IN THE HIGH COURT OF DELHI AT NEW DELHI

% ***Judgment reserved on:16.09.2025***
Judgment delivered on:20.02.2026

\+ **CRL.M.C. 4808/2019 & CRL.M.A. 36602/2019**

STATE (NCT) DELHI .....Petitioner

versus

VIKRAM SINGH MEENA .....Respondent

\+ **CRL.M.C. 10017/2024 & CRL.M.A. 38388/2024**

VIKRAM SINGH MEENA .....Petitioner

versus

STATE GOVT.OF NCT OF DELHI AND ANR.

.....Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Priyanka Dalal, APP for the State
Inspector Bhanu Pratap, PS- Vigilance in CRL.M.C. 4808/2019
Mr. Abhas Mishra & Ms. Deepika Gawri Tyagi, Advs.
Mr. Ramesh Gupta, Sr. Adv. with Ms. Shailendra Singh, Mr. Ishaan Jain & Mr. Surya Pratap Singh, Advs. in CRL.M.C. 10017/2024

For the Respondent : Mr. Abhas Mishra & Ms. Deepika Gawri Tyagi, Advs.
Mr. Ramesh Gupta, Sr. Adv. with Ms. Shailendra Singh, Mr. Ishaan Jain & Mr.

Surya Pratap Singh, Advs. in CRL.M.C. 4808/2019.

Ms. Priyanka Dalal, APP for the State Inspector Bhanu Pratap, PS- Vigilance in CRL.M.C. 10017/2024.

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HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. CRL.M.C. 4808/2019 is filed by the State against the order dated 16.03.2019 passed by the learned Special Judge, Central, Tis Hazari Courts, Delhi in CC No. 2/16 whereby the application filed by the accused – Vikram Singh Meena under Section 311 of the Code of Criminal Procedure, 1973 ('**CrPC**') seeking summoning of sanctioning authority to prove the validity of sanction and further seeking discharge on account of invalidity of sanction was partly allowed to the extent of summoning the sanctioning authority for examination on the question of validity of sanction.

2. CRL.M.C. 10017/2024 is filed by the accused – Vikram Singh Meena against the sanction order dated 05.07.2017 and seeking quashing of supplementary chargesheet in FIR NO. 345/2013 registered at Police Station Shahdara.

3. The relevant facts leading to the filing of the present petitions are as follows:

3.1. On 04.09.2013 a written complaint was given by one Joginder

Singh stated to be engaged in the work of construction of buildings. It is alleged that in the month of February, 2013, the complainant started a construction work at Plot No. 1/5798, Plot No. 21, Gali No. 13, Balbir Nagar, Shahdara, Delhi and the building plan was sanctioned from MCD. It is alleged that no sooner did the complainant start the construction work than he was contacted by a Beat Constable who allegedly approached the complainant and told him that the work could not be commenced without the sanction plan and also asked the complainant to meet the SHO being the accused – Vikram Singh Meena. It is alleged that the complainant met the accused – Vikram Singh Meena along with the sanction plan who then allegedly demanded a bribe of ₹1 lakh and also threatened him that he could not start the construction without giving the money. It is alleged that the complainant paid the sum of ₹1 lakh and started the construction work.

3.2. It is alleged that after 5 months, accused – Vikram Singh Meena again demanded a sum of ₹50,000/-. It is alleged that thereafter in the month of August, 2013, accused HC Somdev visited the site and asked the complainant to stop the construction work and also told him that the building was unauthorized. It is alleged that thereafter the complainant was asked to meet the SHO/accused – Vikram Singh Meena. It is alleged that thereafter, the complainant went to the Police Station, however, the accused – Vikram Singh Meena was not present. Thereafter, the accused – Vikram Singh Meena allegedly contacted the complainant on his phone number and called him to the Police Station.

Thereafter, the accused – Vikram Singh Meena allegedly informed the complainant that the building was unauthorized, threatened to register an FIR against the complainant, and allegedly asked him to pay a sum of ₹50,000/- and meet accused HC Sumdev.

3.3. It is alleged that thereafter, the complainant purchased a video recording camera and when he was contacted by accused HC Sumdev, he recorded the said conversation on his phone, however, on that occasion the complainant did not mention about the demand of ₹50,000/- made by the accused – Vikram Singh Meena. It is alleged that on the second instance when the complainant was contacted, accused HC Sumdev asked the complainant to pay a sum of ₹50,000/- as per the direction of the SHO/ accused – Vikram Singh Meena, however, the said conversation was not recorded. It is alleged that thereafter accused HC Sumdev asked the complainant to meet him. It is alleged that thereafter the complainant alongwith his friend Leelu met accused HC Sumdev at the stipulated time in a car and a video recording of the incident was done where the complainant handed a sum of ₹20,000/- to accused HC Sumdev on his demand. On this, it is alleged that accused HC Sumdev insisted that the SHO would not accept the amount, and the complainant paid an additional sum of ₹5000/-

3.4. During the course of the investigation, the camera and mobile phone given by the complainant were seized. The CFSL result of the original recording alongwith voice/photo samples of accused Sumdev

and complainant were obtained and the samples tallied with the original recordings. No bribe money was however recovered.

3.5. Chargesheet was filed against accused HC Sumdev for the offences under Sections 7/13(1)(d) of the Prevention of Corruption Act, 1988 ('**PC Act**') and Section 384 of the Indian Penal Code, 1860 ('**IPC**') and sanction was obtained against him. No evidence could be obtained against the accused – Vikram Singh Meena but for the allegations made by the complainant and disclosure of accused HC Sumdev. The chargesheet records that the complainant also admitted in transcription that when he went to meet the SHO/ accused – Vikram Singh Meena, he was offered soft drinks and nothing was asked from him. No audio/video recording of the accused – Vikram Singh Meena was brought forth by the complainant. Consequently, prosecution sanction was not sought against accused – Vikram Singh Meena and he was placed under column 12.

3.6. The learned Special Judge *vide* order dated 19.02.2016 took cognizance of the offences under Sections 7/13(1)(d) of the PC Act and Section 384 of the IPC. It was noted that sanction under Section 19 of the PC Act *qua* accused Sumdev had been placed on record and that the accused – Vikram Singh Meena had not been chargesheeted and had been placed under column 12. Accused HC Sumdev was thereafter summoned.

3.7. Subsequently, during the course of further proceedings, the learned Special Judge *vide* order dated 01.09.2016 directed the

prosecution to obtain requisite sanction against the accused – Vikram Singh Meena while noting that sufficient material existed which *prima facie* reflected that the accused – Vikram Singh Meena had committed offences under Sections 7/13(1)(d) of the PC Act and Section 384 of the IPC. During that time, the learned Special Judge was considering arguments on charge and noted that specific allegations were made by the complainant against the accused – Vikram Singh Meena. The learned Special Judge noted that the complainant alleged that the accused – Vikram Singh Meena had called him from his mobile phone and had asked him to make a visit. It was noted that the call record of the complainant showed that he had received a call from the accused – Vikram Singh Meena's number on 06.08.2013 which *prima facie* supported the allegation of the complainant. It was noted that from the *video-audio* recording of the incident, it transpired that accused HC Sumdev had received ₹25,000/- for the accused – Vikram Singh Meena and ₹5,000/- for himself from the complainant in the presence of Leelu. The learned Special Judge also took into account the statement of Leelu under Section 161 of the CrPC where he corroborated the allegations of the complainant.

3.8. Thereafter, the Joint Commissioner of Police ('**JCP**') *vide* Sanction order dated 05.07.2017 accorded sanction under Section 19 of PC Act to prosecute the accused – Vikram Singh Meena. While doing so, the JCP took into account that during the course of arguments on charge against accused HC Sumdev, the learned Special Judge directed the requisite authority to obtain sanction for conducting

trial against the accused – Vikram Singh Meena who was, on an earlier occasion, not chargesheeted on account of lack of any corroborative and physical evidence in lieu of allegations of the complainant. While doing so, the evidence against the accused – Vikram Singh Meena was noted to be *first,* the statement of Leelu recorded under Section 161 of the CrPC who was accompanying the complainant on the day of the incident and was sitting in the car when the bribe money was paid to accused HC Sumdev, *second,* the disclosure of the accused HC Sumdev who disclosed that the bribe money was received on behalf of the accused – Vikram Singh Meena and *third,* one CDR of complainant's mobile which was made by the accused – Vikram Singh Meena to the complainant.

3.9. In the interregnum, Supplementary chargesheet was filed against the accused – Vikram Singh Meena for the offences under Sections 7/13(1)(d) of the PC Act and Section 384 of the IPC. The learned Special Judge *vide* order dated 11.09.2017 taking note of the supplementary chargesheet against the accused – Vikram Singh Meena accordingly took cognizance and directed the supplementary chargesheet to be clubbed with the main file and summoned the accused – Vikram Singh Meena.

3.10. The accused – Vikram Singh Meena challenged the order dated 01.09.2016 passed by the learned Special Judge *vide* CRL. M.C. 3559/2016.

3.11. The said petition was dismissed as withdrawn with liberty to

raise the issue of invalidity of sanction for prosecution before the learned Special Judge. Pursuant to the same, the accused – Vikram Singh Meena filed an application under Section 311 read with Section 197 of the CrPC before the learned Special Judge praying summoning of the sanctioning authority to prove the validity of sanction and further praying invalidation of the impugned sanction and discharge of the accused – Vikram Singh Meena. The said application was partly allowed to the extent of summoning of the sanctioning authority for examination pertaining to the question of validity of sanction *vide* order dated 16.03.2019. The order dated 16.03.2019 has been challenged by the State by the present petition being CRL.M.C. 4808/2019.

3.12. During the course of the proceedings in CRL.M.C. 4808/2019, this Court *vide* order dated 20.09.2024 noted that *ex facie* it appeared that the sanction order dated 05.07.2017 had been passed only because directions were passed by the learned Special Judge directing the prosecution to obtain requisite sanction. It was further noted that the perusal of the sanction order *ex facie* showed non application of mind, and in such circumstances, this Court is within its powers under Section 482 of the CrPC to take cognizance of it. State was further directed to file an affidavit in regard to the contentions raised on behalf of the accused – Vikram Singh Meena.

4. Subsequently, this Court *vide* order dated 19.11.2024, in CRL.M.C. 4808/2019, while taking note of the arguments on behalf of

the accused – Vikram Singh Meena, had opined that the accused ought not to be denied the liberty to challenge the sanction order. While doing so, this Court took into account the arguments advanced on behalf of the accused – Vikram Singh Meena that the State ought not to be permitted to contend that summoning of sanctioning authority should not have been done at this stage before framing of charge since the same was only done pursuant to the liberty granted by this Court to raise the issue of invalidity of sanction as per the ruling in ***State v. Mukesh Kumar Singh & Anr.*** *and* ***K.G. Tyagi v. State*** **: 2018 SCC OnLine Del 8136** while disposing of the petition CRL.M.C. 3559/2016 and had further noted the submission of the accused – Vikram Singh Meena that if the State had an objection to the summoning of the sanctioning authority prior to framing of charges, the accused be permitted to challenge the validity of order of sanction.

5. Consequently, CRL.M.C. 10017/2024 was filed by the accused – Vikram Singh Meena challenging the sanction order dated 05.07.2017 whereby sanction was accorded by the Sanctioning authority under Section 19 of the PC Act to prosecute the accused – Vikram Singh Meena.

6. The learned counsel for accused – Vikram Singh Meena submitted that the sanctioning authority had, on an earlier occasion, passed an order, sanctioning the prosecution of the other accused person. He submitted that admittedly, no evidence was found against the accused – Vikram Singh Meena at that stage. He submitted that it

is not the case of the prosecution that any further investigation was carried out pursuant to filing of the chargesheet and some other additional evidence had come on record which led to passing of a fresh sanction order by the sanctioning authority.

7. He submitted that while the sanctioning authority notes that there is sufficient evidence on record to prove guilt of accused – Vikram Singh Meena, however, at the time of filing of chargesheet against accused HC Sumdev no evidence was found against the accused – Vikram Singh Meena and consequently no prosecution sanction was sought and the accused – Vikram Singh Meena was placed in column 12.

8. He submitted that the order taking cognizance dated 19.02.2016 specifically noted the name of the accused – Vikram Singh Meena and it was noted that he had been kept in Column No. 12 and the cognizance had been taken against the other accused person. He submitted that undisputedly the Court can proceed to take cognizance against the persons who have not been named as an accused, if pursuant to subsequent investigation, certain evidence has been collected. He further submitted that the Court, at the initial stage of taking cognizance, could have taken cognizance, however, no such order was passed and the order dated 01.09.2016, in such circumstances, cannot also be presumed under Section 319 of the CrPC.

9. The learned Additional Public Prosecutor for the State submitted that the sanction order was passed considering the specific allegations of the complainant against the accused – Vikram Singh Meena, the statement of Leelu recorded under Section 161 of the CrPC who had accompanied the complainant on the day when the incident took place and was sitting in the car when the bribe money was paid to accused HC Sumdev and the CDR of the complainant's mobile which reflected that the accused – Vikram Singh Meena had made a phone call to the complainant.

10. She submitted that the power under Section 311 of the CrPC could not have been exercised by the learned Special Judge before framing of charges. She submitted that the validity of sanction should not be examined at pre-trial stage. She submitted that the learned Special Judge failed to take into account that the satisfaction of Sanctioning Authority in according sanction is a question of fact and the same can only be tested during the course of the trial after the charges have been framed.

ANALYSIS

11. *Firstly*, insofar as the challenge presented by the State is concerned, it is argued that the learned Special Judge has erred in permitting the summoning of the sanctioning authority by exercising power under Section 311 of the CrPC even *before* the consideration on the point of charge.

12. Thus, at the outset, it is imperative to first appreciate the law in relation to Section 311 of the CrPC. The Hon'ble Apex Court in ***Natasha Singh v. CBI*** **: (2013) 5 SCC 741** while observing that the power to summon or recall witnesses can be exercised at any stage of trial observed as under:

> ***"8. Section 311 CrPC empowers the court to summon a material witness, or to examine a person present at "any stage" of "any enquiry", or "trial", or "any other proceedings" under CrPC, or to summon any person as a witness, or to recall and re-examine any person who has already been examined if his evidence appears to it, to be essential to the arrival of a just decision of the case.*** *Undoubtedly, CrPC has conferred a very wide discretionary power upon the court in this respect, but such a discretion is to be exercised judiciously and not arbitrarily. The power of the court in this context is very wide, and in exercise of the same, it may summon any person as a witness at any stage of the trial, or other proceedings. The court is competent to exercise such power even suo motu if no such application has been filed by either of the parties. However, the court must satisfy itself, that it was in fact essential to examine such a witness, or to recall him for further examination in order to arrive at a just decision of the case.*
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> ***15.*** *The scope and object of the provision is to enable the court to determine the truth and to render a just decision after discovering all relevant facts and obtaining proper proof of such facts, to arrive at a just decision of the case. Power must be exercised judiciously and not capriciously or arbitrarily, as any improper or capricious exercise of such power may lead to undesirable results. An application under Section 311 CrPC must not be allowed only to fill up a lacuna in the case of the prosecution, or of the defence, or to the disadvantage of the accused, or to cause serious prejudice to the defence of the accused, or to give an unfair advantage to the opposite party. Further, the additional evidence must not be received as a disguise for retrial, or to change the nature of the case against either of the parties. Such a power must be exercised, provided that the evidence that is likely to be tendered by a witness, is germane to the issue involved. An opportunity of rebuttal however, must be given to the other party. The power conferred under Section 311 CrPC must therefore, be invoked by the court*

only in order to meet the ends of justice, for strong and valid reasons, and the same must be exercised with great caution and circumspection. ***The very use of words such as "any court", "at any stage", or "or any enquiry, trial or other proceedings", "any person" and "any such person" clearly spells out that the provisions of this section have been expressed in the widest possible terms, and do not limit the discretion of the court in any way. There is thus no escape if the fresh evidence to be obtained is essential to the just decision of the case. The determinative factor should therefore be, whether the summoning/recalling of the said witness is in fact, essential to the just decision of the case."***

(emphasis supplied)

13. Similarly, the Hon'ble Apex Court in ***Ratanlal v. Prahlad Jat and Others*** **: (2017) 9 SCC 340** observed as under:

"17. In order to enable the court to find out the truth and render a just decision, the salutary provisions of Section 311 are enacted whereunder any court by exercising its discretionary authority at any stage of inquiry, trial or other proceeding can summon any person as witness or examine any person in attendance though not summoned as a witness or recall or re-examine any person already examined who are expected to be able to throw light upon the matter in dispute. *The object of the provision as a whole is to do justice not only from the point of view of the accused and the prosecution but also from the point of view of an orderly society. This power is to be exercised only for strong and valid reasons and it should be exercised with caution and circumspection. Recall is not a matter of course and the discretion given to the court has to be exercised judicially to prevent failure of justice. Therefore, the reasons for exercising this power should be spelt out in the order."*

(emphasis supplied)

14. As is evident from the aforesaid judgments, the Court can summon a person at any stage of the trial if the evidence of such a person is essential for the just decision of the case. The provision explicitly makes use of the phrase–"*at any stage of any inquiry, trial*

or other proceeding under this Code". Exercise of power under Section 311 of the CrPC is thus not prohibited at the pre-trial stage.

15. Relying upon the case of ***CBI v. Manohar Baburao Nandanwar*** **: 2009 SCC OnLine Bom 1543**, the State has argued that the issue of validity of sanction is best left for trial. In that case, the Hon'ble High Court of Bombay was faced with similar circumstances where the sanctioning authority was examined *prior* to framing of charges, and the accused was subsequently discharged as the sanction was found to be illegal. The discharge was set aside by the High Court, and it was observed that resorting to Section 311 of the CrPC before framing of charge in such circumstances was improper. The relevant portion of the judgment is as under:

> *"**4.** I have considered the rival submissions. Considering the fact that the non applicant was prosecuted under the provisions of the Prevention of Corruption Act, it was absolutely necessary for the learned Judge, Special Court to adopt the procedure, which is required to be adopted for conducting the Sessions Trial. In such case, there is no question of Section 240 of the Code of Criminal Procedure getting attracted to the present case from any angle.* ***It is also required to be mentioned that the provisions of Section 311 of the Code of Criminal Procedure regarding examining a particular witness are to be used by using judicial discretion and in a proper case. The view taken by learned Judge that it would be appropriate to examine the sanctioning authority first before framing of charge then question can be decided whether the charge should be framed or not, is found not in consonance with the well settled provisions of law as well as procedure to be followed.***
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> ***6.** It is noted that the learned Judge, Special Court proceeded to record a finding that the sanction was bad before framing of*

charge. ***This procedure adopted by learned Judge is contrary to the well established principle as regards conducting the trial. On account of this, I am inclined to observe that order dated 04.08.2005 is illegal and is required to be set aside.*** *Needless to mention that the evidence given by the sanctioning authority on the basis of which order dated 04.08.2005 came to be passed is required to be quashed and set aside.*

7. *In the circumstances, now the learned Judge, Special Court will conduct the matter and dispose of the same in accordance with the provisions of law. At one stage, the learned Advocate for the non applicant contended that the sanction granted to prosecute the non applicant is patently illegal and if the said stand is being taken by the non applicant, he may adhere to that stand and attend to the matter in accordance with the provisions of law. At what stage the said stand can be taken by the non applicant need not be mentioned by this Court."*

(emphasis supplied)

16. On the other hand, the accused – Vikram Singh Meena has relied upon a number of judgments to contest that such an issue can be raised at any stage, and power under Section 311 of the CrPC can be resorted to for the same. The judgments relied upon by the accused Vikram in this regard are discussed hereunder.

16.1. One of the foremost cases relied upon by the accused – Vikram Singh Meena in this regard is that of ***Ashok Kumar Aggarwal v. Central Bureau of Investigation (through its Director)*** **: 2007:DHC:5289** to endorse that the validity of the sanction can be challenged at the initial stage by resorting to the power under Section 311 of the CrPC. In that case as well, the accused had challenged the validity of the sanction even before the arguments on charge could be advanced on the ground that the same was unsustainable in law as the entire record of investigation was not placed before the sanctioning

authority. As the learned Trial Court had not recorded any finding that the non-production of relevant material before the sanctioning authority had not resulted in failure of justice and merely observed that it could not be said that the sanction was invalid, another Bench of this Court had remanded the matter back to the learned Trial Court for recording an observation in terms of Section 19 of the PC Act, 1988. It was also observed that the Trial Court could examine the sanctioning authority as a witness *before charge*, in view of the provisions of Section 311 of the CrPC. The said judgment was upheld by the Hon'ble Apex Court in ***CBI v. Ashok Kumar Aggarwal*** **: (2014) 14 SCC 295**, where it was held that although the stage of examining validity of sanction is during trial, however, the facts of the case warranted a different course, especially since the order had been partly complied with. In such facts, the Hon'ble Apex Court noted that it found no reason to interfere with the order of the High Court.

16.2. Reliance is placed on the case of ***Chandan Kumar Basu v. State of Bihar*** **: (2014) 13 SCC 70**, where the Hon'ble Apex Court had opined that the question of sanction under Section 197 of the CrPC could be raised at *any* time after cognizance had been taken. In that case, the accused had challenged the cognizance before the Court of Sessions on the ground that no sanction had been obtained.

16.3. The accused – Vikram Singh Meena has also relied on the case of ***Nanjappa v. State of Karnataka*** **: (2015) 14 SCC 186**. In that case, the Hon'ble Apex Court had set aside the conviction of the appellant

therein on the ground of absence of a valid sanction. It was observed that the statute forbids cognizance against a public servant except with the previous sanction of the competent authority, and question regarding validity of sanction can be raised at any stage as the competence of the Court trying the accused depends on the same.

16.4. Reliance is also placed on the case of ***State v. Mukesh Kumar Singh & Anr.*** *and* ***K.G. Tyagi v. State*** (*supra*), where after referring to a catena of judgments, another Bench of this Court had emphasized that objections as to validity of sanction can be raised at any stage, and the Court is duty bound to consider the same. In that case, the accused had raised the question of validity of sanction, which was rejected. The Sessions Court had also discharged two of the accused, which was challenged by the State separately.

Pertinently, the accused – Vikram Singh Meena had moved the subject application under Section 311 of the CrPC after withdrawing his challenge to order dated 01.09.2016 with liberty to raise the issue of invalidity of sanction for prosecution before the learned Special Judge in terms of the decision of this Court in the case of ***State v. Mukesh Kumar Singh & Anr.*** *and* ***K.G. Tyagi v. State*** (*supra*). The relevant portion of the judgment is as under:

> *"**96…** (b) The grant of sanction is an administrative function and the court would not sit in appeal over it by embarking upon an exercise of examining the adequacy of material placed before the sanctioning authority;*
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> *(c) The judicial scrutiny is more of the decision making process it, however, being incumbent on the prosecution to prove that the*

appropriate authority had granted the sanction having regard to all the relevant facts and after perusing the materials placed before it in entirety, such material comprising all the vital documents including those which may "tilt the balance in favour of the accused". The material on which the sanctioning authority proceeds to accord its approval for prosecution must be relevant to the case against the public servant and also be admissible in law;

(d) It is also sine qua non for the validity of the sanction that the competent authority on which the power to grant sanction is conferred does not treat it as an idle formality and applies its own independent mind undertaking the task in a manner that does not reflect mechanical approach, not the least being under pressure, compulsion or constraint from any external force or quarter;

(e) While mere error, omission or irregularity may not be of any consequence, withholding of vital documents or material from the sanctioning authority, particularly such material as may tilt the balance in favour of the accused public servants causes serious prejudice which may occasion failure of justice vitiating the sanction for prosecution;

(f) While absence of sanction for prosecution is a question to be agitated at the threshold, objection to the validity of sanction may be raised by the accused public servant "at any time" or "at any stage" in the course of or during trial, it being incumbent on the Special Judge presiding over the trial to find, and determine, if there is any invalidity attached to the sanction order and further as to whether failure of justice has occurred on such account and pass the necessary order thereupon-more appropriate stage for reaching such conclusion being after evidence has been adduced on the "issue in question" which means evidence having been adduced on the issue of validity of sanction;

(g) ***If such objection is raised belatedly, the time lapse being of considerable significance, the court is not obliged to consider the effect of any such error, omission or irregularity. In order to claim the protection of law against prosecution without valid sanction, the public servants, however, is expected to raise the issue at the earliest stage of the trial.*** *The objection of such nature pressed when the trial is near termination would render the issue inconsequential.* ***To put it simply, if the challenge to the validity of sanction is made at the initial stage of trial, and within reasonable period of time, the Special Judge is duty bound to examine the issue, being "free" to pass an appropriate order thereupon, the inhibition of Section 19(3)(a) of the POC Act and***

> ***Section 465 Cr. PC being inapplicable to the trial court, such provision forbidding the appellate or revisional court from entertaining such objection for the first time at later stages.*** *It must, however, be added here that the determination of the issue by the Special Judge in the course of the trial is subject to judicial scrutiny by this court in the supervisory jurisdiction; and*
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> *(h)* ***Further, it is necessary that the objection to the validity of sanction is considered and the issues raised are determined at the earliest for the reason continuation of criminal prosecution on invalid sanction is not desirable since such proceedings are void ab initio.*** *Rather, if the objection is raised at an early stage, the court is duty bound to consider and decide upon it instead of relegating it to the concluding stage of final determination of the case, it being not just or fair to do so since that approach would render the statutory protection illusory."*
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> (emphasis supplied)

17. While the facts of the present case may not be identical to the relied upon judgments, it is clear from the above that sanction under Section 197 of the CrPC is a sacrosanct precursor which determines the competence of a Court to try the case against the accused. Thus, the issue in relation to any irregularity or validity of sanction ought to be raised at the earliest. Lapse of time in agitation of such an issue would render the same as inconsequential. The accused can thus not be faulted for agitating the issue at the outset.

18. Even though there is some merit in the contention of the State that the stage of examining the validity of sanction is during the course of trial rather than at the pre-trial stage [Ref. ***CBI v. Ashok Kumar Aggarwal*** (*supra*)], however, there is no bar against consideration of the issue at pre-trial stage, and the issue can be determined at the outset if the facts warrant the same. It is important to note that hearing

of arguments on charge necessarily includes *prima facie* appreciation of the material collected during the investigation. In prosecution of Government Servants, the cogency of the sanction is also a necessary fact that has to be considered by the learned Special Judge as the same has bearing on the Court's competence to try the accused. In ***CBI v. Manohar Baburao Nandanwar*** (*supra*), the Hon'ble Bombay High Court has not provided any reasons for its observation that recourse to Section 311 of the CrPC for examining the Sanctioning Authority is contrary to the principles of law. As discussed above, the issue *qua* sanction can be raised at any stage, preferably at the earliest, and the power under Section 311 of the CrPC can be exercised at any stage as well. Moreover, this Court is of the opinion that the glaring facts of the present case necessitate examination of the Sanctioning Authority before the learned Special Judge can proceed further.

19. In order to appreciate the same, it is important to appreciate the peculiar facts which led to passing of the impugned order by the learned Special Judge. Chargesheet in the present case was initially filed only against the co-accused Sumdev and the prosecution had kept the accused - Vikram Singh Meena in Column No.12 on account of not finding any conclusive evidence against him. No sanction was sought against the accused - Vikram Singh Meena due to the same either. It is only subsequently that the learned Special Judge, while hearing the arguments on charge in regard to the co-accused Sumdev on 01.09.2016, observed that *prima facie* case is also made out against the accused – Vikram Singh Meena. As the correctness of the order

dated 01.09.2016 is not assailed in the present proceedings, this Court is refraining from commenting upon the same at this stage since the challenge to the said order has already been disposed of by this Court as withdrawn on an earlier occasion. However, it is imperative to note that the Sanctioning Authority granted the sanction after taking note of the observations of the learned Special Judge in order dated 01.09.2016.

20. It is in the backdrop of the aforesaid facts that the accused - Vikram Singh Meena has expressed a legitimate apprehension of the sanction being plagued with non-application of mind. The case of the accused – Vikram Singh Meena is essentially helmed on the argument that the sanction granted against him is unsustainable in law as the same was granted solely on direction of the learned Special Judge, thereby robbing the administrative authority of the discretion of applying its mind.

21. The law in regard to grant of sanction is well-settled. The same requires independent application of mind by the Sanctioning Authority on the basis of material collected during the investigation. Independent application of mind by the sanctioning authority and appreciation of all relevant material is a *sine qua non* for a valid sanction. In the case of ***CBI v. Ashok Kumar Aggarwal*** (*supra*), the Hon'ble Apex Court had detailed the essentials of a valid sanction as under:

> "***16.*** *In view of the above, the legal propositions can be summarised as under:*

> ***16.1.*** *The prosecution must send the entire relevant record to the sanctioning authority including the FIR, disclosure statements, statements of witnesses, recovery memos, draft charge-sheet and all other relevant material. The record so sent should also contain the material/document, if any, which may tilt the balance in favour of the accused and on the basis of which, the competent authority may refuse sanction.*
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> ***16.2. The authority itself has to do complete and conscious scrutiny of the whole record so produced by the prosecution independently applying its mind and taking into consideration all the relevant facts before grant of sanction while discharging its duty to give or withhold the sanction.***
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> ***16.3.*** *The power to grant sanction is to be exercised strictly keeping in mind the public interest and the protection available to the accused against whom the sanction is sought.*
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> ***16.4.*** *The order of sanction should make it evident that the authority had been aware of all relevant facts/materials and had applied its mind to all the relevant material.*
>
> ***16.5.*** *In every individual case, the prosecution has to establish and satisfy the court by leading evidence that the entire relevant facts had been placed before the sanctioning authority and the authority had applied its mind on the same and that the sanction had been granted in accordance with law.*"
>
> (emphasis supplied)

22. By way of order dated 01.09.2016, after appreciating the material on record, the learned Special Judge had explicitly directed the prosecution to obtain the requisite sanction to prosecute the accused – Vikram Singh Meena. A perusal of the sanction order as well as the affidavit tendered on behalf of State reflect that the relevant material was put to the Sanctioning Authority for obtaining sanction, instead of sanction being sought solely on the thrust of the observations made by the learned Special Judge. The present case is not one where the sanction was rejected by the Sanctioning Authority, and subsequently granted on the direction of the Court. Undisputably, no sanction was ever sought by the prosecution against the accused -

Vikram Singh Meena at the first instance.

23. Even so, although no positive direction for grant of sanction was made to the Sanctioning Authority by the learned Special Judge, the possibility of the Sanctioning Authority being unduly weighed by the observations of the learned Special Judge cannot be negated. In the distinctive facts of this case where the prosecution had not sought sanction on an earlier occasion and the sanction has only been granted subsequently after certain observations were made by the Court, it is imperative to ascertain independent application of mind. The said aspect can only be clarified by the Sanctioning Authority.

24. Though this Court does not seek to propose recourse to Section 311 of the CrPC at the pre-trial stage in *every* case in a routine manner where question of validity of sanction is raised, in the atypical facts of the present case, the learned Special Judge cannot be faulted for summoning the Sanctioning Authority before proceeding further with the arguments on charge. It has been rightly observed by the learned Special Judge that since consideration of the issue of sanction is not *per se* barred at the pre-trial stage, there is no cause to deny the accused a fair opportunity to demonstrate his case.

25. *Secondly*, insofar as the petition filed by the accused – Vikram Singh Meena being CRL.M.C. 10017/2024 is concerned, it is pertinent to note that the accused – Vikram Singh Meena, on an earlier occasion, had challenged the order dated 01.09.2016 whereby the learned Special Judge had directed the prosecution to obtain requisite

sanction against the him.

26. The State has contested the maintainability of the challenge as the accused – Vikram Singh Meena had previously withdrawn his petition, being, CRL.M.C. 3559/2016 whereby the order dated 01.09.2016 was challenged. Reliance is placed on the case of ***State v. G. Easwaran* : 2025 SCC OnLine SC 643**, where the Hon'ble Apex Court was dealing with challenge to quashing of proceedings by the High Court on account of the sanction being illegal. In that case, the Sessions Court had dismissed the application of accused for discharge, which he assailed in revision before High Court, which was dismissed with the observation that *prima facie*, the available material had been considered. Pursuant to the same, the accused filed a petition under Section 482 of the CrPC for quashing of the proceedings, which was allowed by the High Court, after considering the statement of the representative of the sanctioning authority. Finding the observations on sanction to be premature, the Hon'ble Apex Court deplored the interdiction of proceedings by the High Court.

27. It is argued on behalf of the accused – Vikram Singh Meena that considering the State's challenge to summoning of sanctioning authority prior to framing of charge, he must be allowed to challenge the validity of the sanction order.

28. From a perusal of the material on record, it appears that the accused – Vikram Singh Meena, on the earlier occasion, had sought permission to withdrawn the petition with liberty to raise the issue

before the learned Special Judge. Consequently, this Court, while disposing of the petition being CRL. M.C. 3559/2016 had given liberty to the accused – Vikram Singh Meena to raise the issue of invalidity of sanction for prosecution before the learned Special Judge in terms of the ruling of this Court in ***State v. Mukesh Kumar Singh & Anr.*** *and* ***K.G. Tyagi v. State*** *(supra)*.

29. The liberty granted by this Court on that occasion cannot be construed to mean that the issue ought to be agitated at the conclusion of the trial at the final stage. The same, in the opinion of this Court, is a necessary and relevant fact to be considered given the peculiar facts of the case. It is not in doubt that the accused – Vikram Singh Meena was satisfied with the disposal of the petition on that occasion and he took his chance to file an application under Section 311 of the CrPC before the learned Special Judge.

30. At this juncture, it is apposite to note that as the previous petition preferred by the accused had been withdrawn with liberty and the issue of validity of sanction was not considered on merits on the previous occasion, this Court is not precluded from considering the challenge in exercise of its inherent power under Section 482 of the CrPC.

31. It is settled law that any order of sanction can only be set aside if the same is passed without application of mind or without considering the material relied upon by the prosecution or for extraneous considerations. Be that as it may, insofar as the argument

in relation to application of mind is concerned, having found that the learned Special Judge had rightly summoned the Sanctioning Authority, this Court does not consider it apposite to stifle the prosecution against the accused at this juncture. On the first blush, while it may appear that the order granting sanction has been passed without application of mind solely because the learned Special Judge had opined that sufficient material existed which *prima facie* reflected that the accused – Vikram Singh Meena had committed offences under Sections 7/13(1)(d) of the PC Act and Section 384 of the IPC, however, a perusal of the sanctioning order also indicates that the authorities had considered the material before passing the sanction order.

32. Whether the sanction order was passed solely being weighed by the order passed by the learned Special Judge or not can only be ascertained after the sanctioning authority is examined. It cannot be determined with certainty in the present proceedings as to whether the sanction order is invalidated due to absence of application of mind.

33. While the accused – Vikram Singh Meena has also agitated arguments in relation to Section 319 of the CrPC not being applicable and the Court having erred in proceeding against him *after* stage of cognizance was over, pertinently, the challenge before this Court is limited to the sanctioning order and the supplementary charge sheet. Considering the same as well as the fact that the accused – Vikram Singh Meena had previously withdrawn his challenge to order dated

01.09.2016 with liberty to raise argument in relation to validity of sanction before the learned Special Judge, this Court does not consider it apposite to delve into the said arguments at this juncture.

34. In view of the aforesaid discussion, this Court finds no reason to interfere with the impugned order dated 16.03.2019 or to quash the sanction order and supplementary chargesheet.

35. Accordingly, CRL.M.C. 4808/2019 is dismissed and CRL.M.C. 10017/2024 is disposed of in the aforesaid terms. Pending applications also stand disposed of.

36. Needless to say, the accused – Vikram Singh Meena is at liberty to agitate all arguments at the appropriate stage.

37. A copy of this judgment be placed in both the matters.

AMIT MAHAJAN, J

FEBRUARY, 20 2026
"SS"