IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK KUMAR SINGH

&

HON'BLE SHRI JUSTICE AJAY KUMAR NIRANKARI

ON THE 15th OF JANUARY, 2026

MISCELLANEOUS CRIMINAL CASE NO.5062 of 2024

PRADEEP CHAUDHARY

Versus

THE STATE OF MADHYA PRADESH, THROUGH SPECIAL POLICE ESTABLISHMENT, LOKAYUKTA OFFICE, BHOPAL

Appearance *:*

Ms. Shobha Menon – Senior Advocate with Shri Rahul Choubey for the petitioner.

Shri Abhinav Shrivastava – Advocate for the respondent No.1/S.P.E. Lokayukta.

Shri Shivendra Pandey – Advocate for the respondent No.4/Complainant.

Reserved on : 17/12/2025
Pronounced on : 15/01/2026

O R D E R

By way of this petition, under Section 482 of Code of Criminal Procedure (in short, 'CrPC'), the petitioner is seeking quashment of the charge-sheet No.81/2022 dated 10.09.2022 whereby he has been

implicated in criminal proceeding under Section 13(1)(e) and 13(2) of Prevention of Corruption Act, 1988 (for brevity, 'PC Act') read with Section 120-B of the Indian Penal Code on the ground that the sanction for prosecution order dated 21.03.2022 was issued by incompetent authority i.e. Joint Director, whose post was equivalent to the petitioner and there was no material on record that the competent authority of the petitioner i.e. Managing Director, had applied its mind for grant of sanction and further, the petitioner is also assailing the order dated 29.11.2023 whereby the Court below has rejected his application under Section 227 of the CrPC for discharge of consequential order of framing of charges under Section 13(1)(e) and 13(2) of the PC Act read with Section 120-B of the IPC.

2. Shorn of unnecessary details, the facts germane to the institution of the present criminal case is as under :-

(i) The petitioner vide order dated 15.06.2012 came to be posted as Additional General Manager, Bhopal, a class-I post, in the Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Ltd. (hereinafter referred to as 'MPMKVVCL') and served as such until his retirement on 30.04.2020.

(ii) The disciplinary power to remove the petitioner from the services on the post held by him i.e. Additional General Manager, vests with the Managing Director of MPMKVVCL.

(iii) On the basis of a complaint that petitioner is allegedly in possession of assets to the tune of Rs.70 crores, which was disproportionate to his known source of income and a Crime No.340/2014 came to be registered against the petitioner under

Section 13(1)(e) and 13(2) of the PC Act and an F.I.R. was registered on 25.07.2014.

(iv) Thereafter, a Final Report/charge-sheet dated 10.09.2022 was filed.

3. Learned counsel for the petitioner succinctly submits that insofar as Section 19 of the PC Act, 1988 is concerned, it categorically postulates that no Court shall take cognizance of offence punishable under sections referred to therein committed by public servant except with the previous sanction of the authority competent to remove him from his office and in the present case, as referred to above and is explicit from the document **Annexure A/1**, it is the Managing Director who alone could have granted sanction for prosecution. It is also submitted that Joint Director is a class-I post likewise present petitioner, therefore, the sanction granted by him would amount to the sanction granted by the incompetent authority. It is further submitted that the word 'removal' carries a great significance inasmuch as it results in cessation of inter-relation between the office and abuse by the holder of the office. The link between the power with opportunity to abuse and the holder of office would be severed by removal from office and also in the catena of decisions rendered by Apex Court, it has been held that the authority entitled to grant sanction must apply its mind to the facts of the case, evidence collected and other incidental facts before according the sanction. More appropriately, a grant of sanction is not an idle formality but solemn and sacrosanct act which removes the umbrella of protection of government servants against frivolous prosecutions and must be strictly complied with before any prosecution could be launched against public servant.

4. Further, learned counsel for the petitioner has drawn attention of this Court on Section 19(1) and 19(1)(c) of the PC Act, which affords protection to public servants by making it mandatory that no Court shall take cognizance of offence under Sections 7, 11, 13 and 15 except with the previous sanction of competent authority and further as per Section 19(1)(c), the 'competent authority' for grant of sanction for prosecution would be the authority who is competent to remove the delinquent from his office and in the present circumstances, the power to remove petitioner or to take disciplinary action was exclusively vested with Managing Director of MPMKVVCL.

5. To bolster her arguments, learned counsel for the petitioner has placed reliance on plethora of judgments rendered by the Apex Court in the cases of **Ashok Kumar Sahu v. Union of India, (2006) 6 SCC 704; Vijayadevi Navalkishore Bhartia v. Land Acquisition Officer, (2003) 5 SCC 83; Paramjeet Singh Patheja v. ICDS Ltd. AIR 2007 (SC) 168; Bhavnagar University vs. Palitana Sugar Mill (P) LTD. and others, (2003) 2 SCC 111; R.S. Nayak v. A.R. Antulay, (1984) 2 SCC 183, State of Goa v. Babu Thomas, (2005) 8 SCC 130; P.L. Tatwal v. State of M.P., (2014) 11 SCC 431** and **CBI v. Ashok Kumar Aggarwal, (2014) 14 SCC 295.** Learned counsel has also relied upon various judgments of this Court and of other High Courts *viz. Shri Baini Prasad Chansoriya vs. State of M.P. and others (Cr.R. No.1629/2022), G.S. Matharoo vs. C.B.I. (Delhi High Court), Sanjay Dikshit vs. C.B.I. (Allahabad High Court) and M.D. Rangaswamy vs. State of Karnataka*.

6. *Per contra*, learned counsel for the respondent No.1 rebutted the submissions putforth by learned counsel for the petitioner and submitted that adequacy of material placed before sanctioning authority cannot be gone into at this stage and the said position of law has been enunciated by this Court in ***Sabit Khan vs. State of M.P. and others 2021 SCC Online MP 1482***, wherein it has been held that challenge to sanction order on that ground that it suffers from non-consideration of relevant material is required to be made during the trial and can be established by leading evidence. Additionally, referring to the decision of Apex Court rendered in the case of ***State of M.P. vs. Krishna Chandra Saksena (1996) 11 SCC 439***, this Court has further taken a view that where sanction order is not *ex-facie* illegal or invalid, proceedings cannot be quashed. It is further submitted that present case is not a case where it can *ex-facie* be said that the present case is illegal or invalid and as such, the petitioner is required to raise objection, if any, during trial. Further reliance is placed on yet another decision of the Apex Court rendered in the case of ***State of Punjab vs. Hari Kesh reported in 2025 SCC OnLine SC 49***, wherein it has been held that :-

> **"8.** In the instant case, it appears that the petition for quashing of Sanction Order was filed by the respondent after the trial court framed the charge and commenced the trial, rather after the prosecution examined five witnesses. It is pertinent to note that whether the Sanction has been granted by the competent authority or not, would be a matter of evidence. Further, as per the Explanation to sub-section (4), for the purpose of Section 19, error includes "competency of the authority to

> grant Sanction." Therefore, in view of the settled legal position, the High Court should not have quashed the Sanction Order and the consequent proceedings, unless it was satisfied that the failure of justice had occurred by such error or irregularity or invalidity. There is not a whisper in the impugned order about any failure of justice having occurred on account of the impugned Sanction Order. The High Court also should not have entertained the petition for quashing the Sanction Order when the prosecution had already examined seven witnesses.
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> **9.** In that view of the matter, we are of the opinion that the High Court has committed gross error in quashing the Sanction Order and the consequent proceedings vide the impugned order."

7. Learned counsel for the respondent No.1, in view of the aforesaid decisions, has submitted that the grounds raised by the petitioner regarding the sanction granted by the incompetent authority can be raised before the learned trial Court and this is without prejudice to the fact that sanction (Annxure A/9) has been passed by the competent authority after considering proper material on record.

8. Learned counsel for the respondent No.1 also submits that the defence of the accused cannot be looked into at the stage of deciding application under Section 227 of CrPC and the submission of the accused/petitioner is to be confined to the material produced by Investigating Agency as while deciding application under Section 227 of CrPC and while framing charges, the competent authority has to only determine the *prima facie* case against the accused and the said position

has been settled by Hon'ble Supreme Court in the case of ***State of Orissa vs. Debendra Nath Padhi, (2005) 1 SCC 568*** and ***State of Gujarat vs. Dilipsinh Kishorisinh Rao, 2023 SCC OnLine SC 1294***. It is further submitted that in view of the aforesaid enunciation of law, documents produced by the petitioner, including those with respect to delegation of powers, cannot be examined at this stage, as the same is part and parcel of defence of the petitioner which is to be considered at the stage of trial.

9. Learned counsel for the respondent No.1 also submits that in the case of *Shri Baini Prasad Chansoriya vs. State of Madhya Pradesh & others (Cr.R. No. 1629/2022)*, this Court in para-6.2 has opined that sanction is to grant formal permission to do something or to impose/authorise punishment. Even if, the present matter is analyzed in accordance with aforesaid decision, it would be evident that matter relating to sanction was dealt by the Managing Director and after discussion and perusal of the material, it was decided that sanction be granted. In the same paragraph, this Court has also opined that the Hon'ble Court need not enter into realm of knowing the exact meaning of these two expressions 'approval' and 'sanction'. He further submits that vide order dated 11.07.2017 passed in M.Cr.C No. 19471/2016 (*Vijay Kant Pandey vs. State of Madhya Pradesh*), in para-7 and 8, this Court has discussed issue regarding difference between 'formal authentication' of order and authority that has considered and granted sanction. Ergo, that signature of Joint Director in sanction order dated 21.03.2022 in the present case is also formal authentication of order whereas sanction has been considered, granted and approved by the Managing Director. Lastly, learned counsel

for respondent No.1 vehemently submits that *prima facie* case is made out against the petitioner and the parameters laid down by the Supreme Court in the case of ***Haryana vs. Bhajan Lal*** *reported in* ***1992 Supp (1) SCC 335*** are not applicable in the present case and in view of the aforesaid decisions of the Apex Court, the present petition filed by the petitioner is wholly misconceived and without any substance, therefore, the same is liable to be dismissed.

10. After considering the arguments advanced by learned counsel for the parties, it it is apposite to discuss the relevant statutory provisions i.e. Sections 13 and 19 of the PC Act, which reads as under :-

> **13. Criminal misconduct by a public servant.**—
> [(1) A public servant is said to commit the offence of criminal misconduct,—
> (a) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or any property under his control as a public servant or allows any other person so to do; or
> (b) if he intentionally enriches himself illicitly during the period of his office.
> Explanation 1.—A person shall be presumed to have intentionally enriched himself illicitly if he or any person on his behalf, is in possession of or has, at any time during the period of his office, been in possession of pecuniary resources or property disproportionate to his known sources of income which the public servant cannot satisfactorily account for.

Explanation 2.—The expression "known sources of income" means income received from any lawful sources.]

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than [four years] but which may extend to [ten years] and shall also be liable to fine."

"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 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. Pondering upon the aforesaid provisions which mandates granting of "sanction" and the 'authority competent to remove him from his office' is required to take a decision which is manifest from the third proviso of sub-section (1) of Section 19 and the word 'sanction' carries a significance which came in for consideration before the Division Bench of this Court in

the case of **Baini Prasad Chansoriya (supra)** wherein the Division Bench after scrutinizing Section 17-A of PC Act observed that the object of the said provision is likewise similar to that of Section 19 i.e. to protect the public servant from frivolous and malicious prosecution. The Division Bench further clarified and enumerated that the legislature had chosen to use the expression 'approval' instead of 'sanction' and in saying so, dictionary meaning and usage of the said words 'approval' and 'sanction' came to be delineated. Further, in paragraph-6.2, the Division Bench has observed as under :-

> **"6.2.** Since the term 'approval' is neither defined in the PC Act nor in the CrPC, one has to fall back upon the dictionary meaning of the phrases. From the dictionary meaning and usage of said two expression, it is apparent that the cardinal difference is that 'approval' is used in general context while the expression 'sanction' is used in official, formal and legal context. Moreso, again 'approval' denotes giving consent while 'sanction' is grant of formal permission to do something or to impose/authorize punishment."

12. In view of the aforesaid discussion and in the teeth of sanction order dated 21.03.2022, it is apparent that it is not disputed that the decision of Joint Director to grant sanction against the petitioner came to be approved by competent authority i.e. Managing Director. In this regard, it is pertinent to mention that the statement of sanction witness i.e. Joint Director has already been recorded before the learned Court of Special Judge (Prevention of Corruption Act, 1988) and charges have also been

framed against the petitioner for the aforesaid offence. Even for the sake of argument, if we accept that the sanction was not granted by the competent authority then at this stage, it cannot be said that the prosecution sanction given by the Joint Director, which is admittedly approved by the Managing Director, who is competent to remove the petitioner from his office, is not valid. This fact can be considered only at the time of passing of the judgment after considering all the evidence adduced by the prosecution. Any opinion of this Court regarding the validity of sanction, would prejudice the defence of the petitioner which would be taken by him during the trial. Further, while deciding an application under Section 227 CrPC and while framing charges, the competent Court has to only determine a *prima facie* case against the accused keeping in view the decision of Apex Court in the case of ***C.B.I. vs. Ashok Kumar Aggrawal reported in AIR 2014 SC* 827** wherein it has been held that validity of an order granting sanction can be challenged only at the time of trial and not at the stage of inquiry or pre-trial, as has been done in the case in hand. The submission of the petitioner/accused is to be confined to the material produced by the Investigating Agency. The documents produced by the petitioner, including those with respect to delegation of power, cannot be examined at this stage as the same is a part of defence of the petitioner which is to be considered at the stage of trial.

13. In addition to above, the Hon'ble Supreme Court in the case of ***State of Punjab vs. Hari Kesh, 2025 SCC OnLine 49***, has held that whether the sanction has been granted by the competent authority or not, would be a matter of evidence. Further, as per sub-section (3)(a) of Section 19 of P.C.

Act, "*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.*" Subsequently, the explanation to sub-section (4), for the purpose of Section 19, error includes "*competency of the authority to grant sanction*".

14. Upon due consideration of the submissions advanced and a careful examination of the record, without expressing any opinion on the merits of the legal issue involved, this Court, is of the opinion that the findings recorded by the Court below in the impugned order are reasoned, supported by the material placed on record and based on sound judicial appreciation, therefore, it does not suffer from any illegality, perversity, or material irregularity so as to warrant interference by this Court. It is a settled law that inherent powers under Section 482 of CrPC should not be exercised to stifle a legitimate prosecution. From the material on record, it could not be said that the prosecution initiated against the petitioner was either false, vexatious or an abuse of process of Court.

15. Accordingly, this petition filed by the petitioner under Section 482 of Cr.PC is hereby **dismissed**.

(VIVEK KUMAR SINGH) **JUDGE**	**(AJAY KUMAR NIRANKARI)** **JUDGE**

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