



Criminal Revision Case No.776 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON: 23.06.2025

ORDERS PRONOUNCED ON: 30.06.025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Criminal Revision Case No.776 of 2016

Dr.P.Murugesa Boopathi

... Petitioner/Accused No.1

Vs.

The State
Rep.by the Inspector of Police
Vigilance and Anti-Corruption
Tirupur – 03.

... Respondent/Complainant

Prayer: Criminal Revision Case under Sections 397 and 401 of Cr.P.C., against the final order dated 22.04.2016 made in the petition filed by the petitioner for his discharge under Section 239 of the Cr.P.C., filed in CrI.M.P.No.186 of 2014 in Special Calender Case No.18 of 2013 on the file of the Special Court at Coimbatore.

For the Petitioner

: Mr.M.Udhayakumar

For the Respondent

: Mr.S.Udayakumar

Government Advocate (Crl.Side)



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ORDER

This Criminal Revision Case is filed against the order dated 22.04.2016 made in CrI.M.P.No.186 of 2014 in Special Calendar Case No.18 of 2013 on the file of the Special Court for Cases under the Prevention of Corruption Act, 1988, Coimbatore. By that order, the application filed by the petitioner herein to discharge him from the case was dismissed.

2. The brief factual background in which the case arises is that the petitioner was the former Vice Chancellor of Tamilnadu Agricultural University (TNAU), Coimbatore, during the period between 04.06.2009 to 03.06.2012. Whiles, a case was registered in Crime No.2/2012/AC/CB on 08.05.2012 for the alleged offences under Sections 120B, 420 IPC, and 13 (2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988.

3. The gist of the allegations is that, while for the purposes of the TNAU, a whole cane harvester cum de-trasher, billet/cut shop sugar cane harvester, tractor for loader, low bed trailer, etc., was sought to be purchased, despite proper



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technical experts' advice and recognized inefficiencies, the petitioner herein, being the Vice Chancellor, overruled them, conspired with the other accused in the case, who are the suppliers of the said equipments/vehicles, and placed orders for a price of Rs.1,41,00,000/- each instead of purchasing it for Rs.71 Lakhs, thereby causing wrongful loss to the Government and undue pecuniary advantage to themselves.

4. After investigation, the final report was filed and taken on file as Spl.C.C.No.18 of 2013. The petitioner, as the Vice Chancellor of the University, and K.R. Anantha Sainam @ LCT Babu, Managing Director of ELSEETEE Agro Machines India Private Ltd, Coimbatore, were named as accused. According to the prosecution, the petitioner/1st accused committed offences punishable under Sections 420, 465, 468 of IPC read with 120-B IPC and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988. The 2nd accused also committed offences punishable under Sections 420, 465, 468 of IPC read with 120-B and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988, and derived wrongful pecuniary gain of Rs.2,77,88,250/- from the supply of five whole cane harvesters, causing loss to the exchequer.



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5. Under the circumstances, the petitioner filed CrI.M.P.No.186 of 2014 under Section 239 of Cr.P.C. to discharge him from the case. By an order dated 22.04.2016, the petition was dismissed, holding that there was enough material to proceed against the accused and that, at the stage of framing charges, the pros and cons of the prosecution case cannot be examined in detail. Aggrieved by this, the present Criminal Revision Case was filed. By an order dated 25.07.2017, the revision was allowed.

6. The respondent then approached the Hon'ble Supreme Court of India vide Criminal Appeal No.1536 of 2025(SLP (Criminal) No.4155 of 2018), and the appeal was allowed. It was stated that this Court's approach in conducting a mini trial and making findings was unnecessary when deciding the application for discharge. Issues related to the merits of the case, based on the evidence, were left open for the defense to argue during the trial. However, the Hon'ble Supreme Court of India observed that, although the issue of sanction under Section 197 of the Cr.P.C. was raised and recorded during the submissions in the impugned Judgment, the Court did not make a definitive ruling on that point.



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Consequently, the order dated 25.05.2017 was set aside, and Criminal Revision Case No.776 of 2016 was remanded to this Court. The Supreme Court specifically directed that, after remand, the adjudication should focus solely on the issue of the absence of sanction under Section 197 of Cr.P.C. Also, the Court ordered this Court to expedite the hearing of the Criminal Revision Case. The relevant paragraphs of the Supreme Court's Judgment are reproduced below for easy reference,

“In this case, defences of the appellant have been considered and by conducting mini trial, findings have been arrived at. Therefore, the impugned order cannot be sustained. However, it is pointed out that before the High Court, a specific contention was raised based on absence of prior sanction under Section 197 of the CRPC. The fact that the said contention was raised is clear from the submissions of the counsel for the appellant recorded in the impugned Judgment. However, there is no finding recorded by the High Court.

Accordingly, we set aside the impugned Judgment and order dated 25th May, 2017 and restore Criminal Revision Case No.776 of 2016 to the file of the High Court of Judicature at Madras. However, after remand, the adjudication will remain confined to the effect of want of sanction under Section 197 of the CRPC. The restored Revision Application shall be listed before the roster Bench of the High Court on 28th April, 2025. The parties to the appeal shall remain present on that day and no further notice shall be served upon them.

Considering the fact that the Revision Application is of the year 2016, the High Court will give necessary priority to the disposal of the Revision Application.

All questions on the issue of sanction are left open to be



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decided by the High Court. In any case, all defences of the appellant in trial are also kept open.

The appeal is allowed on the above terms.”

(Emphasis supplied)

7. Thus, it can be seen that the only question to be decided by this Court is regarding the ground raised concerning lack of sanction under Section 197 of Cr.P.C.

8. Heard, *Mr.M.Udhayakumar*, the learned counsel appearing on behalf of the petitioner and *Mr.S.Udayakumar*, the learned Government Advocate (Crl.Side).

9. Although the learned counsel for the petitioner attempted to argue other grounds, upon being informed about the scope of remand, he limited his arguments solely to the issue of the sanction. The learned counsel contended that there is no direct evidence indicating any *quid pro quo* received by the petitioner or that he misappropriated any amount for personal use. The allegation is that, in the course of his official duties, the petitioner overruled objections raised by the competent authorities regarding the procurement of four crane harvesters and



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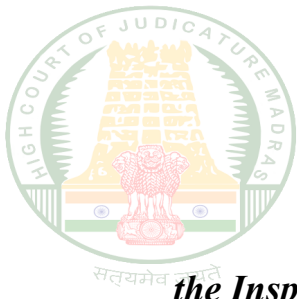
proceeded with the purchase, which was at an inflated price. Therefore, the learned counsel argued that the matter clearly falls within the scope of his official duty and that Section 197 of Cr.P.C. applies, given the admitted fact that the petitioner is a public servant.

10. In support of his submissions, the learned counsel relied upon the Judgment of the Hon'ble Supreme Court of India in ***Suneeti Toteja Vs. State of U.P. And Another***¹ specifically to paragraphs No. 29 and 32, to contend that taking cognizance of the offence without a sanction for prosecution granted by the competent authority is unsustainable. For the same proposition, the Judgment of the Hon'ble Supreme Court of India in ***G.C.Manjunath & Others Vs. Seetaram***² specifically paragraph No. 36, was relied upon. The learned counsel, therefore, prays that, when none of the acts complained of are private acts or acts not falling within official duty, the revision should be allowed.

11. Per contra, *Mr.S.Udayakumar*, the learned Government Advocate (Crl.Side) would submit that it is true that in ***A.Srinivasulu Vs. The State rep.by***

1 2025 INSC 267

2 2025 INSC 439



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the Inspector of Police (Criminal Appeal No.2417 of 2010) the Hon'ble Supreme Court of India held that the effect of Section 197 of Cr.P.C, should not be undone merely by contending every action of violation of rule would not be an official act. However, the law in this regard has been delineated and encapsulated by the Hon'ble Supreme Court of India in ***Om Prakash Yadav Vs. Niranjan Kumar Upadhyay and Others***³, whereby all the earlier Judgments in that regard have been taken into account and the conclusions are arrived at in paragraph No.74 of the said Judgment. On this basis, this Court should decide whether the accused merely claims that he performed the acts purportedly in discharge of his official duty as a pretext or whether he actually did so.

12. The learned Government Advocate would argue that in this case, when all officials including relevant experts have flagged that such a machine should not be purchased and despite the file notings, the petitioner as Vice Chancellor went ahead and purchased the equipment, it cannot be said that he acted in the course of his official duties, especially when gross misconduct is demonstrated by the evidence on record.

³ 2024 INSC 979



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13. I have considered the rival submissions from both sides and reviewed the material records of the case.

14. A review of the Judgments on this subject shows that, unlike the sanction under the Prevention of Corruption Act, 1988, sanctions under Section 197 of Cr.P.C. are required even after an individual retires from service. A useful reference in this regard can be made to Paragraph 10 of the Judgment of the Hon'ble Supreme Court of India in *State of Punjab Vs. Labh Singh*⁴. In the present case, when the prosecution initially requested a sanction at the time of filing final report it was not granted, stating that the individual had since retired, which reasoning is incorrect.

15. Now, it is essential to advert to Section 197 of Cr.P.C.:

“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

⁴ (2014) 16 SCC 807



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provided in the Lokpal and Lokayuktas Act, 2013 (1 of 2014)]—

(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 376A, section 376AB, section 376C, section 376D, section 376DA, section 376DB] or section 509 of the Indian Penal Code (45 of 1860).]

(2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-



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section will apply as if for the expression “Central Government” occurring therein, the expression “State Government” were substituted.

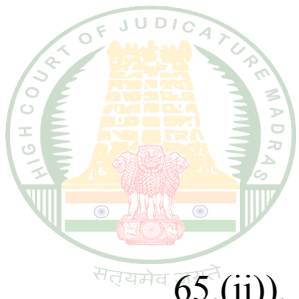
[(3A) Notwithstanding anything contained in sub-section (3), no court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government.

(3B) Notwithstanding anything to the contrary contained in this Code or any other law, it is hereby declared that any sanction accorded by the State Government or any cognizance taken by a court upon such sanction, during the period commencing on the 20th day of August, 1991 and ending with the date immediately preceding the date on which the Code of Criminal Procedure (Amendment) Act, 1991 (43 of 1991), receives the assent of the President, with respect to an offence alleged to have been committed during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in the State, shall be invalid and it shall be competent for the Central Government in such matter to accord sanction and for the court to take cognizance thereon.]

(4) The Central Government or the State Government, as the case may be, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held.”

(Emphasis supplied)

16. From the Judgment in ***Om Prakash Yadav*** (cited supra), it is evident that Section 197 of Cr.P.C. must be read as is; neither an expansive nor a restrictive interpretation should be applied to Section 197 of Cr.P.C. (Paragraph



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65.(ii)). Section 197(1) states that prior sanction is necessary before prosecuting any public servant acting in his official capacity. It clarifies that if the public servant is employed with or in connection with the affairs related to the Union, the sanction must be obtained from the Central Government. If the employment pertains to the State, the sanction should be obtained from the State Government. Services related to the armed forces, etc., are addressed in Sections 197(2), (3), and (3A). Section 197(3B) refers to the validity of sanctions by the State Government up to the date of the amendment. Section 197(4) deals with the authorities specified by the appropriate governments.

17. In the instant case, the petitioner was working as the Vice Chancellor of Tamil Nadu Agricultural University. The Hon'ble Supreme Court of India considered this issue in ***K.Ch. Prasad Vs. J.Vanalatha Devi***⁵ and held that the sanction is only applicable when the public servant is someone who cannot be removed from their office except with the approval of the appropriate Government. Paragraph No. 6 is provided below for quick reference:-

“6. It is very clear from this provision that this section is attracted only in cases where the public servant is such who is not

5 (1987) 2 SCC 52



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removable from his office save by or with the sanction of the Government. It is not disputed that the appellant is not holding a post where he could not be removed from service except by or with the sanction of the government. In this view of the matter even if it is held that appellant is a public servant still provisions of Section 197 are not attracted at all.”

18. Again, the question has recently been considered and emphatically answered by the Hon’ble Supreme Court of India in the recent decision in ***A. Sreenivasa Reddy Vs. Rakesh Sharma***⁶ and the relevant paragraph No.45 is extracted below:-

“5. The appellant was serving as an Assistant General Manager, State Bank of India, Overseas Bank at Hyderabad. State Bank of India is a nationalised bank. Although a person working in a nationalised bank is a public servant, yet the provisions of Section 197CrPC would not be attracted at all as Section 197 is attracted only in cases where the public servant is such who is not removable from his service save by or with the sanction of the Government. It is not disputed that the appellant is not holding a post where he could not be removed from service except by or with the sanction of the Government. In this view of the matter, even if it is alleged that the appellant herein is a public servant, still the provisions of Section 197CrPC are not attracted at all.”

19. As a matter of fact, the Hon'ble Karnataka High Court in ***University of Agricultural Sciences Vs. State of Karnataka***⁷ while considering a similar case of a Vice Chancellor of an Agricultural University, considered the issue and held

6 (2023) 8 SCC 711

7 (2013) SCC OnLine Kar 10464



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that since no prior approval or sanction is required from the Central Government / State Government for removal of the Vice Chancellor, the sanction was not necessary under Section 197 of Cr.P.C.,. The relevant paragraph Nos.17 and 18 are extracted hereunder for ready reference:-

“17. In case, if a public servant is not removable from his office without the sanction of the Government, then Section 197 Cr.P.C. provides that the sanction of the concerned Government will have to be taken. In the context of the aforesaid provisions, it is now necessary to refer to Section 27 of the Act of 2009, wherein it provides;

Vice-chancellor.—

(1) The Vice-chancellor shall be a whole time officer of the University.

.....
.....

(9) The Vice-chancellor shall not be removed from his office except by order of the Chancellor passed on the ground of misbehaviour or incapacity or if it appears to the Chancellor that the continuance of the Vice-chancellor in office is detrimental to the interest of the University, after due inquiry by such person who is or has been a Judge of High Court to be nominated by the Chancellor in which the Vice-chancellor, shall have an opportunity of making his representation.

[Emphasis supplied]

18. So, as could be seen from the provisions of Section 27 of the Act of 2009, it is the Chancellor of the University, who has an authority to remove the Vice-chancellor and it is only in a case if it appears to the Chancellor that the continuation of the Vice-chancellor is detrimental to the interest of the University and for



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that purpose, the Chancellor has to hold an enquiry, by a person, who is or has been a Judge of the High Court, to be a nominated by a Chancellor and it is the exclusive authority of the Chancellor to remove a Vice-chancellor. So, nowhere under Section 197 Cr.P.C., there is any provision to obtain sanction of either State Government or Central Government to remove a Vice-chancellor. A Vice-chancellor of a University is not removable either by the State Government or by the Central Government, and therefore Section 197 Cr.P.C. does not apply to the Vice-chancellor though he is a public servant.”

20. Now, regarding the factual situation before us, this petitioner was appointed as the Vice Chancellor of the Tamil Nadu Agricultural University, which was established by an Act of the State of Tamil Nadu, specifically Act 8 of 1971, namely the Tamil Nadu Agricultural University Act, 1971. The relevant provision for the removal of the Vice Chancellor is found in Section 11 (3) (b) of the Act, which is reproduced below:-

“11. Vice – Chancellor

(3) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for not more than one successive term :

Provided that -

.....

(b) the Vice-Chancellor may be removed from his office by the chancellor upon a resolution of the Board passed by a majority of the total members of that Board and by a majority of not less than two-thirds of the members of that Board present and voting.”

(Emphasis supplied)

21. A closer look reveals that, even regarding the removal of this



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petitioner, no prior approval or sanction from the Government of Tamil Nadu or the Central Government is required. Therefore, in the absence of such approval, a sanction under Section 197 of Cr.P.C. is not necessary in this case. Accordingly, the question is answered.

22. Once it is held that the sanction under Section 197 of Cr.P.C. is not necessary, other grounds have already been considered by the Hon'ble Supreme Court of India, and liberty was granted to the petitioner to raise these grounds at the time of trial. The other submissions made by the learned counsel for the petitioner, that the petitioner himself has subsequently filed a complaint before the National Commission and that compensation from the supplier of the equipment has also been ordered, are to be considered only at the time of trial.

23. In the result:

(i) This Criminal Revision Case No. 776 of 2016 is dismissed.

(ii) The Trial Court is requested to expedite the trial, considering that the First Information Report is from 2012 and the Special Calendar Case is from 2013.

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30.06.2025

Neutral Citation : Yes/No

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To

1.The Special Judge

Special Court for Cases under Prevention of Corruption Act,
Coimbatore.

2.The Inspector of Police

Vigilance and Anti-Corruption

Tirupur – 03.

3.The Public Prosecutor

High Court of Madras.

D.BHARATHA CHAKRAVARTHY, J.

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