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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 1008 of 2022

Reserved on: 02.09.2026

Delivered on: 16.11.2026

- Yogesh Pandey S/o Late Shri Ashok Kumar Pandey, Aged About 37 Years R/o Geetanjali City, Phase 01, House No. 16/A, Street No. 09, PS Sarkanda, District : Bilaspur, Chhattisgarh

... Applicant

versus

- State of Chhattisgarh Through SHO, PS Civil Lines, Bilaspur, District : Bilaspur, Chhattisgarh

... Respondent

For Applicant	:	Mr. S.C. Verma, Sr. Advocate with Mr. Pankaj Singh, Advocate
For State	:	Mrs. Supriya Upasane, Government Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

CAV ORDER

1. The applicant has filed the present criminal revision under Section 397 of the Code of Criminal Procedure, 1973 assailing the order dated 15.07.2022 (Annexure P/1) passed by learned Special Judge Prevention of Corruption Act, Bilaspur (C.G.) in Special Case No. 01/2022 for commission of offence punishable under Section 7 of the Prevention of Corruption Act, 1988 arising out of final report dated 05.04.2022 in respect of FIR No. 150/2022 dated 04.02.2022 registered at PS Civil Lines, Bilaspur.

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2. The brief facts, as reflected from the records, are that the complainant has lodged an FIR before the Police Station Civil Lines, Bilaspur on 04.02.2022 against the applicant for commission of offence under Section 7 of the Prevention of Corruption Act alleging that the complainant is posted as Lecturer in Government School, Jaijaipur, Rivadih and his wife Smt. Lalita Sahu was selected for the post of Teacher and after release of the selection list, one person namely Nandkumar Sahu who was posted in the BEO Office demanded bribe regarding selection and posting of his wife for which they transferred Rs. 52,000/- in cash and Rs. 33,000/- through internet banking as bribe for getting his wife to be posted at the desired place.

3. On the basis of the FIR, the prosecution investigated the matter and during investigation memorandum statement of co-accused Nandkumar Sahu was recorded wherein he has stated that he is posted as a Teacher at Bahtarai, Upper Middle School, Bilaspur and at present he is working in B.E.O. Office, Tilak Nagar, Bilaspur. He further stated that 15 days ago Yogesh Pandey (Teacher) called him and came to meet in his office who told him that selection list for the Teacher recruitment examination conducted in the year 2019 has been released where verification and posting of the Teachers is going on. He further stated that the applicant told him that he has some link in the office of Joint Director, School Department who can post the candidates according to their convenience and he will also give commission to him. Thereafter, the co-accused got convinced and agreed to work then he was asked to contact the candidates from the list which was given by the applicant wherein their names and mobile numbers were mentioned and was also asked to demand Rs. 85,000/- out of which Rs. 5,000/- was to be given to him as commission. He

further stated that from the given list he contacted 10-12 candidates and when he contacted Lalita Sahu on mobile then he had conversation with her husband (Bhupendra Sahu) whom he demanded Rs. 85,000/- then Bhupendra Sahu gave Rs. 52,000/- as cash and Rs. 33,000/- was sent in his bank account. Similarly, he had contacted other candidate namely Sita Sahu whose husband Durgesh Sahu gave Rs. 65,000/- in cash and Rs. 15,000/- through Google Pay, out of the money received from both the candidates, he gave Rs. 1 lakh to Yogesh Pandey and kept the remaining amount of Rs. 65,000/- with him which has been incurred and also disclosed the list.

4. Memorandum statement of the applicant was also recorded wherein he stated that Nandkumar Sahu has given Rs. 1,00,000/- to him which was received in the name of candidates namely Lalita Sahu resident of Jaijaipur, Janjgir and Sita Sahu resident of Korba out of which Rs. 82,000/- has been incurred and Rs. 18,000/- is kept with him and the same has been seized. He also stated that he has thrown the mobile which was used while talking to Nandkumar Sahu and the prosecution has seized list of the selected candidates from him. The prosecution has submitted charge-sheet before the learned Special Judge Prevention of Corruption Act on 05.04.2022 and on the basis of the charge-sheet, charges have been framed against the applicant which reads as under:-

> ''आपने संकुल समन्वयक संकुल मल्टीपरपस बिलासपुर में शिक्षक के पद पर लोक सेवक के रूप में कार्यरत रहते हुये, दिनांक 23.01.2022 से 26.01.2022 के मध्य अपने पदीय कर्तव्य के निर्वहन में प्रार्थी/शिकायतकर्ता से उसकी पत्नी एवं अन्य प्रार्थिया सीता साहू से मनचाहे जगह पोर्स्टिग कराने के एवज् में सहअभियुक्त नंद कुमार साहू द्वारा वैध पारिश्रमिक से भिन्न प्राप्त 85,000/– रूपये एवं 80,000/– रूपये में से 1,00,000/– रूपये स्वेच्छयापूर्वक रिश्वत प्राप्त कर आपराधिक अवचार कारित किया और ऐसा कर आपने वह अपराध किया है, जो धारा 7 भ्रष्टाचार निवारण अधिनियम 1988 एवं संशोधन अधिनियम 2018 के तहत दण्डनीय है।''

5. Learned senior counsel for the applicant would submit that the FIR does not contain even a whisper about the involvement of the applicant crime in question much less any allegation of demand or acceptance of any illegal gratification by him. He would further submit that during investigation, neither the complainant (Bhupendra Sahu) nor the victim (Smt. Lalita Sahu) accepted the demand and the applicant came to be roped in the aforesaid crime on strength of the memorandum statement of co-accused Nandkumar Sahu recorded under Section 27 of the Indian Evidence Act, 1872 wherein name of the applicant is alleged to have surfaced for the first time which has no legal sanctity, as such, the learned Special Judge should have not framed charges under Section 7 of the Prevention of Corruption Act. He would further submit that neither the complainant nor the victim named the applicant and no demand is attributed to the applicant, as such initiation of prosecution case against him is nothing but suffers from illegality. He would further submit that the solitary material against the applicant i.e. the memorandum statements are inadmissible in law and stands wholly uncorroborated and cannot be relied upon by the prosecution as held by the Hon'ble Supreme Court in case of ***Dipakbhai Jagdishchandra Patel vs. State of Gujarat*** reported in ***(2019) 16 SCC 547***, as such framing of charge against the applicant is bad in law.

6. He would further submit that the ingredients of Section 7 of the PC Act are conspicuously absent as from the material so collected by the prosecution does not reflect that any demand was made by the applicant or the amount has been accepted which is *sine qua non* for involving the applicant in crime in question under Section 7 of the PC

Act. To substantiate his submission he has referred to the judgment of the Hon'ble Supreme Court in case of ***B. Jayaraj Vs. State of Andhra Pradesh*** reported in ***(2014) 13 SCC 55*** and also in case of ***K. Shanthamma Vs. State of Telangana*** reported in **2022 LiveLaw (SC) 192** wherein the Hon'ble Supreme Court has set-aside the conviction of the applicant on the basis that the prosecution is unable to prove demand and acceptance by the Government Servant which is *sine qua non* for conviction under the P.C. Act. Thus, he would submit that seizing of the money, mobile number and photocopy of the select list are wholly innocuous as it is very much available on the internet and it is within the public domain, as such, the framing of charge is *per se* illegal. He would further submit that there is no such material on the basis of which charge can be framed, as such framing of the charge is nothing but abuse of process of law. To substantiate his submission, he has referred to the judgment rendered by the Hon'ble Supreme Court in case of ***Union of India Vs. Prafulla Kumar Samal*** reported in **(*1979) 3 SCC 4*** and would pray for quashing of the charge-sheet.

7. Per contra learned counsel for the State referring to the record would submit that the Investigating Officer has recorded the statement of witnesses namely Bhupendra Sahu, Shivcharan Sahu. Smt. Mohar Bai Sahu, Smt. Sita Sahu, Durgesh Sahu and Vijay Komar Som wherein they have categorically stated that the accused persons have hatched conspiracy and demanded money from the candidates for posting at desired places for which they have paid money in cash as well as through online. He would further submit that the State Government has granted sanction to prosecute the applicant and after completing all the requisite formalities, charge-sheet has been submitted before the Court, and the learned trial Court on the basis of material has rightly

framed the charge. He would further submit that the proceedings at the stage of framing of charges, the prosecution material has to consider the material and not the defence of the accused whereas all the submissions advanced by the applicant is his defence which can very well be adjudicated during the course of the trial, thus he would pray for dismissal of the criminal revision.

8. I have heard learned counsel for the parties and perused the material available on record with utmost circumspection.

9. From the above submissions, the point emerged for determination by this Court is:-

> "Whether framing of charge against the applicant under Section 7 of the PC Act which relates to public servant being bribed is legal and justified?"

10. To appreciate this point, it is expedient for this Court to extract Section 7 of the PC Act which reads as under:-

> "**7. Offence relating to public servant being bribed**- Any public servant who,-
> (a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or
> (b) obtains or accepts or attempts to obtain, an undue advantage from any person as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or
> (c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in consequence of accepting an undue advantage from any person,
> shall be punishable, with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine."
> Explanation 1. - For the purpose of this section, the obtaining, accepting, or the attempting to obtain an undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper.
> Illustration. - A public servant, 'S' asks a person, 'P' to give him an amount of five thousand rupees to process his routine ration card application on time. 'S' is guilty of an offence

under this section.

Explanation 2. - For the purpose of this section,-

(i) the expressions "obtains" or "accepts" or "attempts to obtain" shall cover cases where a person being a public servant, obtains or "accepts" or attempts to obtain, any undue advantage for himself or for another person, by abusing his position as a public servant or by using his personal influence over another public servant; or by any other corrupt or illegal means;

(ii) it shall be immaterial whether such person being a public servant obtains or accepts, or attempts to obtain the undue advantage directly or through a third party.

11. From perusal of the Section 7 as amended on 26.07.2018 it is quite vivid that the provisions under the PC Act of 1988 came to be extensively amended by (Amendment) Act of 2018, so as to fill in the gaps in description and coverage of offence of bribery and to bring it in line with the current international practices and enable India to discharge its obligations under the Convention. The Bill introduced is intended to make the existing anti corruption laws more effective by widening their coverage and strengthening the provisions. Section 7 of the PC Act which covers the offence of public servant taking gratification other than legal remuneration in respect of an official act, came to be substituted by new comprehensive definition which covers all aspects of passive bribery, including the solicitation and acceptance or bribe through intermediaries and also acts of public servants acting outside their competence. The amendment which introduced the new definitions of bribery, both as regards the solicitation and acceptance of undue advantage and as regards the promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, are found to be comprehensive enough to cover all offences presently provided in Section 8 of the PC Act, which covers taking gratification, in order, by corrupt or illegal means, to influence public servants.

12. Further from perusal of the explanation, it is quite vivid that where a

person being a public servant obtains or accepts or attempts to obtain any undue advantage for himself or for any other person by abusing his position as a public servant or by using his personal influence over another public servant or by any other corrupt or illegal means and the explanation further provides that if a public servant obtains or accepts an attempt to obtain the undue advantage directly or through a third party then act committed by the Government Servants will be offence relating to public servant being bribed as per Section 7 of the PC Act as amended on 26.07.2018.

13. In the light of above amended provisions with effect from 26.07.2018 and from the memorandum statement of the accused it is quite vivid that the applicant in his memorandum statement has stated that Nand Kumar Sahu has given One Lakh Rupees of Lalita Sahu and Savita Sahu out of which he has made expenditure. Similarly, the other accused Nandkumar Sahu in his memorandum statement has also alleged about the involvement of the present applicant that he has given the amount to the present applicant which he has received from the teachers regarding posting as per their choice. Thus, there is prima facie material against the applicant for framing of charges. Though, the credibility, authenticity and correctness of the memorandum statement is to be tested during the trial by examining the witnesses, the submission of learned senior counsel for the applicant that the only basis of memorandum statement of the accused the framing of charge involving the applicant in the commission of offence under Section 7 of the Act Prevention of Corruption Act 1988, is not sustainable and same deserves to be rejected and accordingly it is rejected.

14. Further submission of learned Senior Counsel that since the name of the applicant was not mentioned in the FIR, as such also framing of

charges by the trial Court deserves to be rejected. In view of well settled position of law that the FIR is not the encyclopedia of the crime but, the entire charge-sheet and the material collected by the prosecution has to be evaluated while quashing of the charge-sheet, as such, the submission made by the learned senior counsel for the applicant that no named FIR has been registered against the applicant therefore, the charges should not have been framed deserves to be rejected and accordingly it is rejected.

15. It is pertinent to mention here that Hon'ble the Supreme Court while quashing of the FIR/investigation in case of Prevention of Corruption Act has cautioned the Court to adopt the principle of non-interference except in cases with very special feature exists which is not available in the facts and circumstances of the present case. Hon'ble the Supreme Court in case of **State of Chhattisgarh Vs. Aman Kumar Singh [(2023) 6 SCC 559] h**as held in paragraph 80 to 83 as under:-

> "80. Having regard to what we have observed above in paragraph 49 (supra) and to maintain probity in the system of governance as well as to ensure that societal pollutants are weeded out at the earliest, it would be eminently desirable if the high courts maintain a hands-off approach and not quash a first information report pertaining to "corruption" cases, specially at the stage of investigation, even though certain elements of strong-arm tactics of the ruling dispensation might be discernible. The considerations that could apply to quashing of first information reports pertaining to offences punishable under general penal statutes ex proprio vigore may not be applicable to a P.C. Act offence. Majorly, the proper course for the high courts to follow, in cases under the P.C. Act, would be to permit the investigation to be taken to its logical conclusion and leave the aggrieved party to pursue the remedy made available by law at an appropriate stage. If at all interference in any case is considered necessary, the same should rest on the very special features of the case.
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> 81. Although what would constitute the special features has necessarily to depend on the peculiar facts of each case, interference could be made in exceptional cases where the records reveal absolutely no material to support even a reasonable suspicion of a public servant having intentionally enriched himself illicitly during the period of his service and nothing other than mala fide is the basis for subjecting such servant to an investigation.

> 82. We quite appreciate that there could be cases of innocent public servants being entangled in investigations arising out of motivated complaints and the consequent mental agony, emotional pain and social stigma that they would have to encounter in the process, but this small price has to be paid if there is to be a society governed by the rule of law. While we do not intend to fetter the high courts from intervening in appropriate cases, it is only just and proper to remind the courts to be careful, circumspect and cautious in quashing first information reports resting on mala fide of the nature alleged herein.
> 83. For the foregoing reasons, we have no option but to hold that there are no cogent grounds for quashing the FIR in the present case even on the ground of mala fide."

16. The submission made by the learned Counsel for the applicant as discussed above is the defence of the applicant which cannot be adjudicated by this Court at the time of examining the legality and propriety of the charges framed by the trial Court as settled by Hon'ble the Supreme Court in case of **Manendra Prasad Tiwari Vs. Amit Kumar Tiwari & another [(2022) 20 SCC 757]** wherein it has been held in paragraphs 23, 24 & 25 as under:-

> "23. It is also well settled that when the petition is filed by the accused under Section 482 CrPC or a revision Petition under Section 397 read with Section 401 of the CrPC seeking for the quashing of charge framed against him, the Court should not interfere with the order unless there are strong reasons to hold that in the interest of justice and to avoid abuse of the process of the Court a charge framed against the accused needs to be quashed. Such an order can be passed only in exceptional cases and on rare occasions. It is to be kept in mind that once the trial court has framed a charge against an accused the trial must proceed without unnecessary interference by a superior court and the entire evidence from the prosecution side should be placed on record. Any attempt by an accused for quashing of a charge before the entire prosecution evidence has come on record should not be entertained sans exceptional cases. [see State of Delhi v. Gyan Devi, (2000) 8 SCC 239].
> 24. The scope of interference and exercise of jurisdiction under Section 397 of CrPC has been time and again explained by this Court. Further, the scope of interference under Section 397 CrPC at a stage, when charge had been framed, is also well settled. At the stage of framing of a charge, the court is concerned not with the proof of the

allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused has committed an offence, which if put to trial, could prove his guilt. The framing of charge is not a stage, at which stage the final test of guilt is to be applied. Thus, to hold that at the stage of framing the charge, the court should form an opinion that the accused is certainly guilty of committing an offence, is to hold something which is neither permissible nor is in consonance with the scheme of Code of Criminal Procedure.

25. Section 397 CrPC vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law or the perversity which has crept in the proceeding."

17. Again Hon'ble the Supreme Court in case of **State of Orissa Vs. Pratima Behera [AIR 2025 SC 218]** has held in paragraphs 10, 11 & 12 as under:-

"10. We may hasten to state at this juncture that though at the stage of framing of issue what is to be seen is only whether there is a prima facie case to make the accused to stand the trial at the trial, certainly, the presumption of innocence should be in favour of the accused.

11. Taking note of the fact that in the case on hand, the High Court set aside the charge framed against the respondent while exercising the revisional power, it is relevant to refer to the decision in Minakshi Bala v. Criminal Appeal No.3175 of 2024 Sudhir Kumar & Ors4. This Court on the question of quashing of charge by the High Court made the following pertinent observations:-

"7…To put it differently, once charges are framed under Section 240 CrPC the High Court in its revisional jurisdiction would not be justified in relying upon documents other than those referred to in Sections 239 and 240 CrPC; nor would it be justified in invoking its inherent jurisdiction under Section 482 CrPC to quash the same except in those rare cases where forensic exigencies and formidable compulsions justify such a course. We hasten to add even in such exceptional cases the High Court can look into only those documents which are unimpeachable and can be legally translated into relevant evidence.

8. Apart from the infirmity in the approach of the High Court in dealing with the matter which we have already noticed, we further find that instead of adverting to and confining its

> attention to the documents referred to in Sections 239 and 240 CrPC the High Court has (1994) 4 SCC 142; 1994 INSC 201 Criminal Appeal No.3175 of 2024 dealt with the rival contentions of the parties raised through their respective affidavits at length and on a threadbare discussion thereof passed the impugned order. The course so adopted cannot be supported; firstly, because finding regarding commission of an offence cannot be recorded on the basis of affidavit evidence and secondly, because at the stage of framing of charge the Court cannot usurp the functions of a Trial Court to delve into and decide upon the respective merits of the case." (underline supplied)
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> 12. In short, while reiterating the position that in a prosecution, presumption of innocence should be in favour of the accused, it has to be said that at the stage of framing charge, even a very strong suspicion, of course, founded upon materials and presumptive opinion would enable the Court to frame charge against an accused."

18. Considering the well settled position of law, particularly in a case under the Act, 1988 in case of **Aman Kumar Singh** (supra) wherein Hon'ble the Supreme Court has held that principle of non-interference has to be followed by the Court, except in such cases where special feature exists which is not available in the present facts and circumstances of the case in view of amended provisions of Section 7 of the PC Act with effect from 26.07.2018, and further considering that this Court while hearing the petition against the framing of charges, is required to examine whether the material placed by the prosecution, if accepted at its face value, discloses the ingredients of the offences alleged and whether there is sufficient ground for proceeding against the accused. The Court is not required to conduct a roving or meticulous examination of the evidence or to determine whether the prosecution will ultimately succeed in establishing the charges beyond reasonable doubt. In the facts and circumstances of the present case, this Court is of the opinion that the material collected during investigation cannot be said to be so deficient or inherently improbable as to warrant

interference with the order framing charges. Thus, the instant criminal revision deserves to be dismissed.

19. Accordingly, the criminal revision is **dismissed**. The order framing charges under Section 7 as amended vide Amendment Act 2018, against the applicant for offence punishable under Sections 7 is hereby affirmed.

20. It is made clear that the observations made herein are confined solely to the consideration of the present revision against the order framing charge which shall not prejudice the case of the applicant or the prosecution during the trial and the learned trial Court shall decide the case strictly on the basis of the evidence adduced before it, uninfluenced by any observation made in this order on its own merit.

21. It is further directed that the applicant is at liberty to take all his defence which is available to him during the trial Court and the trial Court will decide the criminal case pending before it in accordance with law without being influenced from any of the observations made by this Court while deciding the criminal revision as this court has only taken into consideration the facts for adjudicating the submissions made by both the parties and has not examined the merit of the rival submissions made by them.

22. The interim order passed by this Court on 23.01.2023 is vacated.

Sd/-

(Narendra Kumar Vyas)
Judge

Bhumika