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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3792 OF 2014

Sopan Ramnath Kasar] ... Petitioner

vs.

The State of Maharashtra & Ors.] ... Respondents

WITH

WRIT PETITION NO.4839 OF 2014

Vikas Maruti Pansare] ... Petitioner

vs.

The State of Maharashtra & Ors.] ... Respondents

Mr.Ujwal Agandsurve i/b Mr.Ashish S. Gaikwad for Petitioner.

Ms.P.P. Shinde, APP for the State.

**CORAM : SMT.SADHANA S. JADHAV &
N.R.BORKAR, JJ.**

DATE : 19TH MARCH, 2021.

P.C.

1] Heard. Rule. Rule is made returnable forthwith with the consent
of the parties.

2] The Petitioner in WP No.3792/2014 was an accused in Crime No. 3014/2004. He was alleged to have committed offences under Section 7, 12, 13(1)(d) read with 13(2) of the Prevention of Corruption Act.

3] The investigating agency had applied for sanction to prosecute under Section 19 of the Prevention of Corruption Act to the appropriate authority. The Sanctioning Authority had not found sufficient material and had, therefore, refused to accord sanction to prosecute the Petitioner. The prosecution had then filed A Summary report before the learned Sessions Judge. The learned Sessions Judge, Niphad by an order dated 17th June, 2014 had refused to act on the A Summary report on the basis of the submission of the Prosecutor, wherein, it was demonstrated before the learned Sessions Judge that there are serious allegations against the accused and that he had demanded Rs.90,000/- from the de-facto complainant. The said order dated 17th June, 2014 was challenged before this court by filing the present Writ Petition.

4] The learned Division Bench of this Court vide order dated 19th November, 2014 had granted ad-interim relief in terms of prayer clause (1) to the Petitioner. The order is as follows :

“ In the meantime, there shall be ad-interim relief in terms of prayer clause d(1), which is added pursuant to the leave granted by this court to amend the petition. Prayer clause d(i) reads as under :

“Pending the hearing and final disposal of this writ petition, respondent State be restrained by an order of this court from taking any action in pursuance of order dated 17.6.2014 passed by District Judge No.1 and Additional Sessions Judge, Niphad in C.R. no.3014 of 2004.”

5] Learned counsel for the Petitioner on instructions submits that the sanction was refused on the second occasion also. Learned counsel for the Petitioner has placed before us the Government Resolution dated 31st January, 2015, wherein, there are specific directions by the Additional Chief Secretary (Services) , Government of Maharashtra to the effect that once the appropriate authority refused sanction to prosecute an accused, there shall not be a further proposal for sanction unless there is new material placed on record which would entitle the appropriate authority to look into the matter and accord sanction after proper application of mind. It is specifically observed that, there shall be no review of either grant of sanction or refusal for sanction. The Government Resolution is in consonance with Section 19 of the Prevention of Corruption Act, 1988, which reads thus :

19. Previous sanction necessary for prosecution.—

(1) No court shall take cognizance of an offence punishable under sections 7, 10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction,—

(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office.

6] The Supreme Court in the case of Mohd. Iqbal Ahmed vs. State of Andhra Pradesh¹ has observed :

“The grant of sanction is not an idle formality or an acrimonious exercise but a solemn and sacrosanct act which affords protection to government servants against frivolous prosecutions and must therefore be strictly complied with before any prosecution can be launched against the public servant concerned.”

7] In view of the above discussion, it is clear that the proceedings against the Petitioner under the Prevention of Corruption Act need to be necessarily dropped for want of sanction as contemplated under Section 19 of the Prevention of Corruption Act,

¹ AIR 1979 SC 677

1988. In view of this, order dated 17th June, 2014 passed by the learned Additional Sessions Judge, Niphad is hereby quashed and set aside.

8] Rule is made absolute.

9] Writ Petition No.4839/2014 is de-tagged.

[N.R.BORKAR, J]

[SMT. SADHANA S. JADHAV, J]