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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 1435/2025, CRL.M.A. 13379/2025 & CRL.M.A. 13380/2025

RAKESH KUMAR GOGIA

.....Petitioner

Through: Mr. Bijender Singh, Advocate

versus

CENTRAL BUREAU OF INVESTIGATIONRespondent

Through: Mr. D.P. Singh, Senior Advocate with
Mr. Manu Mishra, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

02.05.2025

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1. The present writ petition under Articles 226 and 227 of the Constitution of India, 1950 impugns two orders dated 30th July, 2018 and 27th March, 2025 passed by the Special Judge (PC Act) in case bearing RC No. 220 2017 E0013. In addition to seeking quashing of the said orders, the Petitioner also prays for a direction that the Trial Court adjudicate the issue of sanction before proceeding to arguments on charge.

2. Briefly stated, the facts leading to the filing of the present petition are as follows:

2.1. The CBI registered FIR bearing RC No. 220 2017 E0013 on 5th July, 2017, under Section 120-B read with Section 420 of the Indian Penal Code, 1860,¹ and Sections 13(2) and 13(1)(d) of the Prevention of Corruption Act, 1988.² In the chargesheet filed on 16th April, 2018, the Petitioner is arrayed

¹ "IPC"

² "PC Act"



as Accused No. 12 (A-12).

2.2. On 30th July, 2018, the Trial Court noted that the sanction for prosecution against Accused No. 11 had been filed, and further observed that no such sanction was required for the remaining accused, including the present Petitioner. Summons were accordingly issued to all accused persons.

2.3. Co-accused Vinod Kumar Asthana (A-13) challenged the summoning order before this Court in W.P. (CRL) 643/2019. The petition was disposed of by order dated 11th October 2022, holding that the issue of sanction could be canvassed at the stage of hearing on charge. The operative portion of the order reads as follows:

“11. No doubt it is held in various judgments the cognizance taken without sanction is bad but admittedly the process of closure of the proceedings at an initial stage has also not been appreciated see State through CBI vs. B.L.Verma and Another (1997) 10 SCC 772; Shantaben Bhurabhai Bhuriya vs. Anand Athabhai Chaudhari and Others 2021 SCC Online SC 974 wherein it was held the directions of the High Court to drop the proceedings against the respondent on account of want of sanction under Section /97(1) Cr.P.C. was bad and should the competent authority hereafter grant sanction under Section /97 Cr.P.C., it will be perfectly valid and open to the petitioner herein to activate the prosecution against the respondent. Rather in Shantaben (supra) it was held the absence of sanction cannot be a ground to quash the criminal proceedings in exercise of power under Section 482 Cr.P.C. and rather to quash proceedings at this stage in exercise of power under Section 482 Cr.P.C. is rather impermissible. Even, if It is found in the absence of Section /97 Cr.P.C. the proceedings are vitiated, then also the Court may direct the authority to take sanction and then proceed, instead of completely quashing the entire proceedings. Same was the view taken in Fertico Marketing and Investment Pvt. Ltd. vs. CBI (2021) 2 SCC 525.

12. Admittedly, in the present case the FIR was registered and the chargesheet was filed prior to the amendment. However, the case was listed on 30.07.2018 when cognizance was taken by the learned Special Judge, saying qua other accused, including the petitioner, sanction is not required.

13. In any case presently the arguments on charge are going on. All issues raised before this Court can very well be taken before the learned Trial Court. Per Shantaben (supra) and B.L.Verma (supra)



it would not be feasible to quash the proceedings at such an initial stage and especially when while taking the cognizance, learned Special Judge was of the view the sanction is not required, though not elaborated the same. In any case, the requisite sanction has now been granted on 29.06.2020. The effect of sanction dated 29.06.2020 is yet to be seen by the learned Trial Court during hearing of charge. In case the learned Special Judge comes to a conclusion the cognizance in absence of sanction was vitiated then surely can proceed per law settled above and in the wake of sanction dated 29.06.2020. Hence prayer to quash proceedings cannot be acceded to. 14. Even otherwise, in *Inspector of Police and Another vs. Battenapatla Venkata Ratnam and Another* AIR 2015 SC 2403 the Court held as under:

“11. The alleged indulgence of the officers in cheating, fabrication of records or misappropriation cannot be said to be in discharge of their official duty. Their official duty is not to fabricate records or permit evasion of payment of duty and cause loss to the Revenue. Unfortunately, the High Court missed these crucial aspects. The learned Magistrate has correctly taken the view that if at all the said view of sanction is to be considered, it could be done at the stage of trial only.”

15. Petition is thus dismissed. Pending application, if any, also stands disposed of.”

2.4. The aforementioned order was challenged before the Supreme Court in Criminal Appeal No. 1448/2023. The Apex Court, by order dated 11th February, 2025, declined to interfere, while making it abundantly clear that all contentions, including those relating to sanction, were left open to be raised before the Trial Court. The said order is extracted below:

“1. We have heard learned senior counsel appearing for the appellant as well as the learned Additional Solicitor General appearing for the respondent at length.

2. We are not inclined to go into the merits of the case given the specific observations made in paragraph 13 of the impugned judgment which says:-

“13. In any case presently the arguments on charge are going on. All issues raised before this court can very well be taken before the learned Trial court. Per Shantaben (supra) and B.L. Verma (supra) it would not be feasible to quash the proceedings at such an initial stage and especially when while taking the cognizance, learned



Special Judge was of the view the sanction is not required, though not elaborated the same. In any case, the requisite sanction has now been granted on 29.06.2020. The effect of sanction dated 29.06.2020 is yet to be seen by the learned Trial court during hearing of charge. In case the learned Special Judge comes to a conclusion the cognizance in absence of sanction was vitiated then surely can proceed per law settled above and in the wake of sanction dated 29.06.2020. Hence prayer to quash proceedings cannot be acceded to.”

3. We only reiterate our understanding of the said paragraph to mean that all issues are left open to be agitated before the Trial court at the time of the framing of charges.

4. Accordingly, the appeal stands disposed of. Thus, all issues are left open and therefore, the Trial court is to proceed with the matter without being influenced by the impugned judgment.

5. Consequently, the interim orders stand vacated.

6. Pending application(s), if any, shall stand disposed of.”

2.5. Parallely, the Applicant filed an application on 17th January, 2023 seeking the dropping of criminal proceedings. The gravamen of the application was that the Applicant, being a public servant at the material time, could not have been proceeded against without prior sanction as mandated under Section 19 of the PC Act. In the absence of such sanction at the stage of cognizance, it was contended that the proceedings stood vitiated and were liable to be dropped.

2.6. By the impugned order dated 27th March, 2025, the Trial Court rejected the Petitioner's application. In doing so, it relied on the observations made by this Court in its order dated 11th October, 2022, as well as those recorded by the Supreme Court on 11th February, 2025. The Trial Court held that taking up the issue of sanction in isolation, at the present juncture, would amount to a fragmented adjudication, particularly when the question of sanction is intertwined with other issues that are to be considered at the stage of arguments on charge.



3. Mr. Bijender Singh, counsel for the Petitioner, submits that the view taken by the Trial Court is erroneous. He contends that the Petitioner's case stands on a distinct footing and is not covered by the earlier orders passed in relation to co-accused. It is urged that the cognizance taken against the Petitioner is vitiated for want of sanction, and the Trial Court ought to have ruled on that issue before proceeding to hear arguments on charge.

4. It is further contended that the summoning order dated 30th July, 2018, was passed on the basis of a submission made by the Senior Public Prosecutor for the CBI, who incorrectly represented that no sanction was required in the Petitioner's case, despite being fully aware that the Petitioner was a public servant at the relevant time. The Petitioner alleges that cognizance was thus taken on the strength of a demonstrably false representation, an act which, according to him, calls for appropriate legal consequences, including initiation of perjury proceedings. It is urged that these serious allegations merited consideration and ought to have been addressed by the Trial Court while adjudicating the Petitioner's application.

5. Mr. Singh also contends that neither this Court nor the Supreme Court imposed any restraint on the jurisdiction of the Trial Court to decide the issue of sanction at this stage. Thus, the Trial Court's refusal to decide the application independently amounts to abdication of jurisdiction.

6. On the other hand, Mr. D.P. Singh, Senior Counsel appearing for the CBI, submits that while sanction *qua* the Petitioner was not originally deemed necessary, it was nonetheless obtained and placed on record subsequently to obviate any technical objections. He maintains that there is no illegality in the Trial Court's decision to consider the sanction issue during arguments on charge, particularly when the matter has already



reached an advanced stage.

7. The Court has carefully considered the submissions advanced on behalf of the Petitioner, but finds no ground to interfere. The principal grievance raised, that cognizance could not have been taken in the absence of prior sanction under Section 19 PC Act, stands substantially diluted in view of the subsequent developments. The record reveals that, pursuant to an application filed by the CBI, the Trial Court took on record the requisite sanction in respect of the Petitioner by order dated 22nd September, 2020. As for the Petitioner's plea to drop the proceedings altogether, the Trial Court rightly declined to do so, observing that the matter was at an advanced stage, with arguments on charge already underway. The Trial Court's subsequent order dated 26th April, 2025, records that arguments have been addressed at length on behalf of several accused persons and that the matter has now been fixed for day-to-day hearings from 7th May, 2025 to 20th May, 2025 for the purpose of concluding submissions on charge. In such circumstances, there was no occasion to entertain the Petitioner's application as an isolated issue divorced from the ongoing collective adjudication.

8. In the considered view of this Court, the course adopted by the Trial Court is consistent with the observations previously made by this Court in its order dated 11th October, 2022, and those of the Supreme Court in the order dated 11th February, 2025. Given that the matter is now at an advanced stage of arguments on charge, any question concerning the necessity or sufficiency of sanction under Section 19 of PC Act can be more appropriately examined in the composite context of the charge proceedings. Entertaining the Petitioner's application as a standalone issue at this juncture would result in a fragmented adjudication, which is not warranted in the



facts of the case.

9. For the reasons aforesaid, this Court finds no infirmity in the view taken by the Trial Court. The decision to defer consideration of the Petitioner's application to the stage of hearing on charge does not suffer from any jurisdictional error or procedural impropriety that would warrant interference under Articles 226 or 227 of the Constitution.

10. Dismissed. It is clarified that this Court has not examined the merits of the rival contentions, and all rights and contentions of the parties are left open to be urged before the Trial Court at the appropriate stage.

SANJEEV NARULA, J

MAY 2, 2025/ab