



Crl.R.C.(MD).No.1335 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.10.2025

PRONOUNCED ON : 21.11.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.1335 of 2025

and

Crl.M.P.(MD)Nos.14432 and 14433 of 2025

S.Anandaraja

... Petitioner / Accused No.1

Vs.

The State represented by
The Deputy Superintendent of Police,
Vigilance and Anticorruption,
Masilamani Nagar,
Tirunelveli District.
(Crime NO.5 of 2017)

... Respondent/ Complainant

PRAYER: Criminal Revision Petition has been filed under Section 438 r/w 442 of BNSS, to call for the records relating to the charges framed against the petitioner in Spl.Case No.3 of 2021, dated 02.07.2025, on the file of the learned Special Judge, Prevention of Corruption Cases, Tirunelveli and set aside the same insofar as the petitioner is concerned.



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For Petitioner : Mr.S.Elamurugan
For Respondent : Mr.S.Ravi
Additional Public Prosecutor

ORDER

This Criminal Revision, invoking Section 438 r/w 442 of BNSS, is filed against the order framing charges against the petitioner in Spl.Case No.3 of 2021, dated 02.07.2025, on the file of the Special Court for trial of Prevention of Corruption Act cases, Tirunelveli.

2. Admittedly, the revision petitioner who is the first accused, was the President of Therkku Kallikulam Panchayat, Radhapuram Panchayat Union, Tirunelveli District during the period between 2011 and 2016. The case of the prosecution is that the petitioner and the second accused who was the then Panchayat Secretary of Therkku Kallikulam Panchayat, entered into a criminal conspiracy with the accused 3 to 8 for committing misappropriation of funds by creating false records as if the Accused 4 and 8 worked under the scheme as workers and were paid wages from the funds allotted under Mahatma Gandhi National Rural Employment Guarantee Scheme, that the accused 1 and 2 committed criminal breach of trust and dishonestly induced the Central and State



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Governments and made them to transfer funds into the accounts of ineligible beneficiaries and cheated them with common intention and object by mutually aiding with each other.

3. After conducting preliminary enquiry, the respondent registered a case in Cr.No.5 of 2017 on 05.05.2017 against the petitioner and 7 others under Sections 120(B), 420, 167, 465, 468, 471, 477A r/w 109 I.P.C., and under Sections 13(2) r/w 13(1)(c) and (d) of the Prevention of Corruption Act, 1988. After completing the investigation, the respondent laid a final report against the petitioner and 7 others for the offences under Sections 120(B), 420, 167, 465, 468, 471, 477A r/w 109 I.P.C., and under Sections 13(2) r/w 13(1)(c) and (d) of the Prevention of Corruption Act and the case was taken on file in Spl.Case NO. 3 of 2021 and the same is pending on the file of the Special Court for trial of Prevention of Corruption Act cases, Tirunelveli.

4. The revision petitioner moved an application under Section 227 Cr.P.C., seeking discharge from the case in Spl.Case No.3 of 2021 in Crl.M.P.No.489 of 2012. The learned Special Judge, after enquiry, passed an order dated 23.05.2025 dismissing the discharge petition. Challenging the dismissal order,



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the petitioner preferred a revision before this Court in Crl.R.C.(MD)No.837 of 2025 and a learned Judge of this Court, vide order dated 24.07.2025, dismissed the revision, by specifically holding that the grounds raised for the discharge are matter for trial and the relevant passages are extracted hereunder:

“12.The petitioner cannot expect the Court to conduct a roving enquiry without getting the advantage of the evidence of prosecution witnesses. Since the 1st and 2nd accused are occupying the powerful position of identifying the beneficiaries and keep the Scheme rolling, the prosecution has found fault with the Accused No. 1 and 2 by making allegations that they have created records suiting their convenience and thereby cheated the Government to divert the funds to the account of illegal beneficiaries.

13.As there are sufficient materials to make out the offence for which the 1st accused has been charged, the veracity of the materials cannot be tested at this early stage without initiating the trial. The petitioner had not convinced the Court that there are no materials available or even if the materials available, they are only for the effect of acquitting him at the end of the trial, even if they are uncontraverted and it would only cause the wastage of judicial time, then only he can expect the Court to discharge him from the charges, under Section 227 of Cr.P.C.



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14.The learned trial Judge has rightly appreciated the materials available on record and found that the petitioner and A2/Secretary are the persons responsible for issuing Job Card. It is right to dismiss the petition filed under Section 227 Cr.P.C., and for that reason, I do not find any scope for an interference.”

5. The learned Special Judge, after dismissal of the discharge petition, upon perusing the records and on hearing both sides, finding that there existed prima facie case to proceed against the accused, framed charges against the accused including the revision petitioner, vide order dated 02.07.2025 under Sections 120(b), 167, 409, 420, 465, 468, 471, 477 I.P.C., and 13(2) r/w 13(1)(c) (d) of the Prevention of Corruption Act against the revision petitioner and the second accused and under Sections 120(b), 409, 420, 465, 468, 471 and 477(A) I.P.C., and 13(2) r/w 13(1)(c)(d) of the Prevention of Corruption Act against the third accused and under Sections 120(b), 409, 420, 465, 468, 471 r/w 109 and 477(A) I.P.C., and 13(2) r/w 13(1)(c)(d) of the Prevention of Corruption Act against the accused 4 to 8. Since the accused denied the charges and pleaded not guilty, the trial was ordered. Pending trial, the first accused filed the present revision challenging the order framing of charges.



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6. The petitioner, along with the grounds already taken in the discharge petition as well as in the first criminal revision and rejected, has taken a new ground that the prosecution is vitiated for want of previous approval under Section 17-A of the Prevention of Corruption Act and want of sanction under Section 19(1) of the said Act. At the time of arguments, the learned Counsel for the revision petitioner has also taken another ground that the prosecution is also vitiated for want of sanction under Section 197 Cr.P.C.

7. The learned Additional Public Prosecutor, at the outset, challenged the very maintainability of the criminal revision on the grounds that the second revision is not maintainable in view of Section 438 (3) of BNSS (Section 397(3) Cr.P.C.), that since charges have already been framed, the revision seeking discharge is not legally maintainable and that as per the settled legal position, want of sanction cannot be agitated after framing of charges and at the best can be raised at the conclusion of the trial.

8. I have heard Mr.Elamurugan, learned Counsel appearing for the petitioner and Mr.S.Ravi, learned Additional Public Prosecutor appearing for the



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respondent and reserved the matter regarding the maintainability of the criminal revision.

9. Section 438(3) of BNSS reads as follows:

438: Calling for records to exercise powers of revision:

1.

2.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.

10. Here, as rightly pointed out by the learned Counsel for the petitioner, the earlier revision was filed challenging the dismissal of the discharge application, before this Court and hence the revision petitioner is barred from filing a similar revision before this Court. Similarly, since the present revision is filed before this Court, the revision petitioner cannot approach the Sessions Court with a similar petition, in view of the bar under Section 438(3) of BNSS. Hence, the present contention of the learned Additional Public Prosecutor that



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the present Criminal Revision is not maintainable in view of Section 438(3) of BNS, cannot be sustained.

11. The learned Additional Public Prosecutor would mainly contend that since the Special Court has already framed charges, seeking discharge is legally impermissible and would rely on a decision of the Hon'ble Supreme Court in ***Ratilal Bhanji Mithani Vs. State of Maharashtra and others*** reported in ***(1979)2 SCC 179*** and the relevant passages are extracted hereunder:

“27. From the scheme of the provisions noticed above, it is clear that in a warrant case instituted otherwise on a police report, 'discharge' or 'acquittal' of accused are distinct concepts applicable to different stages of the proceedings in Court. The legal effect and incidents of 'discharge' and 'acquittal' are also different. An order of discharge in a warrant case instituted on complaint, can be made only after the process has been issued and before the charge is framed. Section 253(1) shows that as a general rule there can be no order of discharge unless the evidence of all the prosecution witnesses has been taken and he considers for reasons to be recorded, in the light of the evidence that no case has been made out. Sub-section (2) which authorises the Magistrate to discharge the accused at any previous stage of the case if he considers the charge to be groundless, is an exception to that rule. A discharge without considering the evidence taken is illegal. If a prima facie



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case is made out the Magistrate must proceed under Section 254 and frame charge against the accused. Section 254 shows that a charge, can be framed if after taking evidence or at any previous stage, the Magistrate, thinks that there is ground for presuming that the accused has committed an offence triable as a warrant case.

28. Once a charge is framed, the Magistrate has no power under section 227 or any other provision of the Code to cancel the charge, and reverse the proceedings to the stage of Section 353 and discharge the accused. The trial in a warrant case starts with the framing of charge; prior to it, the proceedings are only an inquiry. After the framing of charges if the accused pleads not guilty, the Magistrate is required to proceed with the trial in the manner provided in section 254 to 258, to a logical end. Once a charge is framed in a warrant case, instituted either on complaint or a police report, the Magistrate has no power under the Code to discharge the accused, and thereafter, he can either acquit or convict the accused unless he decides to proceed under Section 349 and 562 of the Code of 1892 (which correspond to Sections 325 and 360 of the Code of 1973)."

12. The learned Additional Public Prosecutor would also rely on a decision of the Hon'ble Supreme Court in ***Bharat Parikh Vs. Central Bureau of Investigation and another*** reported in (2008)10 SCC 109, wherein the Hon'ble



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Apex Court has specifically held that the question of discharge after framing of charges does not arise, notwithstanding the submissions advanced with regard to denial of natural justice and a fair and speedy trial as contemplated under Article 21 of the Constitution, which have no application whatsoever to the case on hand.

13. In ***K.Selvam Vs. State by Inspector of Police, Special Police Establishment, Central Bureau of Investigation, Anti-Corruption Branch, Chennai***, reported in ***2010(2) MWN (Crl)463***, a learned Judge of this Court began his order referring the question to be decided, which is as follows:

“1. An interesting question as to whether an Accused, who has been facing charges under the provisions of the Prevention of Corruption Act, can be discharged after the commencement of the trial on the ground that the sanction issued under Section 19 of the said Act is wholly without jurisdiction and on that score, the very order taking cognizance itself is bad, has come for consideration in this Revision.”

14. The learned Judge, after referring to the decision of the Hon'ble Supreme Court in ***Ratilal Bhanji Mithani Vs. State of Maharashtra and Others*** reported in ***1979 SCC (Crl.) 405***, has observed as follows:



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“12. Now reverting back to the question of power of the learned Trial Judge to discharge the Accused, I have to state the following. As held by the Honnourable Supreme Court in Ratilal Bhanji Mithani Vs. State of Maharashtra and Others 1979 SCC (Crl.) 405 that after framing of charges, the question of discharge of an Accused does not arise, is the view consistently taken by the Honourable Supreme Court in several judgments. Before the said judgment as well as after, the law stands well settled that when once charges have been framed, the question of discharging an Accused does not arise at all in paragraph 34 of the said judgment, the Honourable Supreme Court has stated as follows:

“34. It is thus manifest that in abruptly deleting the charges and 'discharging' the Accused, the Magistrate was acting neither in accordance with the observation or directions of Gokhale, J., nor in accordance with law.”

13. I do not want to burden this judgment by citing many more judgments on this aspect. It would suffice to say that it has been well settled by the Honourable Apex Court that after framing of charges, the Trial Court has got no power at all to discharge the Accused.”

15. The learned Counsel for the revision petitioner relying on the decision of **Ratilal Bhanji Mithani Vs. State of Maharashtra and Others** referred supra, would cite paragraph 29, which reads as follows:



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“29. Excepting where the prosecution must fail for want of a fundamental defect, such as want of sanction, an order of acquittal must be based upon a 'finding of not guilty' turning on the merits of the case and the appreciation of evidence at the conclusion of the trial.”

16. The learned Counsel would rely on the decision of the Hon'ble Supreme Court in ***Amod Kumar Kanth Vs. Association of Victim of Uphaar Tragedy and another*** reported in **2023(16) SCC P239** and submit that want of sanction can be agitated at any time before the concerned Court. The Hon'ble Apex Court has observed as follows:

(31) One ground which has found favour with the High Court against the appellant is that the appellant, according to the High Court, could raise the issue before the Magistrate. Here we may notice one aspect. When the question arises as to whether an act or omission which constitutes an offence in law has been done in the discharge of official functions by a public servant and the matter is under a mist and it is not clear whether the act is traceable to the discharge of his official functions, the Court may in a given case tarry and allow the proceedings to go on.

Materials will be placed before the Court which will make the position clear and a delayed decision on the question may be



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justified. However, in a case where the act or the omission is indisputably traceable to the discharge of the official duty by the public servant, then for the Court to not accept the objection against cognizance being taken would clearly defeat the salutary purpose which underlies Section 197 of the Cr.P.C. It all depends on the facts and therefore, would have to be decided on a case to case basis.

17. In the above decision case, for the occurrence that 59 persons lost their lives and 100 persons received serious injuries while viewing a film sitting in the balcony of Uphaar theater, the trial was conducted as against 16 accused. The trial Court after conducting trial, while pronouncing the judgment against the accused therein, also passed an order directing the CBI to conduct a further investigation under Section 173(B) Cr.P.C. The CBI, after further investigation, filed a closure report and the learned trial Judge, rejecting the closure report and by accepting the protest petition filed by the complainant passed an order taking cognizance for some offences under I.P.C., and under the provisions of Cinematographic Act. The order issuing summons against the appellant was challenged before the High Court under Section 482 Cr.P.C., and since the same was dismissed, that dismissal was challenged before the Hon'ble Supreme Court.



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18. The Hon'ble Supreme Court set aside the order taking cognizance mainly on the ground that there was no sanction under Section 197 Cr.P.C. As rightly pointed out by the learned Additional Public Prosecutor, in the said decision case, want of sanction under Section 197 Cr.P.C., was agitated at the very initial stage of the proceedings immediately after taking cognizance and issuance of summons to the accused / appellant and not after framing of charges.

19. The learned Counsel for the revision petitioner would cite another decision of the Hon'ble Supreme Court in ***Krishnan and another Vs. Krishnaveni and another*** reported in (1997)4 SCC 241 wherein the learned Judicial Magistrate had taken cognizance of the offences under Sections 420 and 406 I.P.C., and issued summons to the appellants, that the appellants filed an application to discharge them and the learned Magistrate allowed the application and discharged the accused, that the respondents filed a revision before the Sessions Court and the same was dismissed, that the respondents filed a further revision before the High Court and the High Court allowed the revision and thereby setting aside the order of the learned Magistrate and directed him to consider the facts on merits at the trial. When that order was challenged, the



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Hon'ble Supreme Court, considering the scope of Sections 395 to 405 in Chapter 30 of the Code, has held that though the revision before the High Court under sub-section (1) of [Section 397](#) is prohibited by sub-section (3) thereof, inherent power of the High Court is still available under [Section 482](#) of the Code and as it is paramount power of continuous superintendence of the High Court under [Section 483](#), the High Court is justified in interfering with the order leading to miscarriage of justice and in setting aside the order of the courts below.

20. The Hon'ble Apex Court has specifically observed that to meet the ends of justice or to prevent abuse of the process that the High Court is preserved with inherent power and would be justified, under such circumstance, to exercise the inherent power and in an appropriate case even revisional power and in appropriate case even revisional power under [Section 397 \(1\)](#) read with [Section 401](#) of the Code and further observed as follows:

“As stated earlier, it may be exercised sparingly so as to avoid needless multiplicity or procedure, unnecessary delay in trial and protraction of proceedings. The object of criminal trial is to render public justice, to punish the criminal and to see that the trial is concluded expeditiously before the memory of the witness fades out. The recent trend is to delay the trial and threaten the witness or to win over the witness by promise or inducement. These malpractices



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need to be curbed and public justices can be ensured only when trial is conducted expeditiously.”

21. The learned Counsel for the revision petitioner would contend that even assuming that the revision is not maintainable, the same may be considered under the inherent powers of this Court under Section 528 of BNSS Act and would rely on the decision of the Hon'ble Supreme Court in ***Akanksha Arora Vs. Tanay Maben*** reported in ***2024 INSC 96***, wherein the Hon'ble Apex Court remanded the matter and directed the High Court to convert the petition filed under Section 482 Cr.P.C., as criminal revision under Section 397 Cr.P.C., and decide the same in accordance with law. In the decision case, the appellant/wife, being dissatisfied with the quantum of interim maintenance, filed a petition under Section 482 Cr.P.C., in the High Court seeking enhancement and the same was dismissed on the ground that it is not maintainable, as the appellant/wife has a remedy of a revision under Section 397 Cr.P.C. The Hon'ble Apex Court in the said order has specifically observed that the inherent powers should not invade areas set apart for specific powers conferred under Cr.P.C., but there is no total ban on the exercise of inherent powers where abuse of process of Court or other extraordinary situation warrants exercise of inherent jurisdiction.



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22. As rightly contended by the learned Additional Public Prosecutor, in the case on hand, the revision petitioner has not shown that there was abuse of process of Court or extraordinary situation warranting this Court to consider the petitioner's case under the inherent powers under Section 528 of BNSS (Section 482 Cr.P.C.).

23. The learned Counsel for the petitioner would then rely on a decision of the Hon'ble Supreme Court in *Nanjappa Vs. State of Karnataka* reported in **(2015) 14 SCC 186** and argue that the Hon'ble Apex Court has held that the issue that sanction from a competent authority under Section 19 of the Prevention of Corruption Act was not obtained, can be taken at any stage of the proceedings before the trial Court and if the trial Court finds that the sanction was not obtained, the proper procedure for the trial Court is to discharge the accused rather than deciding the case on merits.

24. In *Nanjappa's case* cited supra, the trial Court acquitted the accused on the ground that sanction under Section 19 of the Prevention of Corruption Act was not given and on appeal, the High Court re-appreciating the evidence on



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record and by holding that the issue of sanction was not at all raised at any stage before the trial Court, convicted the appellant and when the same was challenged, the Hon'ble Supreme Court while setting aside the High Court's order, has observed that the statute forbids taking of cognizance by the Court against a public servant except with the previous sanction of an authority competent to grant such sanction in terms of clauses (a), (b) and (c) to [Section 19\(1\)](#) and the question regarding validity of such sanction can be raised at any stage of the proceedings. As rightly contended by the learned Additional Public Prosecutor, in *Nanjappa's case*, no discharge petition was filed by the accused after framing of charges and pending trial.

25. The learned Additional Public Prosecutor would rely on a decision of the Hon'ble Supreme Court in *State of Karnataka Lokayukta Police Vs. S.Subbegowda* reported in *(2023)17 SCC 699*, wherein the Hon'ble Apex Court, after referring to the decision in *Nanjappa's case* referred supra, has held as follows:

“16. Having regard to the afore-stated provisions contained in [Section 19](#) of the said Act, there remains no shadow of doubt that the statute forbids taking of cognizance by the Court against a public servant except with the previous sanction of the



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Government/authority competent to grant such sanction in terms of clauses (a), (b) and (c) to [Section 19\(1\)](#). It is also well settled proposition of law that the question with regard to the validity of such sanction should be raised at the earliest stage of the proceedings, however could be raised at the subsequent stage of the trial also. In our opinion, the stages of proceedings at which an accused could raise the issue with regard to the validity of the sanction would be the stage when the Court takes cognizance of the offence, the stage when the charge is to be framed by the Court or at the stage when the trial is complete i.e., at the stage of final arguments in the trial. Such issue of course, could be raised before the Court in appeal, revision or confirmation, however the powers of such court would be subject to sub-section (3) and sub-section (4) of [Section 19](#) of the said Act.

26. As per the dictum laid down in the above decision, a plea of discharge for want of sanction can be canvassed (i) at the time of taking cognizance; (ii) at the time of framing charges and (iii) at the stage of final arguments. In the case on hand, as already pointed out, the present revision seeking discharge was filed after the stages (i) and (ii) and before the stage of (iii).

27. The Hon'ble Apex Court in State of in ***State of Karnataka Lokayukta Police case***, has further observed as follows:



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“As a matter of fact, such an interlocutory application seeking discharge in the midst of trial would also not be maintainable. Once the cognizance was taken by the Special Judge and the charge was framed against the accused, the trial could neither have been stayed nor scuttled in the midst of it in view of [Section 19\(3\)](#) of the said Act. In the instant case, though the issue of validity of sanction was raised at the earlier point of time, the same was not pressed for. The only stage open to the respondent-accused in that situation was to raise the said issue at the final arguments in the trial in accordance with law”

28. Considering the above, as rightly contended by the learned Additional Public Prosecutor, the present revision seeking discharge, after framing of charges and in the midst of trial, is not legally maintainable.

29. Now turning to the plea of want of sanction under Section 17(A) of the Prevention of Corruption Act, the Hon'ble Supreme Court in ***B.s.Yeddiyurappa Vs. A.Alam Pasha and Others*** reported in **2025 Live Law SC 450** and in ***Nara Chandrababu Naidu Vs. The State of Andhra Pradesh and another*** reported in **2024 INSC 41**, two Judges Bench of the Hon'ble Supreme Court referred the issue to a larger Bench as to whether the provision under Section 17A of the



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Prevention of Corruption Act is retrospective. As rightly pointed out by the learned Additional Public Prosecutor, a Division Bench of the Hon'ble Supreme Court in *State of Rajasthan v. Tejmal Choudhary* reported in *2022 Live Law SC 158*, has specifically held that Section 17A of the Prevention of Corruption Act, which was incorporated by an amendment to the Prevention of Corruption Act does not have retrospective operation.

30. In the above decision case, F.I.R., was filed on 01.01.2018 before the said provision under Section 17A of the Prevention of Corruption Act came into force on 26.07.2018 and the Hon'ble Apex Court has held that Section 17A of the Prevention of Corruption Act cannot be made applicable to an investigation which had commenced before Section 17A was enacted / enforced. In the present case, according to the prosecution, the petitioner was working as a President of Therkku Kallikulam Panchayat for the period from 2011 to 2016 and F.I.R., came to be registered on 05.05.2011 before the provision under Section 17A of the Prevention of Corruption Act came into force. Though the issue is now pending before the larger Bench, as rightly contended by the learned Additional Public Prosecutor, as per the present legal position, as laid down in *State of Rajasthan v. Tejmal Choudhary* referred above, Section 17A does not



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have retrospective operation and as such, the said provision cannot be made applicable to the case on hand.

31. Regarding the plea of want of sanction under Section 197 Cr.P.C., the learned Additional Public Prosecutor would submit that the protection contemplated under Section 197 Cr.P.C., is applicable to persons who can be removed from their office by or with the sanction of the Government and that since the revision petitioner can be removed from his office by the District Collector, this protection under Section 197 Cr.P.C., is not applicable in the present case.

32. The learned Additional Public Prosecutor would rely on the following decisions in support of his contentions:

(i) ***K.N.Shukla Vs.Navnit Lal Manilal Bhat and another (AIR 1967 SC 1331)***:

“7. It was suggested on behalf of the appellant that even if the Railway Board had power to remove the appellant from his office and even if it was acting under the powers delegated to it, the principle of the maxim qui facit per alium facit per se applies to the case and the appellant must be deemed to be removable only by or with the sanction of the Central Government within the meaning of s. 197 of



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*the Criminal Procedure Code. We do not think there is any substance in this argument. If once the Central Government has delegated its power to another authority with regard to appointment and removal of a public servant, then for the purpose of s. 197, [Criminal Procedure Code](#) the public servant concerned will not be treated to be a public servant "not removable from his office except by or with the sanction of the Central Government". within the meaning of that section. A similar argument was advanced in *Afzalur Rahman v. The King Emperor etc.*(1) in which it was held that a police officer who could be dismissed by the Deputy Inspector-General of Police under the statutory rules and regulations was not a person in "not removable from office except by or with the sanction of the Provincial Government" within the meaning of [s. 197](#) of the Criminal Procedure Code and that sanction under that section was not, therefore, necessary for prosecuting such an officer for an offence alleged to have been committed by him. Varadachariar, J. speaking for the Federal Court in that case observed that the provisions of [s. 241 \(1\) \(b\)](#) and [s. 240\(2\)](#) of the Government of India Act must also be understood in the light of the practice prevailing in India under which the power to appoint and dismiss particular classes of officers is vested in particular authorities. Otherwise there is the danger of our ignoring the policy of the Legislature in limiting the class of officers entitled to this protection and of making [s. 197](#), Criminal Procedure Code available to all public officers. We accordingly reject the argument of the appellant on this aspect of the case.*



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(ii) ***K.Ch.Prasad VS. Smt.J.Vanalatha Devi and others ((1987)2 SCC***

52):

“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 removable from his office save by or with the sanction of the government. It is not disputed that the appellants are 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 appellants are public servants still provisions of Section 197 are not attracted at all.

7. It was contended by the learned counsel that the competent authority who can remove the appellants from service derives his power under regulations and those regulations ultimately derive their authority from the Act of Parliament and therefore it was contended that the regulations are framed with the approval of the Central Government but it does not mean that the appellants cannot be removed from his service by anyone except the government or with the sanction of the government. Under these circumstances on plain reading of Section 197 the view taken by the courts below could not be said to be erroneous.”

(iii) ***Fakhruzamma Vs. State of Jharkhand and another ((2013)15 SCC***

552:

24/33



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“6. The scope of Section 197 CrPC has to be examined in the light of the Jharkhand Police Manual. Section 197 CrPC is extracted hereinbelow for an easy reference:

“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—

(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.



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(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-section will apply as if for the expression 'Central Government' occurring therein, the expression 'State Government' were substituted.

(3-A) 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.

(3-B) 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



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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, 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.”

The abovementioned provision clearly indicates that previous sanction is required for prosecuting only such public servants who could be removed by sanction of the Government.

7. Rule 824 of the Jharkhand Police Manual prescribes different departmental punishments, including the punishment of dismissal and removal, to be inflicted upon the police officers up to the rank of Inspector of Police. The relevant rule for our purpose is Rule 825, which is given below:



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“825. Officers empowered to impose punishment.—(a) No police officer shall be dismissed or compulsorily retired by an authority subordinate to that which appointed him.

(b) The Inspector General may award to any police officer below the rank of Deputy Superintendent any one or more of the punishments in Rule 825.

*(c) **

(d) A Superintendent may impose on any police officer subordinate to him and of and below the rank of Sub-Inspector any or more of the punishments in Rule 824 except dismissal; removal and compulsory retirement in the case of Sub-Inspector or Assistant Sub-Inspector. It shall be kept in mind that if any enquiry has been initiated by the District Magistrate, a report of the result shall be sent to him for information. If required, the file of departmental proceeding shall also be sent with it.

*(e)-(f) *”*

Rule 825 clauses (a) and (b) confers power on the Inspector General of Police or the Deputy Inspector General of Police to pass orders for removal of police officers up to the rank of Inspector. Before passing the order of removal, the Inspector General of Police or the Deputy Inspector General of Police need not obtain prior approval of the State Government.

8. A similar issue came up for consideration before this Court in Nagraj case [Nagraj v. State of Mysore, AIR 1964 SC 269 : (1964) 1



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Cri LJ 161 : (1964) 3 SCR 671] , wherein this Court was called upon to examine the scope of Section 197 CrPC read with Sections 4(c), 8, 26(1) and 3 of the Mysore Police Act, 1908. Interpreting the above mentioned provisions, a three-Judge Bench of this Court held that an Inspector General of Police can dismiss a Sub-Inspector and, therefore, no sanction of the State Government for prosecution of the appellant was necessary even if he had committed the offences alleged while acting or purporting to act in discharge of this official duty”

33. In the case on hand, the revision petitioner was the President of Therkku Kallikulam Panchayat, a position from which he can be removed by the District Collector as per the Tamil Nadu Panchayat Act, without needing government sanction. Hence, his defence claiming the prosecution is vitiated due to lack of sanction under Section 197 Cr.P.C. is unsustainable.

34. As previously noted, the revision petitioner filed a discharge petition citing grounds related to the merits of the case. He claimed that the issue pertained only to residents of a particular panchayat who were 18 years old and had voluntarily opted for unskilled labour work. The petitioner's defence was that, as President, he lacked the authority to sanction wages and did not benefit from the alleged crime. He also alleged that issuing job cards was done in



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accordance with the scheme and was not illegal or irregular. Consequently, he contended that the available evidence did not substantiate the charges against him as outlined in the charge sheet. As already pointed out, the trial Court dismissed this discharge petition, and the decision was upheld by this Court.

35. As rightly contended by the learned Additional Public Prosecutor, when the first discharge petition was filed, the issue of lack of sanction under the Prevention of Corruption Act and Cr.P.C., could have raised at that time. Since it was not, it is considered waived. The revision petitioner's current attempt to raise this plea, in addition to previous grounds, appears to be tactics to delay the trial. It is pertinent to mention that the trial was already commenced on 14.10.2025. As rightly contended by the learned Additional Public Prosecutor, the petitioner should not be allowed to repeatedly file petitions seeking discharge on different grounds.

36. In view of the above, this Court has no hesitation in holding that the Criminal Revision itself is not maintainable and the same is liable to be dismissed. In view of the decision of the Hon'ble Supreme Court in ***State of Karnataka Lokayukta Police Vs S.Subbegowda*** reported in ***(2023)17 SCC 699***,



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the petitioner is at liberty to raise the plea of sanction under Section 19 of the Prevention of Corruption Act at the conclusion of the trial.

37. In the result, the Criminal Revision Case is dismissed as not maintainable. Consequently, the connected Miscellaneous Petitions are also dismissed. The petitioner is at liberty to raise the plea of sanction under Section 19 of the Prevention of Corruption Act at the conclusion of the trial.

21.11.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No

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To

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1. the Special Court for trial of Prevention of Corruption Act Cases, Tirunelveli.
2. The Deputy Superintendent of Police,
Vigilance and Anticorruption,
Masilamani Nagar,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

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Pre-Delivery order made in
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21.11.2025