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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 2729 of 2026

1 - Badri Prasad Sahu S/o Ballu Ram Sahu, Aged About 33 Years R/o Village Searangpur Kala, Police Station Bodla, District Kabirdham C.G.

... Petitioner

versus

1 - State Of Chhattisgarh Through Station House Officer, Police Station Kotwali Mungeli, District Mungeli C.G.

2 - Yashvant Singh Parihar S/o Shri Shiv Bihari Singh Parihar, Aged About 46 Years R/o Jawahar Ward Mungeli, District Mungeli C.G.

... Respondents

For Petitioner	**:**	Mr. Kishore Narayan, Advocate
For Respondent	**:**	Mr. Ashish Shukla Addl. A.G.

Division Bench : Hon'ble Shri Justice Narendra Kumar Vyas & Honble Shri Justice Sudhir Kumar

Order on Board

27.10.2026

1. The petitioner has filed the present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, “the BNSS”), seeking quashing of the charge-sheet filed in connection with Crime No. 338/2025, registered at Police Station Mungeli, District Mungeli, for the alleged offences punishable under Section 299 of the Bharatiya Nyaya Sanhita, 2023 (for short, “the BNS”), and Section 4 of the Chhattisgarh Dharma Swatantrya Adhiniyam, 1968 (for short, “the Act of 1968”).

2. The case of the prosecution, in brief, is that the complainant, who claims to be working as the Zila Mantri of the Vishwa Hindu Parishad, lodged a report alleging that on 27.07.2025, at the house of Sunil Kumar Lal situated at Tilak Ward, Mungeli, the accused, Badri Sahu, was gathering persons belonging to the Hindu community for the purpose of religious conversion and was performing rituals of christian religion. It was further alleged that the act was intended to hurt the religious sentiments of the Hindu community. On the basis of the said report, the aforementioned crime was registered against the petitioner.

3. Learned counsel for the petitioner submits that the registration of the FIR and the consequential proceedings are not sustainable in law as the sanction to prosecute as per Section 7 of the Chhattisgarh Dharmik Swantantra Adhiniyam 1968, on 07.07.2026 is illegal. It is further contended that the requisite sanction is invalid as the sanction order only indicate offence 299 of the BNSS and other allegations but, does not indicates about specific sanction for commission of offence under Section 4 of the Act of 1968, as such the continuation of the criminal proceedings amounts to an abuse of process of law. On these grounds, learned counsel prays for quashing of the charge-sheet pending before the Court of the Judicial Magistrate First Class, Mungeli.

4. Per contra, learned counsel for the State oppossing the submissions made on behalf of the petitioner would submit that the validity and legality effect of the sanction can be examined by the Trial Court in accordance with law and, while hearing the petition under Section 528 of BNSS, 2023, validity cannot be ascertained as it requires the appreciation of evidence and procedure of granting sanction. He

would further submit that from the sanction order dated 07.07.2026 it would be crystal clear that the sanction has been granted for commission of offence under Section 299 of the BNSS and also for other charges on the facts mentioned in the FIR bearing Crime No.338/2025 registered against the applicant which may be proved by the evidence , as such, sanction for all the offences has been granted, which is legal and in accordance with law and would pray for dismissal of the present petition.

5. We have heard learned counsel for the parties and perused the material available on record.

6. From the submissions made by the parties the point emerges for determination of this Court is whether, this Court while hearing petition under Section 528 of the BNSS can ascertain the validity of sanction granted by the State form commission of offence under Section 4 of the Act of 1968.

7. To appreciate the point emerged for determination this Court is as to consider the section 299 of BNS and Section 3, 4 and 7 of the Act of 1968 as well as to extract the relevant portion of the sanction order dated 07.07.2026 which reads as:-

> **संदर्भ :-** आपका पत्र कमांक पत्र क्रमांक 338/2026, दिनांक 15.05.2026.
> कृपया संदर्भित पत्र अवलोकन करें। आपके द्वारा अपराध क्र. 338/25 धारा 299 बी.एन.एस. एवं छ.ग. धर्म स्वतंत्रय अधिनियम 1968 की धारा 04 के प्रकरण में अभियोजन स्वीकृति चाहा गया है।
> उक्त पत्र के तारतम्य में अवर सचिव छ.ग. शासन गृह पुलिस विभाग के पत्र क्रमांक LAW-42021/58/2026 HOME SECTION रायपुर दिनांक 16.04.2026 के माध्यम से भारतीय नागरिक सुरक्षा संहिता 2023 की धारा 217 के अधीन पुलिस थाना-सिटी कोतवाली, जिला-मुंगेली (छ.ग.) के अपराध कमांक-338/2025 में आरोपी बद्री प्रसाद साहू पिता बल्लूराम साहू, उम्र 32 वर्ष, निवासी ग्राम सारंगपुर कला, थाना-बोडला, जिला-कबीरधाम, हा०मु० मजगांव पारा, तिलक वार्ड मुंगेली (छ.ग.), के विरूद्र भारतीय न्याय संहिता 2023 की धारा 299 तथा उक्त प्रकरण की विवेचना में वर्णित तथ्यों के आधार पर अन्य अपराध के आरोप, जो साक्ष्य से स्थापित हो, के अभियोजन के लिये स्वीकृति प्रदान की गई है।
> चूंकि आपके कोतववाली के अपराध क्र 338/2025 के प्रकरण में उच्च कार्यालय द्वारा अभियोजन स्वीकृति आदेश जारी किया जा चुका है। फलस्वरूप इस कार्यालय में कोई कार्यवाही शेष नहीं है। तद्नुसार कार्यवाही किया जाना सुनिश्चित करें।

Section 299 – Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.

Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or through electronic means or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

***3. Prohibition of forcible conversion**.*

No person shall convert or attempt to convert, either directly or otherwise, any person from onereligious faith to another by the use of force or by allurement or by any fraudulent means nor shall any person abet any such conversion.

4. Punishment for contravention of the provisions of Section

Any person contravening the provisions contained in Section 3 shall, without prejudice to any civil liability, be punishable with imprisonment which may extend to one year or with fine which may extend to five thousand rupees or with both :Provided that in case the offence is committed in respect of a minor, a women or a person belonging to the Scheduled Castes or Scheduled Tribes the punishment shall be imprisonment to the extent of two years and fine up to ten thousand rupees.

***7. Prosecution to be made with the sanction of District Magistrate**.*

No prosecution for an offence under this Act shall be instituted except by, or with the previous sanction of, the District Magistrate or such other authority, not below the rank of Sub-Divisional Officer, as may be authorised by him in that behalf.

8. From perusal of the sanction order it is quite vivid that the said section has been granted for commission of offence under Section 299 and for the offence which is arising out of the same fact, it cannot be prima facie said that no sanction has been granted by the State to prosecute

them for the offences under Section 299 and Section 4 of the Act of 1969. Even otherwise, it is well settled position of law that while hearing the petition under Section 428 Cr.P.C. 528 of BNSS the High Court can examine the validity of the sanction granted to prosecute under the PC Act, 1988. The Hon'ble Supreme Court in case of State Vs. G EASWARAN Reported in 2025 INSC 397 has held in Paragraph 10 which reads as under:

> 10. It is not disputed that in the instant case, the Special Court, as well as the High Court, while dismissing the petition for discharge, examined the allegations and arrived at clear findings that there was a prima facie case against the respondent. The impugned order revisits the earlier decisions without any statable change in the facts and circumstances of the case, traverses to the extreme end of the spectrum, and concludes that: i) the wife of the accused purchased the properties in the name of the daughter having power of attorney; ii) that there was no satisfactory evidence of Benami; iii) even if allowed to prosecute, the chances of conviction were bleak; or iv) the probability of conviction is low; and v) the statements of witnesses do not warrant prosecution. It is clear that the High Court jumped to the probable conclusion of trial by not appreciating the limited scope of Section 482 Cr.P.C. Instead of determining "whether or not there is sufficient ground for proceeding against the accused" based on the material, it asked the wrong question as to, "whether that would warrant a conviction"10. We are of the clear opinion that the High Court has exceeded the well-established principles for exercising jurisdiction under Section 482 of the Cr.P.C.

9. In a same case the Hon'ble Supreme Court has also examined the issue whether validity of the sanction granted to prosecute the petitioner has held that the High Court should not examine the validity of sanction to prosecute under the PC Act.

> 12. Findings regarding the legality, validity, or delay in grant of sanction were premature. Validity of the sanction is an issue that must be examined during the

course of the trial. In **Dinesh Kumar v. Chairman, Airport Authority of India,** 12 this principle is reiterated as follows:

"10. In our view, invalidity of sanction where sanction order exists, can be raised on diverse grounds like non-availability of material before the sanctioning authority or bias of the sanctioning authority or the order of sanction having been passed by an authority not authorised or competent to grant such sanction. The above grounds are only illustrative and not exhaustive. All such grounds of invalidity or illegality of sanction would fall in the same category like the ground of invalidity of sanction on account of non-application of mind a category carved out by this Court in Parkash Singh Badal, 13 the challenge to which can always be raised in the course of trial."

(emphasis supplied)

“13. Similar view was taken in **Director, Central Bureau of Investigation v. Ashok Kumar Aswal**14, where it was held that:

"15. All the above apart, time and again, this Court has laid down that the validity of a sanction order, if one exists, has to be tested on the touchstone of the prejudice to the accused which is essentially a question of fact and, therefore, should be left to be determined in the course of the trial and not in the exercise of jurisdiction either under Section 482 of the Code of Criminal Procedure, 1973 or in a proceeding under Articles 226/227 of the Constitution."

(emphasis supplied)

“14.Thus, there is no doubt that the High Court committed an error in quashing the prosecution on the ground that the sanction to prosecute is illegal and invalid. In conclusion, we find that the objections raised in the revision petition against the Special Court's order dismissing the discharge application were identical to the grounds raised in the petition under Section 482 Cr.P.C., from which the present appeal arises. Second, apart from being congruent and overlapping, the respondent could not demonstrate any material change in facts and circumstances between the dismissal of the revision petition by the High Court and the filing of the quashing petition under Section 482 Cr.P.C. Third, the validity of the sanction can always be examined during the course of the trial and the problems due to the typographical error asalleged by the State could

> have been explained by producing the file at the time of trial. Fourth, it is settled that a mere delay in the grant of sanction for prosecuting a public authority is not a ground to quash a criminal case."

10. Having considered the submissions advanced on behalf of the parties, we are of the view that the question regarding the validity and legality of the sanction, may be raised before the Trial Court and same can be examined in accordance with law by the trial Court on the basis of the material available on record. Further considering the law laid down by the **Hon'ble Supreme Court** in the case of **G. ESWARAN (Supra)** we are not inclined to exercise our inherent jurisdiction under Section 528 of the BNSS to quash the charge-sheet at this stage. Accordingly, the present Cr.M.P. deserves to the **dismissed.**

11. However, it is made clear that this Court has not expressed any opinion on the merits of the petitioner's contention regarding the validity of the sanction. The petitioner shall be at liberty to raise the said contention before the Trial Court, which shall consider and decide the same in accordance with law, on the basis of the material available on record, without being influenced by any observation made in this order.

12. With the aforesaid observations, the present **Cr.M.P.** stands **dismissed.**

Sd/-	Sd/-
(Narendra Kumar Vyas)	(Sudhir Kumar)
JUDGE	**JUDGE**

Arpan