

THE HON'BLE Dr JUSTICE SHAMEEM AKTHER
CRIMINAL REVISION CASE NO.1627 OF 2017

ORDER:

This Criminal Revision Case, under Sections 397 & 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner-accused, challenging the order, dated 26.04.2017, passed in CrI.M.P.No.611 of 2017 in C.C.No.38 of 2016 by the Principal Special Judge for CBI Cases, Visakhapatnam.

2. Heard the learned counsel for the petitioner-accused, learned Standing Counsel for CBI Cases and perused the record.

3. Learned counsel for the petitioner would submit that the Court below ought to have seen that there is no proper sanction order. There is a defect in the sanction order. The sanctioning authority did not verify the statement of witnesses recorded by the Investigating Officer and ultimately, prayed to set aside the impugned order.

4. On the other hand, learned Standing Counsel for CBI Cases would submit that there is no irregularity/defect in the sanction order. Even if there is any defect, the same is required to be considered in the course of trial and relied on a decision reported in **DINESH KUMAR V CHAIRMAN, AIRPORT AUTHORITY OF INDIA AND ANOTHER**¹. It is apt to refer to para 9 of the above decision, which reads as follows:

“While drawing a distinction between the absence of sanction and invalidity of the sanction, this Court in *Parkash Singh Badal* ((2007) 1 SCC 1) expressed in no uncertain terms that the question of absence of sanction could be raised at the inception and threshold by an aggrieved person. However, where sanction order exists, but its legality and validity is put in question, such issue has to be raised in the course of trial.

¹ (2012) 1 SCC 532

Of course, in *Parkash Singh Badal*, this Court referred to invalidity of sanction on account of non-application of mind.”

The contention is that there is defect in the sanction order and the sanctioning authority was not apprised of the material collected in the course of investigation. Any defect/improper sanction had to be dealt with in the course of trial of the case. The citation referred above clearly applies to the instant case. There is no mis-carriage of justice. The revision is devoid of merit and is liable to be dismissed.

5. Accordingly, this Criminal Revision Case is dismissed. Miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand dismissed.

DR. SHAMEEM AKTHER, J

DATED: 19-04-2018

Hsd

