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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 22.09.2026# CNR No.DLHC010452452026+ CRL.REV.P. 559/2026, CRL.M.A.29515/2026 & 29517/2026

DINESH KUMAR AND ANR.

.....Petitioners

Through: Mr. Karunakar Mahalok, Mr.
Manoranjan Mishra, Advs.

versus

CBI

.....Respondent

Through: Mr. Premtosh K. Mishra (SPP) along
with Mr. Krish Bhatia, Mr. Vasu
Agarwal, Advs.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)Crl.M.A.29516/2026 (Exemption from filing certified copies of annexures)

1. The application is disposed of with a direction to the applicant to file the original/ clear/ legible copies of the documents referred to in the application before the next date of hearing.

CRL.REV.P. 559/2026

2. The petitioners have filed the present Revision Petition assailing a common order dated 19.05.2026 passed by the Ld. Special Judge, (PC Act) (CBI-07), Rouse Avenue Court, New Delhi, whereby the applications filed by the petitioners seeking discharge / dropping of the proceedings on the ground of invalidity of sanction for their prosecution were dismissed.



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3. As per the facts narrated in the petition, petitioner no.1 (Mr. Dinesh Kumar) joined the Delhi Police as a Sub Inspector in 1996 and was promoted to the rank of Inspector by an order dated 19.04.2012 issued under the authority of the Commissioner of Police. At the relevant time, petitioner no.1 is stated to have been S.H.O of P.S. Sagarpur, South West District, New Delhi.

4. Petitioner no.2 was a Head Constable, promoted on ad-hoc basis *vide* order dated 26.11.2021. The ad-hoc promotion was regularized by an order dated 23.06.2023 issued by the Office of the Commissioner of Police, Delhi.

5. The case of the prosecution is that pursuant to the verification of complaint dated 26.03.2025 of Mrs. Shailender Kaur alleging that she was being threatened with false implication along with her family members, in a case under the NDPS Act unless a bribe of Rs. 5 lakhs was paid, the CBI laid a trap in which the petitioner no.2 was apprehended while demanding and accepting Rs. 2.5 lakhs. The same was allegedly in connivance with a co-accused and petitioner no.1. Charge-sheet was filed in the matter on 11.07.2025 for offences punishable under Section 61(2) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter '*BNS*') and Section 7 of the Prevention of Corruption Act, 1988 (hereinafter '*PC Act*').

6. The Sanction order for prosecution under Section 19 of the PC Act was accorded *vide* order dated 30.06.2025. The sanction order *qua* the accused (Dinesh Kumar) has been appended as Annexure A-5 to the present petition. The same reads as under:-



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SANCTION ORDER

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AND WHEREAS, the complainant Mrs. Shailender Kaur w/o Sh. Harjeet Singh Rio RZ C15, Gandhi Market, West Sagarpur, Delhi in her complaint dated 26.03.2025 alleged that the complainant is residing at RZ C15, Gandhi Market, West Sagarpur, Delhi which comes under the PS Sagarpur jurisdiction and in the morning of 26.03.2025, S/Sh. Samar, Shivam, Vinod, Lovekush and Avinash (all of PS Sagarpur, New Delhi) visited her house and they threatened her and her family that she and her family members will be implicated in a false case of NDPS and further demanded a bribe of Rs. 5 lacs from her. It has further been alleged that during the year 2024 also, the above said police officials posted at PS-Sagarpur, New Delhi implicated her in a false case of NDPS. The complainant did not want to pay the said bribe amount of Rs. 5,00,000/- to accused persons therefore, she lodged the complaint dated 26.03.2025 with SP, CBI, ACB, Delhi for taking action in the matter.

AND WHEREAS as per available record, a verification of the complaint was conducted on 26.03.2025 by CBI in the presence of witness which prima facie established the demand on of Rs. 3 lacs on the part of Sanwarmal (alias Samar) and Shivam @ Shubham. Accordingly, a regular case RC 003-2025-A-0023 dated 26.03.2025 was registered by CBI ACB Delhi against Samar @ Sawan and Shivam @ Shubham of PS-Sagarpur under Section 61(2) BNS and Section 7 of the PC Act 1988 (As amended in 2018), based on the complaint dated 26.03.2025.

Accordingly, a team was constituted on 26.03.2025 comprising of CBI officers, two independent witnesses namely Shantanu Mishra and Amit Nigam (both PNB officials, Delhi), Smt Shailender Kaur, the complainant and her son namely Sh. Sumit. After completion of pre-trap proceedings, the trap team arrived near Police Chowki, Shivpuri and positioned themselves discreetly nearby, to avoid suspicion, whereas complainant Smt. Shailender Kaur entered the Police Chowki, Shivpuri. At about 11.04 PM, Sh. Sumit, son of complainant received a Whatsapp call from complainant to come early and it was the confirmation of delivery of bribe amount. The CBI team alongwith the witnesses entered the Police Chowki, Shiv Puri where, on identification by complainant, HC Sanwarmal was caught hold from right and left hands by SI Naveen and Inspr. Mohinder Singh, respectively. Ct. Shubham, who was also present there tried to flee, but was apprehended by the team members. The complainant stated that Sanwarmal demanded and accepted bribe of Rs. 2.5 lakhs, which was in a plastic carry bag and was placed by him under the co-driver seat of a parked Maruti Suzuki Baleno car No. DL 5CS-7252. Finger washes of Sanwarmal were taken in presence of independent witnesses, which also confirmed acceptance of bribe money by him. Recovery of the bribe amount was effected from the said car, which was found to be owned by Shubham Gill. The recorded conversations revealed that the demand of bribe by Sanwarmal was supported by Shubham Gill. The recorded conversations further revealed that Sanwarmal told Inspr. Dinesh that Rs. 2.5 lakhs has been given by Smt. Shailender Kaur, to which Inspr. Dinesh replied that it is a lesser amount given by her. On this, Sanwarmal replied that she will give Rs. 50000/- later on. Thereon, Inspr. Dinesh suggested to hand over the received amount to Shubham Gill. The investigation revealed



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that Insp. Dinesh, HC Sanwermal and Ct. Shubham Gill, in criminal conspiracy with each other demanded the bribe from the complainant and accepted the same.

There is sufficient evidence on record against Insp. Dinesh Kumar, No. DI/44, PIS No. 16960175. Hence, I, Deepak Purohit, Joint Commissioner of Police, New Delhi Range, New Delhi, being the authority competent to remove Insp. Dinesh Kumar, No. DI/44, PIS No. 16960175 from his office, after fully and carefully examining the material/documents (report of CBI, ACB, New Delhi) and applying my mind consider it appropriate that Insp. Dinesh Kumar, No. DI/44, PIS No. 16960175, the then SHO/Sagarpur, South West District should be prosecuted in the court of law for the said offences.

Now, I, Deepak Purohit, Joint Commissioner of Police, New Delhi Range, New Delhi, hereby accord Sanction under section 19 Of PC Act 1988 (As Amended In 2018) for prosecution of Insp. Dinesh Kumar, No. DI/44, PIS No. 16960175, for offences u/s 61(2) of BNS 2023 r/w section 7 of PC ACT 1988 (as amended in 2018) and also for any other offence(s) if made out of the aforesaid facts and circumstances and are punishable under any other provision(s) of law and for taking cognizance of the said offence by the Court of competent jurisdiction.


(DEEPAK PUROHIT) IPS
JOINT COMMISSIONER OF POLICE,
NEW DELHI RANGE, NEW DELHI.

DEEPAK PUROHIT, IPS
Joint CP, NDR

7. The impugned common order dated 19.05.2026 opposes the application filed by accused (Dinesh Kumar) as also application filed by accused (Sanwermal @ Samar) seeking that the proceedings be dropped on the ground of invalidity of the sanction under Section 19 of the PC Act. The relevant portion in the impugned order reads as under:-

“4. Admittedly, there is a sanction order in existence in the present case though the accused seeks to pick holes in the manner it has been granted by claiming that the sanctioning authority is incompetent. However, in the opinion of the court, triable issues are involved in determining whether the sanction according authority was incompetent to grant the same. The prosecution has relied upon provisions of Delhi Police Act and rules contained therein, duly promulgated and passed by the legislature which cannot be surpassed by an executive order. CBI has contended that the order



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dated 19.04.2012 relied upon by the accused has been signed by the Joint CP and not the Commissioner. CBI has further contended that even for once if it is assumed that the appointment of the accused was made by the order of the Commissioner, nevertheless it will not take away or override the powers vested in the appropriate authority to appoint or remove the public servant from his office. As per the Delhi Police Act and Delhi Police promotion rules, the Commissioner of Police is the competent authority who is empowered to specially authorize any officer to make appointments on his behalf. By virtue of the above said and Rule 3 of the above referred Promotion Rules, the Appointing Authority in relation to Inspector of Police is the Additional Commissioner of Police. Hence, the argument of the accused that the orders dated 19.4.2012 denote that promotion is by order of Commissioner and not by Joint Commissioner is questionable. At this stage, the court cannot hold that sanction is invalid by denying an opportunity to the prosecution to explain the circumstances in which this order dated 19.4.2012 has been issued. Further, prosecution is justified in claiming that accused needs to satisfy the court that his earlier appointment letter has lost its relevance and cannot be considered while deciding the issue of validity of Sanction. As per rule 4 and 6 of the Delhi Police Recruitment rules, the competent authority to appoint and remove an Inspector rank police official is the Additional Commissioner. In the case of **Joint Commissioner of Police & Ors. v. Sube Singh and ors.**, it has been clarified that a Joint Commissioner of Police continues to exercise the powers of an Additional Commissioner of Police. Furthermore, as per Sec 114(e) of Indian Evidence Act (Corresponding Sec 119 of BSS), there is a presumption that acts performed in the course of official duty have been performed regularly. In the opinion of this court, issues raised by prosecution regarding previous post held by the accused, whether promotion has been rightly granted, whether promotion has been granted in terms of recommendations of the DPCC, whether cadre of the accused has changed, whether it is the Commissioner who had appointed him vide order dated 19.4.2012 and whether the Commissioner has lawfully delegated his authority to the Joint/Addl. Commissioner cannot be decided at this stage without evidence being led on the same. The accused being entitled to raise these issues during trial and prove his defence at subsequent stage is not entitled to claim the benefit of this plea at this stage in the present form. His application for discharge/dropping of proceedings is accordingly dismissed.”

8. Learned counsel for the petitioner contends that there is no valid sanction in the present case inasmuch as the sanction has not been accorded



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by the competent authority to remove the concerned public servant/ accused persons. Reliance is placed on Article 311 of the Constitution of India to contend that removal of a civil servant by an authority subordinate to the appointing authority is impermissible and proscribed under the Constitution itself.

9. Learned Special Public Prosecutor (SPP) for CBI opposes the present petition.

REASONING

10. Section 19 of the Prevention of Corruption Act, 1988 reads as under:-

“19. Previous sanction necessary for prosecution.—(1) No court shall take cognizance of an offence punishable under [Sections 7, 11, 13 and 15] alleged to have been committed by a public servant, except with the previous sanction[save as otherwise provided in the Lokpal and Lokayuktas Act, 2013],—

(a) in the case of a person [who is employed, or as the case may be, was at the time of commission of the alleged offence employed] in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

(b) in the case of a person [who is employed, or as the case may be, was at the time of commission of the alleged offence employed] in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office.

[Provided that no request can be made, by a person other than a police officer or an officer of an investigation agency or other law enforcement authority, to the appropriate Government or competent authority, as the case may be, for the previous sanction of such Government or authority for taking cognizance by the



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court of any of the offences specified in this sub-section, unless—

(i) such person has filed a complaint in a competent court about the alleged offences for which the public servant is sought to be prosecuted; and

(ii) the court has not dismissed the complaint under Section 203 of the Code of Criminal Procedure, 1973 (2 of 1974) and directed the complainant to obtain the sanction for prosecution against the public servant for further proceeding:

Provided further that in the case of request from the person other than a police officer or an officer of an investigation agency or other law enforcement authority, the appropriate Government or competent authority shall not accord sanction to prosecute a public servant without providing an opportunity of being heard to the concerned public servant:

Provided also that the appropriate Government or any competent authority shall, after the receipt of the proposal requiring sanction for prosecution of a public servant under this sub-section, endeavour to convey the decision on such proposal within a period of three months from the date of its receipt:

Provided also that in case where, for the purpose of grant of sanction for prosecution, legal consultation is required, such period may, for the reasons to be recorded in writing, be extended by a further period of one month:

Provided also that the Central Government may, for the purpose of sanction for prosecution of a public servant, prescribe such guidelines as it considers necessary.

Explanation.—For the purposes of sub-section (1), the expression “public servant” includes such person—

(a) who has ceased to hold the office during which the offence is alleged to have been committed; or

(b) who has ceased to hold the office during which the offence is alleged to have been committed and is holding an office other than the office during which the offence is alleged to



have been committed.]

(2) Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section (1) should be given by the Central Government or the State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) no finding, sentence or order passed by a Special Judge shall be reversed or altered by a Court in appeal, confirmation or revision on the ground of the absence of, or any error, omission or irregularity in, the sanction required under sub-section (1), unless in the opinion of that court, a failure of justice has in fact been occasioned thereby;

(b) no court shall stay the proceedings under this Act on the ground of any error, omission or irregularity in the sanction granted by the authority, unless it is satisfied that such error, omission or irregularity has resulted in a failure of justice;

(c) no court shall stay the proceedings under this Act on any other ground and no court shall exercise the powers of revision in relation to any interlocutory order passed in any inquiry, trial, appeal or other proceedings.

(4) In determining under sub-section (3) whether the absence of, or any error, omission or irregularity in, such sanction has occasioned or resulted in a failure of justice the court shall have regard to the fact whether the objection could and should have been raised at any earlier stage in the proceedings.

Explanation.—For the purposes of this section,—

(a) error includes competency of the authority to grant sanction;

(b) a sanction required for prosecution includes reference to any requirement that the prosecution shall be at the instance of a specified authority or with the sanction of a specified person or any requirement of a similar nature.”

11. It is apparent that sub-section (1) of Section 19 of the PC Act,



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prohibits a Court from taking cognizance of an offence punishable under Sections 7,11,13 and 15, against a public servant, except with the previous sanction of the specified authority. However, sub-section (3) clearly prescribes that no finding, sentence or order passed by a Special Judge shall be reversed or altered by a Court in appeal, confirmation or revision on the ground of absence of, or any error, omission or irregularity in the sanction required under sub-section (1).

12. It is thus evident that the legislature has consciously made the objections of the kind sought to be raised in the present petition, contingent upon “failure of justice”. The legislature has thus circumscribed/placed limitations on objections of the kind sought to be raised by the petitioner.

13. In ***State of Bihar v. Rajmangal Ram***, (2014) 11 SCC 388, the Supreme Court held as under:

“4. The object behind the requirement of grant of sanction to prosecute a public servant need not detain the court save and except to reiterate that the provisions in this regard either under the Code of Criminal Procedure or the Prevention of Corruption Act, 1988 are designed as a check on frivolous, mischievous and unscrupulous attempts to prosecute an honest public servant for acts arising out of due discharge of duty and also to enable him to efficiently perform the wide range of duties cast on him by virtue of his office. The test, therefore, always is—whether the act complained of has a reasonable connection with the discharge of official duties by the government or the public servant. If such connection exists and the discharge or exercise of the governmental function is, prima facie, founded on the bona fide judgment of the public servant, the requirement of sanction will be insisted upon so as to act as a filter to keep at bay any motivated, ill-founded and frivolous prosecution against the public servant. However, realising that the dividing line between an act in the discharge of official duty and an act that is not, may, at times, get blurred thereby enabling certain unjustified claims to be raised also on



behalf of the public servant so as to derive undue advantage of the requirement of sanction, specific provisions have been incorporated in Section 19(3) of the Prevention of Corruption Act as well as in Section 465 of the Code of Criminal Procedure which, inter alia, make it clear that any error, omission or irregularity in the grant of sanction will not affect any finding, sentence or order passed by a competent court unless in the opinion of the court a failure of justice has been occasioned. This is how the balance is sought to be struck.

xxx. xxx. xxx.

6. In a situation where under both the enactments any error, omission or irregularity in the sanction, which would also include the competence of the authority to grant sanction, does not vitiate the eventual conclusion in the trial including the conviction and sentence, unless of course a failure of justice has occurred, it is difficult to see how at the intermediary stage a criminal prosecution can be nullified or interdicted on account of any such error, omission or irregularity in the sanction order without arriving at the satisfaction that a failure of justice has also been occasioned. This is what was decided by this Court in State v. T. Venkatesh Murthy [(2004) 7 SCC 763 : 2004 SCC (Cri) 2140 (paras 10 and 11)] wherein it has been inter alia observed that: (SCC p. 767, para 14)

“14. ... Merely because there is any omission, error or irregularity in the matter of according sanction, that does not affect the validity of the proceeding unless the court records the satisfaction that such error, omission or irregularity has resulted in failure of justice.”

7. The above view also found reiteration in Parkash Singh Badal v. State of Punjab [(2007) 1 SCC 1 : (2007) 1 SCC (Cri) 193 (para 29)] wherein it was, inter alia, held that mere omission, error or irregularity in sanction is not to be considered fatal unless it has resulted in failure of justice. In Parkash Singh Badal [(2007) 1 SCC 1 : (2007) 1 SCC (Cri) 193 (para 29)] it was further held that Section 19(1) of the PC Act is a matter of procedure and does not go to the root of jurisdiction. On the same line is the decision of this Court in R. Venkatkrishnanv. CBI [(2009) 11 SCC 737 : (2010) 1 SCC (Cri) 164] . In fact, a three-Judge Bench in State of M.P. v.



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Virender Kumar Tripathi [(2009) 15 SCC 533 : (2010) 2 SCC (Cri) 667] while considering an identical issue, namely, the validity of the grant of sanction by the Additional Secretary of the Department of Law and Legislative Affairs of the Government of Madhya Pradesh instead of the authority in the parent department, this Court held that in view of Section 19(3) of the PC Act, interdicting a criminal proceeding mid-course on ground of invalidity of the sanction order will not be appropriate unless the court can also reach the conclusion that failure of justice had been occasioned by any such error, omission or irregularity in the sanction. It was further held that failure of justice can be established not at the stage of framing of charge but only after the trial has commenced and the evidence is led (para 10 of the report)."

14. The Supreme Court has drawn a clear distinction between cases where there is no sanction at all, but where sanction exists and its validity is questioned. In this regard, the Trial Court rightly relies upon the judgment of the Supreme Court in ***Dinesh Kumar v. Chairman, Airport Authority of India***, AIR 2012 SC 858, wherein, it has been categorically held by the Supreme Court that a question of invalidity of sanction on the ground of incompetency of the sanctioning authority could be raised by the defence at any stage during trial. The relevant extracts from ***Dinesh Kumar*** (supra) are as under: -

"9. While drawing a distinction between the absence of sanction and invalidity of the sanction, this Court in Parkash Singh Badal [(2007) 1 SCC 1 : (2007) 1 SCC (Cri) 193] expressed in no uncertain terms that the question of absence of sanction could be raised at the inception and threshold by an aggrieved person. However, where sanction order exists, but its legality and validity is put in question, such issue has to be raised in the course of trial. Of course, in Parkash Singh Badal [(2007) 1 SCC 1 : (2007) 1 SCC (Cri) 193] , this Court referred to invalidity of sanction on account of non-application of mind.



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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 [(2007) 1 SCC 1 : (2007) 1 SCC (Cri) 193] , the challenge to which can always be raised in the course of trial.”

15. The aforesaid judgment was followed by the Supreme Court in numerous subsequent cases¹. Recently, the Supreme Court in **State v. G. Easwaran**, 2025 SCC OnLine SC 643, has observed as under:-

“12. Learned counsel for the State submits that the conclusions drawn by the High Court about the impossibility of granting sanction on 08.07.2013 when the government received the request only on 20.12.2013, was not raised at any point of time, neither in the discharge application before the Special Judge nor before the High Court in revision petition. He further submits that the argument is not even mentioned in the quashing petition under Section 482 Cr. P.C. filed before the High Court. He also submits that this question was not put to LW-1, whose statement is the sheet anchor for the High Court to question the validity of the sanction. The State also explained the actual position in the Special Leave Petition. It is explained that the misconception about the dates arose because of a typographical mistake of mentioning the letter requesting sanction as 20.12.2013, instead of the correct date being 20.02.2013. This is typically the problem that would arise when the High Court seeks to interdict proceedings and quash the criminal case before the relevant material to support the case of the prosecution is brought on record. Findings regarding the

¹ **CBI v. Ashok Kumar Aggarwal**, (2014) 14 SCC 295; **CBI v. Ashok Kumar Aswal**, (2015) 16 SCC 163; **CBI v. Pramila Virendra Kumar Agarwal**, (2020) 17 SCC 664; **Fuleshwar Gope v. Union of India**, 2024 SCC OnLine SC 2610.



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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*, 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*, 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*, 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 Criminal Procedure Code, 1973 or in a proceeding under Articles 226/227 of the Constitution.”

16. The Supreme Court has also held in ***CBI v. Ashok Kumar Aswal***, (2015) 16 SCC 163 that validity of sanction has to be tested on the touchstone of prejudice to the accused, which is essentially a question of fact and should be left to be determined during the course of trial and not in exercise of jurisdiction under Section 528 of the BNSS or Articles 226 and 227 of the Constitution of India. The relevant extracts of the judgment rendered in (supra) are as under:



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“15. In fact, all that the corrigendum does is to split up the alleged “reduced” demand of bribe into two separate amounts of Rs 25 lakhs each instead of a lump sum amount of Rs 50 lakhs as mentioned in the sanction order dated 12-8-2009. The corrigendum also dispenses with certain provisions of IPC. The aforesaid exclusion of some of the specific provisions of IPC really works to the benefit of Respondent 1-accused and not to his prejudice. If the corrigendum does not, as we are inclined to hold, affect the substratum of the sanction granted initially on 8-8-2009/12-8-2009 we will have no reason to take the view that initial sanction order has in any way been modified or altered so as to require the approval of the Finance Minister once again. Surely for correction of typographical errors the file need not have travelled all the way up to the Finance Minister, once again. The fact that the said sanction order has been superseded may have been mentioned in the letter of the Under-Secretary communicating the said order dated 21-10-2009 to the appellant. However, what is of relevance is that the said fact of supersession is not supported by reference to any authority or decision in the file and, therefore, would not deserve any further attention of the Court. **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.**”

17. The present case is not one of absence of sanction. The sanction orders have been issued and cognizance has been taken on that basis. As noticed in the impugned orders, the objection raised by the petitioners cannot be put in a straitjacket and/or answered at this stage, on the face of the record. Whether the Deputy Commissioner of Police or the Joint Commissioner is the authority competent to remove an Inspector or Head Constable depends upon the construction of the provisions of the Delhi



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Police Act, 1978, the rules thereunder, the applicable notification/s governing the powers of appointment and the subsistence/scope of the delegations made thereunder.

18. As noticed in the impugned order, these are essentially questions which can be comprehensively answered only upon evidence being adduced during the trial.

19. More importantly, the further question as to whether any error in the sanction has occasioned a 'failure of justice' within the meaning of Section 19(3) and Section 19(4) of the PC Act, can be properly answered upon appreciation of evidence during the course of trial.

20. It may also be noted that Section 19(3)(c) expressly bars the exercise of revisional powers in relation to any interlocutory order passed in any inquiry, trial, appeal, or other proceedings. The order declining to drop the proceedings or discharge the accused on an objection as regards sanction does not terminate the objection/s. It is in the nature of an interlocutory order which leaves it open to the accused to press the very same objection at trial and to have it decided on evidence.

21. The impugned order is clearly of an interlocutory character and the jurisdiction of the Court is clearly circumscribed by Section 19(3)(c) of the PC Act.

22. The reliance placed by the petitioners on Article 311 of the Constitution of India does not alter the position; the same article provides safeguards against dismissal, removal by an authority subordinate to the appointing authority. The validity of the provisions of the Delhi Police Act, 1978, Rules and/or notifications issued thereunder (on the touchstone of Article 311) is an independent aspect. At this stage, there cannot be a



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presumption that the statute and the rules are in derogation of, or *ultra vires* Article 311.

23. Further, the issue as to which authority is competent to terminate the appointment of the petitioners shall necessarily be determined, during trial. The trial cannot be put in abeyance at this stage on the basis of the pleas raised by the petitioners in this regard.

24. In view of the above, no ground is made out to interfere with the impugned order/s dated 19.05.2026. The Revision Petition is, consequently, dismissed.

25. It is, however, clarified that the petitioners shall be at liberty to raise all contentions regarding validity of the sanction for their prosecution, including the competence of the sanctioning authority before the learned Special Judge in the course of trial and the same shall be considered and decided on its own merits and in accordance with law, uninfluenced by the observations made in this order or in the impugned order.

SACHIN DATTA, J

SEPTEMBER 22, 2026

uk, ss