed the complaint insofar as accused respondent 1 herein is concerned on the premise that the said accused respondent 1 herein is a Government servant and a prior sanction to prosecute a Government servant is imperative, not having been present.
6. The petitioner herein has questioned the impugned order insofar as it dismissed the complaint supra against accused respondent herein.
7. Perusal of the record would reveal that the allegations leveled against the accused respondent 1 herein in the complaint by the complainant petitioner herein *prima facie* reveal that same have been initiated by accused respondent 1 herein in discharge of his official functions having been rightly taken cognizance of by the court below, in that before launching a prosecution against a public servant, prior sanction from the

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Government/competent authority is *sine qua non* provided under section 197 Cr.P.C. which prior sanction admittedly have had been missing in the complaint supra filed by the complainant petitioner herein against the accused respondent herein in relation to the allegations leveled by the petitioner herein against the accused respondent herein therein the said complaint. The court below seemingly has not been oblivious to the said fact as also to the position of law laid down by the Apex Court in the regard being in case, titled as **Indira Devi vs. State of Rajasthan**, reported in **2011 SCC 487**, wherein the Apex Court while deliberating upon the purpose and object of obtaining of prior sanction for prosecuting a public servant has held that the provision of obtaining a prior sanction, in essence, is to protect launching of false, frivolous or vexatious prosecution against a public servant.

A deeper and closer examination of the impugned order tends to show that the court below has not committed any illegality, irregularity or perversity while passing the impugned order which would warrant interference by this Court in exercise of revisional jurisdiction.

8. For the aforesaid reasons, the instant petition is found to be without any merit and is accordingly, dismissed.

(JAVED IQBAL WANI)
JUDGE

Jammu
24.12.2024
Rakesh

Whether the order is speaking:	Yes/Nb
Whether the order is reportable:	Yes/Nb