



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Criminal Revision Petition No. 748/2019
CNR: RJHC010367882019 | URN: CRLR / 2058U / 2019

State of Rajasthan, Through PP

-----Petitioner

Versus

Bhagwan Singh S/o Sh. Madho Singh Charan, Aged About 52
Years, R/o Sadu Chhoti, Panchayat Samiti Sujangarh, Distt.
Churu (Raj.)

-----Respondent

For Petitioner(s) : Mr. Sri Ram Choudhary, PP
For Respondent(s) : Mr. Awar Dan Ujjawal

HON'BLE MR. JUSTICE KULDEEP MATHUR

ORDER

Reserved on: 27/07/2026

Pronounced on: 07/08/2026

1. The present criminal revision petition under Sections 397 and 401 of the Code of Criminal Procedure has been preferred by the petitioner-State assailing the order dated 12.10.2018 passed by the learned Sessions Judge, Anti Corruption Cases, Bikaner in connection with FIR No.266/2009, whereby the learned trial Court directed the Anti Corruption Bureau to obtain previous prosecution sanction against accused respondent Bhagwan Singh under Section 19 of the Prevention of Corruption Act, 1988, as amended by the Prevention of Corruption (Amendment) Act, 2018, before taking cognizance of the offences alleged against him.
2. Succinctly stated, the facts of the present case are that after completion of investigation, the Anti Corruption Bureau submitted a charge-sheet on 18.02.2017 against accused respondents Kalu



Ram, Raju Ram, Gyana Ram and Bhagwan Singh for the offences punishable under Sections 13(1)(c), 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988 and Sections 420, 467, 468, 471, 477-A, 193, 197 and 120-B of the Indian Penal Code. The matter remained pending before the learned trial Court at the stage of consideration of cognizance. During the pendency of the said proceedings, the Prevention of Corruption (Amendment) Act, 2018 came into force with effect from 26.07.2018 whereby Section 19 of the Act was amended.

It was noticed by the learned trial Court that accused respondent Bhagwan Singh was serving as the Sarpanch of Gram Panchayat Sadu Chhoti, Panchayat Samiti Sujangarh, District Churu at the time of the alleged commission of offence, though he had ceased to hold the said office by the time the charge-sheet came to be filed. Since cognizance had admittedly not been taken till the amended provisions came into force, the learned trial Court, by the impugned order dated 12.10.2018, directed the Investigating Agency to obtain previous prosecution sanction from the competent authority before proceeding further against the accused respondent Bhagwan Singh.

Aggrieved thereby, the petitioner-State has preferred the present revision petition.

3. Learned Public Prosecutor submitted that the learned trial Court has committed a manifest error of law in directing the Investigating Agency to obtain prosecution sanction by applying the amended provisions of Section 19 of the Prevention of Corruption Act. It was contended that the alleged offences were committed much prior to the amendment and even the charge-



sheet had been filed on 18.02.2017, i.e., prior to the coming into force of the Prevention of Corruption (Amendment) Act, 2018. It was, therefore, submitted that the amended provision, being prospective in operation, could not have been applied to the present case.

Learned Public Prosecutor further submitted that the prosecution cannot be prejudiced merely because cognizance remained pending before the learned trial Court for a considerable period. It was, thus, prayed that the impugned order deserves to be quashed and the learned trial Court be directed to proceed to take cognizance without insisting upon previous sanction.

4. *Per contra*, learned counsel appearing for the accused respondent supported the impugned order and submitted that the embargo created under Section 19 of the Prevention of Corruption Act operates at the stage of taking cognizance and not at the stage of investigation or filing of the charge-sheet. He further submitted that since admittedly no cognizance had been taken till the amended provisions came into force on 26.07.2018, the learned trial Court has rightly directed the Investigating Agency to obtain previous prosecution sanction before proceeding further in the matter. It was, therefore, prayed that the revision petition deserves to be dismissed.

5. Heard learned counsel for the parties. Perused the material available on record.

6. The following issue arises for consideration of this Court:-

"Whether in a case where the charge-sheet had been filed prior to the coming into force of the Prevention of Corruption (Amendment) Act, 2018, but cognizance had admittedly not been



taken till the amendment came into force, the requirement of previous sanction under the amended Section 19 of the Prevention of Corruption Act, 1988 would be attracted?"

7. Before dealing with the controversy involved in the present case, it would be apposite to reproduce the relevant portion of Section 19 of the Prevention of Corruption Act, 1988 as amended by Act 16 of 2018:-

"19. Previous sanction necessary for prosecution.—

(1) No court shall take cognizance of an offence punishable under sections 7, 7A, 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, 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, of that Government;

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

8. There is no dispute with regard to the fact that the alleged offences are of a period prior to the amendment of the Prevention of Corruption Act, and that the charge-sheet had already been filed on 18.02.2017 and that till 26.07.2018, when the Prevention of Corruption (Amendment) Act, 2018 came into force, the learned trial Court had not taken cognizance of the offences in the present case. The sole question, therefore, is whether the amended requirement of previous sanction under Section 19 would govern such a situation.





9. A plain reading of Section 19 leaves no manner of doubt that the embargo created therein operates only at the stage when the Court proceeds to take cognizance of an offence. The provision neither regulates the stage of investigation nor the filing of the police report under Section 173 Cr.P.C. It simply creates a statutory bar upon the competence of the Court to take cognizance unless the previous sanction contemplated therein has been obtained. Thus, the stage at which Section 19 becomes operative is not the registration of the FIR or submission of the charge-sheet, but the stage of 'taking cognizance' by the competent Court.

10. So far as contention raised by the petitioner-State that since the alleged offences were committed and the charge-sheet had already been filed prior to 26.07.2018, the amended provisions of Section 19 cannot be invoked and the requirement of previous sanction would not apply, it does not merit acceptance as the stage at which Section 19 of the Prevention of Corruption Act operates is the stage when the Court proceeds to take cognizance of the offence. The statutory embargo created by Section 19 is not attracted either at the stage of investigation or upon filing of the police report under Section 173 Cr.P.C. The legislature has consciously chosen the stage of cognizance as the point at which compliance with the requirement of previous sanction becomes mandatory.

Consequently, the date of commission of offence or submission of the charge-sheet cannot, by themselves, determine the applicability of the amended provision.





11. It is well settled that though procedural amendments ordinarily operate retrospectively, such rule is not absolute. The Hon'ble Supreme Court in ***Hitendra Vishnu Thakur Vs. State of Maharashtra; (1994) 4 SCC 602***, has held that a procedural amendment which creates new rights, obligations or additional statutory protection cannot be applied retrospectively so as to disturb completed proceedings unless such intention is clearly manifested by the legislature. The amendment introduced in Section 19 by Act No.16 of 2018 undoubtedly enlarges the protection available to public servants by extending the requirement of previous sanction even to those who had ceased to hold office on the date cognizance is taken. However, the provision itself becomes operative only at the stage of cognizance.

12. The Hon'ble Supreme Court, in the cases of ***Kalicharan Mahapatra Vs. State of Orissa; (1998) 6 SCC 411***, ***Habibulla Khan Vs. State of Orissa; (1995) 2 SCC 437*** and ***L. Narayana Swamy Vs. State of Karnataka; (2016) 9 SCC 598***, while interpreting the unamended Section 19, has consistently held that under the unamended provision, no sanction was required where the accused had ceased to hold public office on the date cognizance was taken. The amendment brought into force on 26.07.2018 altered this legal position by specifically providing that previous sanction would be necessary even where the accused was employed as a public servant at the time of commission of the alleged offence though he may have demitted office thereafter. Thus, what stood altered by the amendment was not the stage at which sanction is required, but the category of public servants entitled to such protection.



13. The Kerala High Court, while examining the very question involved in the present case in **WP(C) No.25863/2020** and connected matters, after relying upon and considering the aforesaid decisions of the Hon'ble Supreme Court, held that although the amendment to Section 19 is prospective in operation, the relevant point of time for determining its applicability is the date on which the Court proceeds to take cognizance of the offence. The amended provision does not distinguish between offences committed before or after 26.07.2018; rather, it mandates that where cognizance is to be taken after the amendment has come into force, the Court must ensure compliance with the statutory requirement of previous sanction.

14. In the present case, it is an admitted position that though the charge-sheet had been filed on 18.02.2017, the learned trial Court had admittedly not taken cognizance till the amended provision came into force on 26.07.2018. Therefore, when the learned trial Court proceeded to consider the matter by the impugned order dated 12.10.2018, it was bound to apply the law as it existed on that date. The direction issued by the learned trial Court requiring the Investigating Agency to obtain previous prosecution sanction before cognizance is taken by the Court is thus in consonance with the amended statutory mandate and cannot be said to suffer from any legal infirmity.

15. The order under challenge neither determines the guilt of the accused nor terminates the prosecution. It merely directs compliance with a statutory requirement before the Court proceeds to take cognizance. In the opinion of this Court, no patent illegality, jurisdictional error or manifest perversity is



inferred in the approach adopted by the learned trial Court so as to warrant interference in exercise of revisional jurisdiction.

16. Consequently, the present criminal revision petition, being devoid of merit, deserves to be dismissed and the order impugned is affirmed.

17. Pending application(s), if any, stand disposed of accordingly.

(KULDEEP MATHUR),J

6/Divya Raj Jasmatiya