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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-34955-2024

Date of decision: 14.01.2025

Ramesh Kumar

...Petitioner

Versus

Ramesh Chandar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Shalender Mohan, Advocate
for the petitioner.

Mr. Pankaj Middha, Addl.A.G., Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. seeking quashing of impugned order dated 06.06.2024 (Annexure P-4) passed by the learned Additional Sessions Judge, Hisar, vide which the revision (Annexure P-3) filed by the respondents against the order dated 30.08.2022 (Annexure P-2) passed by the learned Judicial Magistrate 1st Class, Hansi, has been allowed by virtue of which the respondents were summoned under Sections 167/218/219/120-B of IPC.

Learned counsel for the petitioner *inter alia* contends that as per the scheme of the Haryana Government, an amount of Rs.3 lakh was to be disbursed to the dependent of the deceased-Sandeep Kumar. The beneficiaries in collusion with the Principal of the concerned ITI and one of the Assistant Shamsher Singh, hatched a conspiracy and got prepared a false report from Shamsher Singh that the petitioners, who are the parents of deceased, namely, Sandeep Kumar, had already died and the wife of Sandeep Kumar is the only surviving legal heir entitled to receive the financial aid provided by the Haryana Government. It is further contended that the wife of Sandeep Kumar has also filed an affidavit in this regard. Thereafter, the petitioner has filed a complaint before the Court of learned Judicial Magistrate 1st Class, Hansi, who



sent the same to the concerned police station under the provisions of Section 156 (3) of Cr.P.C. for registration of FIR. Thereafter, the petitioner preferred another complaint for summoning private respondents for giving undue benefit to the accused person and for illegally cancelling the FIR No.313 dated 29.09.2017 under Sections 167/420/467/468/471 read with Section 120-B of IPC. On the basis of the preliminary evidence led by the petitioner, the learned trial Court has summoned respondents No.1 & 2 for the commission of offence punishable under Sections 167/218/219 read with Section 120-B of IPC. Respondents No.1 & 2 have approached the Sessions Court by filing revision against the summoning order dated 30.08.2022 passed by the learned trial Court. Learned counsel for the petitioner further submits that the learned Revisional Court has allowed the revision without considering the facts and circumstances of the case and also the fact that respondents No.1 & 2 have committed illegality and cancelled the FIR (*supra*).

Having heard learned counsel for the petitioner and after perusing the record of the case minutely, this Court finds no force in the arguments advanced by learned counsel for the petitioner. Admittedly, according to the case set up by the petitioner, the wife of the deceased, namely, Sandeep Kumar, has furnished her affidavit claiming that the petitioner has already died and she is the only surviving legal heir entitled to receive the compensation from the Haryana Government. The allegation against respondents No.1 & 2 is with regard to the investigation carried out by them in their official capacity and as such, prior sanction under Section 197 of Cr.P.C. is required. The Hon'ble Supreme Court has discussed in detail the ambit and scope of applicability of Section 197 of Cr.P.C. and at this stage, when sanction is mandatorily required before taking cognizance against the accused, especially, in the facts and circumstances of the case when the act alleged is purported to be done by public servant in his official capacity. Further, the Hon'ble Supreme Court has elaborated the word 'cognizance' which implies the stage when the Magistrate applies its judicial mind on the accusation or meaning thereby, taking note of the allegation against the public servant.

In view of the ratio of law as laid down by the Hon'ble Supreme Court passed in 'D. Devaraja Vs. Owais Sabeer Hussain, 2020 (7) SCC 695,



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the tenor of Section 197 of Cr.P.C. makes it absolutely clear that sanction is required not only for acts done in discharge of official duty but also for the acts done in excess of such duty or authority. To test the veracity of prior sanction of appropriate Government is whether there is a nexus between the official duty of the public servant and reasonably connected with discharge of such duty. However, if the act alleged against policeman is reasonably connected with discharge of his official duty, it is immaterial whether the policeman has exceeded the scope of his powers and/or acted beyond the four corners of law. The imperative behind the legislation of Section 197 of Cr.P.C. is to safeguard the public servant from prosecution in vexatious and frivolous proceedings. Therefore, the act alleged in a complaint purported to be filed against the policeman is reasonably connected to discharge of official duty, cognizance thereof cannot be taken unless requisite sanction of the appropriate government is obtained under Section 197 of Cr.P.C.

In 'State of Orissa Vs. Ganesh Chandra Jew' (2004) 8 SCC 40, the Hon'ble Supreme Court interpreted the use of the expression 'official duty' to imply that the act or omission must have been done by the public servant in course of his service and that it should have been in discharge of his duty. Section 197 of Cr.P.c. does not extend its protective cover to every act or omission done by a public servant while in service. The scope of operation of the Section is restricted to only those acts or omissions which are done by a public servant in discharge of official duty.

In view of the above, this Court finds no perversity in the impugned order dated 06.06.2024 (Annexure P-4) passed by the learned Additional Sessions Judge, Hisar, and thus, the present petition is hereby dismissed.

(HARPREET SINGH BRAR)
JUDGE

14.01.2025

Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No