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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR No.2467 of 2016 (O&M)

Date of decision: August 04, 2016

Dalbir Singh

.....Petitioner

Versus

Central Bureau of Investigation

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Arshdeep Bhullar, Advocate
for the petitioner.

A.B. CHAUDHARI, J (Oral)

CRM No.23118 of 2016

Heard.

Application is allowed and Annexures P-2 and P-3 are taken
on record.

CRR No.2467 of 2016 (O&M)

This revision petition is directed against the order dated
02.05.2016 passed by Special Judge, CBI, Chandigarh, which upheld the
order of grant of sanction and dismissed the application filed by the
petitioner-Dalbir Singh for his discharge from the on going anti-corruption
trial.

Petitioner-Dalbir Singh was caught red-handed while
accepting an amount of ₹1,500/- as bribe on 17.07.2014 while on duty as a
Head Constable (Traffic), U.T., Police, Chandigarh. He was extorting
money by recovering the money from the auto-rickshaw drivers. Be that as
it may, he was caught red-handed and after filing of the charge-sheet, the
trial commenced. The sanctioning authority was examined and cross-

examined as a witness before the trial Judge during trial. Immediately, the petitioner applied for discharge on the ground that the sanction was not validly accorded by the competent authority and therefore, he was liable to be discharged.

Learned counsel for the petitioner cited the following decisions in respect of his submissions made before this Court with full vehemence:-

“T.K. Ramesh Kumar versus State Tr. Police Inspector, Bangalore, 2015 (2) R.C.R. (Criminal) 464, C.B.I. versus Ashok Kumar Aggarwal, 2014 (2) R.C.R. (Criminal) 213, Nanjappa versus State of Karnataka, 2015 (3) R.C.R. (Criminal) 862, State of Karnataka versus Ameer Jan, 2007 (4) R.C.R. (Criminal) 375, Mohd. Iqbal Ahmed versus State of A.P., 1979 SCC (Cri) 926 of Hon'ble Supreme Court, State through C.B.I. versus Ravinder Singh, 1995 (3) R.C.R. 773 of Hon'ble Delhi High Court and Vijay Kumar Janjua versus State of Punjab and another, 2014 (1) R.C.R. (Criminal) 869 and Ravinder Kumar Verma versus State of Punjab and another, 2015 (4) R.C.R. (Criminal) 922 of this Hon'ble Court.”

I have gone through all the above decisions cited before me. All the decisions are wholly irrelevant since in the first place majority of them relate to the disposal of the appeals post-conviction. The other judgment relates to power of the Court to discharge the accused for legal sanction, if any, that too when the trial hangs on for about 15 years. There can be no dispute about the power of the Court.

In the present case, the petitioner was caught red-handed on 17.07.2014 and immediately after completion of investigation, challan was filed in the Court. The trial has infact commenced. The sanctioning authority was examined and cross-examined. The petitioner filed

application for his discharge on the ground that there was invalid sanction, whereas, trial Court found that there was a valid sanction.

In my opinion, in a case of Government servant caught red-handed with bribe money by the anti-corruption bureau, raising of plea about invalid sanction during trial without allowing completion of trial, has become a menace in criminal trials of corruption cases. Not only that requirement of sanction in such cases does not serve any purpose. The same instead of curbing the corruption promotes it. The object of requirement of sanction is to protect a Government servant from false or frivolous prosecutions. But then the Court of law is in a far better position to find out whether there is a false or frivolous prosecution and, if so, to discharge the accused. Thus in the cases like the present one the provision for sanction in fact supports the corruption and there is a need to rethink. This is what has happened in the instant case. The petitioner was caught red-handed with bribe of ₹1,500/- and still has an audacity to claim for discharge by making an application for his discharge before the trial Court on the ground that grant of sanction within two days was bad. There is no requirement as within what minimum period sanction should be given. The ground raised, obviously, is preposterous. Be that as it may, none of the judgments has any relevance or applicability.

Learned counsel for the petitioner submits that the petitioner should be allowed to reopen the plea of sanction before the trial Judge during trial. I do not agree. The petitioner having taken a chance to invite finding on the sanction, now, can not be allowed to take a sommersault and again trouble the learned trial Judge for returning a finding on sanction. The judicial Courts cannot be asked to waste their time in the manner

suggested. The trial Judge has, in the impugned order, stated that prima-facie sanction is valid. That is not correct. The trial Judge has passed a lengthy order after perusing the deposition of the sanctioning authority, the cross-examination and after hearing the detailed arguments for the applicant-petitioner. Hence, I hold that the trial Judge has not prima-facie found the sanction to be valid, but has so found finally. The question of examining the issue of sanction again while writing the judgment does not arise. The trial Judge should not again answer the said issue. There is no merit in the revision petition.

Dismissed.

(A.B. CHAUDHARI)
JUDGE

August 04, 2016

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No