

2026 LiveLaw (SC) 738

IN THE SUPREME COURT OF INDIA
EXTRAORDINARY APPELLATE JURISDICTION
J.B. PARDIWALA; J., K. VINOD CHANDRAN; J.
Special Leave Petition (Crl.) No.2951 of 2026; July 23, 2026
State of Rajasthan & Ors. versus Dev Kant Meena

Prevention of Corruption Act, 1988 – Section 19 – Grant or Refusal of Sanction – Reconsideration / Review of Order Refusing Sanction – Power of Review – Scope and Standard of Evaluation - No Express Power of Review - Section 19 of the Prevention of Corruption Act, 1988 does not contain any express provision regarding review or reconsideration of the matter by the sanctioning authority once the power to grant or refuse sanction has already been exercised – i. Review on Same Material Impermissible - A mere change of opinion *per se* on the exact same material is completely impermissible and cannot form the ground for reviewing an earlier order that refused to grant sanction – ii. When Review is Permissible - A review of an order refusing sanction is permissible *only* when fresh materials are collected by the investigating agency, which were not available at the earlier instance, provided there is a proper application of mind to such new materials – iii. External Pressure and Extraneous Dictates Vitiates Sanction - Sanction for prosecution is a statutory safeguard designed to protect innocent public servants from frivolous, vexatious, and unsubstantiated allegations - The decision-making process under Section 19 cannot be influenced by political dictates, extraneous considerations, or pressure exerted by higher authorities (such as the Chief Minister's office); iv. Standard of Evaluation by Sanctioning Authority - If the administrative/sanctioning authority itself expresses reasonable doubts and suspicions regarding the demand of bribe, the trap laid, or the recovery of money, sanction ought to be declined - Where two views are reasonably possible on the materials produced, the view exonerating the officer should be taken. [Paras 7 - 12]

Prevention of Corruption Act, 1988 – Section 19 – Code of Criminal Procedure, 1973 – Section 197 – Role of Sanctioning Authority - The sanctioning authority must independently apply its mind to the materials placed before it without acting under external force, coercion, or political dictate - Granting sanction upon reconsideration on identical material especially under political pressure—vitiates the sanction order and amounts to an abuse of process. [Relied on *Mansukhlal Vithaldas Chauhan v. State of Gujarat*, (1997) 7 SCC 622; *State of H.P. v. Nishant Sareen*, (2010) 14 SCC 527; *Gopikant Choudhary v. State of Bihar*, (2000) 9 SCC 53; *State of Punjab v. Mohd. Iqbal Bhatti*, (2009) 17 SCC 92; Paras 8-13]

[Arising out of impugned final judgment and order dated 10-03-2025 in SBCRWP No. 1475/2021 passed by the High Court of Judicature for Rajasthan at Jaipur]

For Petitioner(s): Ms. Nidhi Jaswal, Adv. Mr. Saurabh Rajpal, AOR

For Respondent(s): Mr. Siddharth Dave, Sr. Adv. Mr. Namit Saxena, AOR Mr. Awnish Maithani, Adv. Ms. Shruti Singh, Adv. Mr. Yusuf Tariq, Adv.

ORDER

The decision-making process under Section 19 of the Prevention of Corruption Act, 1988 cannot resemble the dilemma in '*Hamlet's Soliloquy*': '*to be or not to be*', though expressed in a different context. If there is ambivalence, it could be presumed that extraneous considerations weighed and here is a case where political dictate is blatantly displayed.

2. The petitioner filed a writ petition seeking to call for the record of the sanction for prosecution with respect to Challan No. 18/2019 of 29.01.2019 submitted by the Additional Superintendent of Police in Case No.04/2019 pending in the Court of Special Judge, ACD, Ajmer to quash it as null and void and restrain the respondents from taking any disciplinary action against him. The sanction was initially declined and later, on undue coercion, without anything new, was granted.

3. The charge arose, as is seen from the impugned order when a complaint was made at the Police Station- CPS, ACB, Jaipur, District-Chauki: ACB Special Unit, Ajmer that the petitioner had demanded Rs.5,000 to Rs.6,000 for the knee surgery of the complainant's relative. An amount of Rs.1,000 was paid on 24.03.2017, followed up with another Rs.2,000 on 25.03.2017 and Rs.3,000 on 27.03.2017. Further an amount of Rs.500 was also received and Rs.2,000/- was handed over on 29.03.2017 after the surgery. The amount of Rs.2,000/- handed over on 29.03.2017 is alleged to have been recovered from the drawer of the table at the official residence of the petitioner where he was arrested, in pursuance to a trap laid.

4. The Joint Secretary, Department of Personnel, Government of Rajasthan on 14.03.2018 made his recommendation, of which Para Nos.33 & 34 are extracted in the impugned order. On perusal of the case file, it was opined that the transcript of the conversation over the telephone on 29.03.2017, does not unequivocally establish that the accused officer received a bribe. The conversation transcript dated 27.03.2017 also was not a demand of bribe but the petitioner had stated the cost of steel plates to be implanted on the patient would be Rs.5000/- to Rs.6000/-; in response to a specific query made to that end. It was noticed that since the patient was not eligible under an extant beneficial scheme, the amount would have to be borne by the patient himself. As to the bribe amounts handed over earlier there was no substantiation and it remained a mere assertion. On the trap being laid, the money was recovered from inside the table drawer which was locked; the key to which, as spoken of by the petitioner was lost. Admittedly, the lock was broken open and the money recovered which was found to be highly suspicious. According to the petitioner the complainant handed over an X-ray film and shook hands in gratitude, which could be the reason for the test solution changing light pink during the handwash of the petitioner. It was also specifically noticed that there was a news report going around congratulating members of a political party for having trapped the petitioner. In the video footage, the said persons were also seen claiming that they have trapped another doctor too which was found to be mere publicity stunt to gain popularity. More importantly, the surgery was completed on 28.03.2017 making the receipt of a bribe on 29th highly suspicious. The patient or his relatives had not complained and though, the complainant had stated that he was a relative of the patient, nothing comes forth, on the relationship. The Principal Secretary, Department of Personnel approved the proposal of the Joint Secretary and sent it to the Chief Secretary of Rajasthan, who declined the sanction after perusing the files.

5. The deliberate digression from the essential duties, presumably on political considerations, commenced when the Joint Secretary of the Chief Minister (C.M) on 24.05.2018 referred back the matter for reconsideration, asserting that the money recovered from the table drawer of the petitioner clearly proved the acceptance of bribe which was confirmed by the handwash. The learned Single Judge in the impugned order immediately noticed that there was absolutely no occasion for the respondents to reconsider on the basis of the same material; the Joint Secretary to the CM having not brought forth any new material. Again, the Department of Personnel considered the issue of sanction and made recommendations concurring with the earlier view taken. Paragraph

37 which is the relevant extract of the recommendation is reproduced in the judgment. We need not reiterate the narration because the net result was the same, even on a complete reassessment, which we pertinently observe was not a verbatim reproduction of the earlier one. It was categorically found that a review reveals no explicit demand having been made and the recovery of the bribe from the drawer after breaking it open clearly raises a suspicion regarding the alleged receipt and recovery of bribe money. The handwash was also found irrelevant since an X-ray was handed over by the complainant and so did he shake hands, of the doctor, in gratitude.

6. Based on the recommendation, the Secretary opined that there is no ground to grant sanction. The Secretary specifically noticed that the surgery was completed on the previous day, no clear demand is established and that foul play during trap cannot be ruled out. On reference to the Chief Secretary, a discussion was carried out and the Chief Secretary found that, while some aspects raise suspicion, some other aspects point a finger at the petitioner; a dilemma arising on pressure exerted, obviously. Taking an overall view, the Chief Secretary opined that approval of sanction may be considered.

7. It is trite that, when there are two views possible, especially in proceeding with a criminal prosecution against a public servant, the view exonerating the officer should be taken, especially since the criminal prosecution can lead to a finding of guilt only if it is proved beyond any reasonable doubt. If the administrative authority itself expresses a doubt and suspicion regarding the demand of bribe, the trap laid and the recovery of the money there is no question of a sanction being granted, since it is a very reasonable and valid doubt. In the present case even on preponderance of possibilities, there arise a case of victimization; which we notice only to emphasize that, in considering a sanction for prosecution the standard should be of a possibility of bringing home the guilt of the delinquent, beyond reasonable doubt, a tad higher than mere preponderance of probabilities but surely not to the extent of finding concrete proof beyond reasonable doubt, which is the function of the jurisdictional court.

8. Here, we have to notice the law on the point as succinctly stated in **Mansukhlal Vithaldas Chauhan v. State of Gujarat**¹

‘...sanction is a weapon to ensure discouragement of frivolous and vexatious prosecution and is a safeguard for the innocent but not a shield for the guilty.’

9. Relying on the decision in **State of H.P. v. Nishant Sareen**², it was held that ‘Section 19 or for that matter Section 197 of the Code of Criminal Procedure, 1973 does not make any express provision regarding review or reconsideration of the matter by the sanctioning authorities once such power has been exercised’. **Gopikant Choudhary v. State of Bihar**³ was also noticed wherein the Minister concerned refused to accord sanction and after retirement of the public servant, the matter was taken up by the Chief Minister and the sanction for prosecution was granted. Setting aside the sanction granted by the CM, it was found *inter alia* that the CM had neither applied his mind nor were there new materials available and that grant or refusal of sanction should be preceded by proper application of mind by the appropriate authority.

10. **State of Punjab v. Mohd. Iqbal Bhatti**⁴ held that though the State, in the matter of grant or refusal of sanction exercises a statutory authority, it cannot be said that there is

¹ (1997) 7 SCC 622

² (2010) 14 SCC 527

³ (2000) 9 SCC 53

⁴ (2009) 17 SCC 92

no power to review once the power is exercised, since there is no such express statutory power conferred. An express power of review may not be necessary when the power is administrative in character and the paramount consideration in a judicial review is the application of mind to the materials coming forth in the case and not necessarily with respect the decision as such. It was held that when a decision is taken to decline sanction by the appropriate authority, reviewing such order on the very same material would not be appropriate or permissible (para 9). A mere change of opinion *per se* on the same materials cannot be a ground for review or reconsideration of an earlier order, refusing to grant sanction. A caveat was also made that, on the basis of fresh materials collected by the investigating agency, there could be a review of refusal to sanction, when there is a proper application of mind on the fresh materials which were not available at the earlier instance.

11. *Nishant Sareen*² was a case in which the Principal Secretary (Health) on the basis of the material placed before her found no reason to grant a sanction for prosecution on the categorical findings that the complaint was frivolous, the officer was known for his impartiality and it has resulted in unnecessary harassment and hindrance to his working as a Drug Inspector. Later, the Principal Secretary carried out a review on the basis of the opinion of the Vigilance Department that there is sufficient evidence on record to prosecute the respondent, which is a decision arrived at on extraneous dictates. This Court found the approval of sanction to be vitiated since there were no fresh materials and it was motivated because a different opinion was expressed by the Vigilance Department. The facts clearly indicated non application of mind at the second instance, where the same materials were available for consideration, which had persuaded the officer to deny sanction at the earlier instance.

12. The facts in the instant case also bring us to the very same conclusion. The impugned order specifically notices ***Mansukhlal Vithaldas Chauhan*¹** which cautioned the sanctioning authority from acting under any pressure or external force swaying its decision one way or the other. The object of Section 19, to ensure that a public servant does not suffer harassment on false, frivolous, concocted and unsubstantiated allegations as observed in ***Nishant Sareen*²** was also noticed. We find absolutely no reason to interfere with the impugned order, and we deprecate such instances bringing out interference leading to unnecessary harassment of public officers discharging public duties; which is sought to be avoided by Section 19 of the Prevention of Corruption Act.

13. We cannot but observe that the petitioner has been dragged unnecessarily to the High Court by the review, prompted by the office of the CM. The State at least should have rested content, when the highest Constitutional Court within its boundaries, interfered with a patently illegal and blatantly tainted order of sanction. We hence dismiss the Special Leave Petition with the above observations and further direction to the State to pay cost quantified at Rs.50,000/- each, before the High Court and this Court. The costs shall be paid within a period of two months from today, failing which the petitioner would be entitled to move this Court by moving a M.A in the disposed of SLP bringing to our notice, the failure.

14. The Special Leave Petition stands disposed of on the above terms.

15. Pending applications, if any, shall also stand disposed of.