

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.145 of 2019

Raman Kumar Dhaberde, S/o Ashok Kumar Dhaberde, aged about 30 years,
R/o Ohm Bag House, In front of Jyoti Vidhyalay Charoada – Bhilai – 03,
Tahsil Patan, District Durg, Chhattisgarh

---- Applicant

versus

Maya Wariyar, aged about 50 years, Office Address Sahayak Ayukt Adivasi
Vikas Shakha, Office of Collector, Durg, Present Posted – Pariyojna
Prashask Doundi-Lohara and Sahayak Ayukt, Balod, District Balod,
Chhattisgarh

--- Respondent

For Applicant	:	Shri Jitendra Gupta, Advocate
For Respondent	:	None

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

19.2.2019

1. Heard on admission.
2. The instant revision has been filed against the order dated 14.12.2018 passed by the Special Judge, Durg in an unregistered criminal complaint case, whereby the Special Judge has dismissed the complaint case on the ground that the complaint has been filed without obtaining a prior sanction for prosecution in accordance with Section 197 of the Code of Criminal Procedure.
3. Facts of the case, in brief, are that the Applicant moved a complaint case against the Respondent for an offence punishable under Sections 166, 167, 193, 197 and 471 of the Indian Penal Code read with Section 3(1)((viii)(ix)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. At the

relevant time, the Respondent was serving as a Sahayak Ayukt, Adivasi Vikas Shakha at the office of Collector, Durg. The Applicant and his wife had applied to the Respondent for providing an encouragement amount as per the scheme of the Government of Chhattisgarh, namely, Protsahan Yojna, 2007 on 25.1.2012. That application was rejected by the Respondent and the Applicant was informed about the rejection on 21.7.2014 vide Annexure A-4. Thereafter, on 20.1.2015, the application submitted by the Applicant was sent by the Respondent to the Collector, Adimjati Kalyan Vibhag, District Yavatmal (Maharashtra). Thereafter, the aforesaid private complaint was filed by the Applicant against the Respondent on the ground that the Respondent, who is a public servant, with an intent to cause loss to the Applicant and his wife, overlooking the documents annexed to the application, deliberately passed the order of rejection of his application. The Special Judge, vide the impugned order dated 14.12.2018, has dismissed the complaint case on the ground that the Respondent is a public servant and whatsoever was done by her was done in discharge of her official/public duty and, therefore, a prior sanction for her prosecution needs to be obtained. Being aggrieved by the said order of dismissal, the Applicant has preferred the instant revision.

4. I have heard Learned Counsel appearing for the Applicant and perused the material available with due care.
5. Sub-section (1) of Section 197 of the Code of Criminal Procedure runs thus:

“197. Prosecution of Judges and public

servants.—(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction save as otherwise provided in the Lokpal and Lokayuktas Act, 2013—

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government:

Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of Article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression “State Government” occurring therein, the expression “Central Government” were substituted.

Explanation.—For the removal of doubts it is hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 166A, section 166B, section 354, section 354A, section 354B, section 354C, section 354D, section 370, section 375, section 376, section 376A, section 376C, section 376D, or

section 509 of the Indian Penal Code (45 of 1860).”

6. In view of the aforesaid discussion, it is clear that the Respondent is a public servant and the order of rejection of the application of the Applicant passed by her is in discharge of her official/public duty and, therefore, a prior sanction for her prosecution is required to be obtain. Thus, the impugned order dated 14.12.2018 passed by the Special Judge is in accordance with law.
7. Resultantly, the instant revision is dismissed at the stage of admission itself.

Sd/-

(Arvind Singh Chandel)
Judge