Reportable

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1837 OF 2019
(Arising out of Special Leave Petition (Crl.) No.6106 of 2019)

STATION HOUSE OFFICER, CBI/ACB/BANGALORE …Appellant

VERSUS

B.A. SRINIVASAN AND ANR. …Respondents

**J U D G M E N T**

**Uday Umesh Lalit, J.**

1. Leave granted.

2. This Appeal challenges the judgment and order dated 08.08.2018 passed by the High Court[1] allowing Criminal Revision Petition No.834 of 2015 preferred by the Respondent No. 1; and thereby discharging the Respondent No.1 of the offences punishable under Sections 419, 420, 467, 468, 471 read with Section 120B of the Indian Penal Code, 1860 ('IPC', for



1 The High Court of Karnataka at Bangalore

short) and Sections 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988 ('the Act', for short).

3. The Respondent No. 1 retired on 31.10.2012 as Assistant General Manager, Vijaya Bank. On 28.10.2013, FIR being RC 12(A)/2013 was registered pursuant to complaint given by the General Manager, Vijaya Bank, Head Office, Bangalore against the Respondent No.1 in respect of the offences mentioned hereinabove. After completion of investigation, charge-sheet was filed on 31.10.2014 against the Respondent No.1 and other accused in respect of said offences. It was alleged *inter alia* :-

> "3. That Shri B.A. Srinivasan (A-1) while working as Assistant General Manager (AGM) and Branch Head, Vijaya Bank, Mayo Hall Branch, Bangalore during the period from 11.01.2010 to 20.10.2012 entered into a criminal conspiracy with Shri B.Lakshman (A-3), Smt. Shanta Gowda (A-4) and Shri S.V. Isloor (A-5) to cheat and defraud Vijaya Bank, Mayohall Branch, Bangalore and to extend undue financial accommodation to M/s. Nikhara Electronics and Allied Technics (A-2) on the basis of fake and fabricated documents and in furtherance of the said criminal conspiracy, Shri B.A. Srinivasan (A-1) sanctioned and disbursed Rs.200 lakhs of Term Loan and Rs.100 lakhs of Cash Credit Hypothecation (Working Capital) in favour of M/s. Nikhara Electronics and Allied Technics (A-2) without proper due diligence and in gross violation of all extant rules and regulations of Vijaya Bank, and hence, facilitated A-3 and A-4 to divert the loan-funds against the terms and conditions, thereby causing wrongful loss to Vijaya Bank and corresponding gains to others.

… … …

8. That Shri B. Lakshnian (A-3) and his wife Smt. Shanta Gowda (A-4) fraudulently created an agreement dated 10.06.2011 on the photocopy of e-stamp paper having franking No.57724 dated 08.06.2011 and submitted a copy of the same to Vijaya Bank to support their dishonest claim of taking over M/s. Nikhara Electronics & Allied Technics, proprietary concern by making a payment of Rs.1.00 Crore as goodwill to Shri Venkataramana Bhat (A-6). Shri B.A. Srinivasan (A-1) dishonestly accepted the photocopy of the agreement intentionally omitting to ascertain its genuineness or authenticity. It is revealed that the above agreement was fraudulently created on the photocopy of e-stamp paper franked vide 57724 dated 08.06.2011 and the original stamp paper remained blank was seized from the office premises of Shri S.V. Isloor (A-5). It is thus established the fraudulent intentions of all the accused persons to create forged documents as and when required and to misrepresent that the proprietary unit was taken over by A-3 and A-4 from A-6.

… … …

16. That Shri B.A. Srinivasan (A-1) in furtherance of criminal conspiracy with the other accused dishonestly, by abusing his official position as AGM & Branch Head of Vijaya Bank, Mayohall Branch fraudulently considered the loan application, processed loan proposals in gross violation of the rules and regulations of Vijaya Bank in this regard in order to favour the accused persons. He intentionally accepted the inflated financial statements submitted by A-3 and A-4 even though they were not audited and considered them for working out the credit assessment of the borrower firm i.e., M/s. Nikhara Electronics and Allied Technics (A-2). He purposely did not exercise due diligence to analyse the financial statements submitted by the borrower firm which contained several inconsistencies. He also did not conduct the mandatory pre-sanction verification at the

address of the borrower firm to ascertain whether any business activities such as manufacturing of electric equipment etc., were going on as claimed in the loan application. The criminal acts of Shri B.A. Srinivasan (A-1) facilitated the accused private persons to misrepresent the existence of M/s. Nikhara Electronics and Allied Technics (A-2), which actually existed only on the forged partnership deed dated 10.06.2011, created by A-3 and A-4.

17. That Shri B.A. Srinivasan (A-1) prepared the Credit Process Note himself and obtained the signatures of Shri Jyoti Prakash Shetty, the then Asst. Manager in the column of appraising official. Shri Nabeel Ahmed, the then Probationary Manager was also made to put his initials in the process note, merely as a token of his training. It is revealed that A-1 prepared the proposals for an aggregate amount of Rs.300 lakh (term loan of Rs.200 lakhs and cash credit of Rs.100 lakhs) as against the request for Rs.350 lakhs (term Loan of Rs.200 lakhs; working capital of Rs.130 lakhs and Bank Guarantee of Rs.20 lakhs) without there being any clarification/justification for such reduction in the requirements of the applicant.

18. That Shri B. Lakshman (A-3) fraudulently submitted a forged Letter No. REFREF: SP: QT: 155: 2011 dated 10.08.2011 purportedly signed as JAK, Partners, M/s. V-Tech Engineering Enterprises along with Quotations/Proforma Invoices for an aggregate amount of Rs.2,69,60,496/- which were purportedly issued by M/s.V-Tech Engineering Enterprises.

… … …

33. That Shri B.A. Srinivasan (A-1) was also fully aware that property offered as collateral security was in occupation of third parties (tenants). However, A-1 dishonestly and fraudulently chose to ignore this important fact, in spite of his field inspection and also the observations made by the valuer in his Valuation Report. Concurrent Auditor of the Bank also pointed out this fact in her report adding that the tenants in

occupation of collateral security would adversely affect the interests of the bank, in the event of necessity, to enforce sale of the property to recover its dues. It is also revealed that tenants were paying rents to Shri Nagesh s/o late Krishnappa, who sold the property to Shri Nilakanth Sanikop, from whom A-3 purchased the property. A-1 intentionally omitted to make any endeavour to ascertain the nature of rights of the tenants, despite the fact that in future it would affect the enforceability of the mortgaged property by the bank.

34. That Shri B.A. Srinivasan (A-1) also violated the extant rules of the bank by not obtaining the Legal Audit Report, on the mortgaged property, prior to processing and sanctioning of loans to M/s. Nikhara Electronics and Allied Tekchnics. Shri B.A. Srinivasan (A-1) obtained this report only on 19.04.2012, more than six months after the loan was sanctioned and disbursed.

35. By the above said acts, Shri B.A. Srinivasan (A-1), the then AGM, Vijaya Bank, Mayo Hall Branch, Bangalore; M/s. Nikhara Electronics and Allied Technics (A-2); Shri B. Lakshman @ Lakshman Reddy (A-3); Smt. Shanta Gowda (A-4); Shri S.V.Isloor (A-5) and Shri Venkataramana Bhat (A-6) committed the offences of cheating and personating as proprietor, M/s. V-Tech Engineering Enterprises, committed forgery of documents such as Quotations, Cash/Credit Bills, vouchers etc. for the purpose of cheating, using the forged documents as genuine in pursuance of the criminal conspiracy among themselves, thereby causing wrongful loss to the bank and corresponding gains to themselves and others. Investigation also establishes that Shri B.A. Srinivasan (A-1) committed the offence of criminal misconduct by gross abuse of his official position as the then AGM of Vijaya Bank, Mayo Hall Branch, Bangalore, and caused accrual of pecuniary advantage to the accused private persons, attracting the penal provisions of the Prevention of Corruption Act, 1988. That, the above acts of Shri B.A. Srinivasan (A-1),

> M/s. Nikhara Electronics and Allied Technics (A-2), Shri B. Lakshman (A-3), Smt. Shanta Gowda (A-4), Shri Shripad Vishwanath Isloor (A-5) and Shri Venkataramana Bhat (A-6) constitute offences punishable u/s 120-B r/w 420, 419, 468 & 471 IPC and 13(2) r/2 13(1)(d) of the Prevention of Corruption Act, 1988.
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> 36. That Shri B.A. Srinivasan (A-1) is retired from the services of Vijaya Bank on 31.10.2012; hence sanction for prosecution u/s 19 of the PC Act, is not required."

4. After the cognizance was taken by the concerned court, an application was moved by the Respondent No.1 seeking discharge in terms of Sections 227 and 239 of the Code of Criminal Procedure, 1973 ('the Code', for short). This application was rejected by the Additional City Civil and Sessions Judge and Principal Special Judge for CBI cases, Bangalore, vide order dated 13.04.2015. It was observed:-

> "…As can be seen from the charge sheet and statement of witnesses, accused No.1 has deliberately violated the rules and regulations and bank norms of the bank while processing the loan application of accused No.2 firm and thereby he had entered into criminal conspiracy with accused Nos.3 to 6 and accepted the fabricated and forged vouchers, invoices inflated financial statements in order to facilitate accused Nos.3 and 4 to avail the term loan of Rs. Two Crores cash credit and Rs. One Crore. The said term loan and cash credit of Rs.Three Crores were misutilised for the purpose other than for which the loan was sanctioned. Thus, all materials clearly go to show that there was dishonest intention on the part of the accused No.1 from the inception itself. The said circumstances and materials collected by the

> Investigating Officer clearly reveal that accused No.1 had entered into criminal conspiracy with accused Nos. 3 to 6 and he had accepted the forged, fabricated invoices and inflated financial statement knowingly fully well that they were forged. …
>
> … … …
>
> Though accused No.1 was public servant, it is alleged that he has retired from the service from Vijaya Bank on 31.10.2013. Therefore, sanction as required u/s 19 of PC Act, 1988 to prosecute accused No.1 is not required. The discharge application filed by accused No.1 is devoid of merits and on the contrary, there are sufficient materials against accused No.1 for framing charge for the offences punishable u/s 120B, 420, 471 IPC and u/s. 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988….”

5. The Respondent No.1, being aggrieved, preferred Criminal Revision Petition No. 834 of 2015 in the High Court, which was allowed by the judgment and order presently under appeal. The High Court, thus set aside the order dated 13.04.2015 as regards the Respondent No.1 and discharged him of the offences with which he was sought to be charged.

6. While dealing with the submission that the allegations against the Respondent No.1 could, at best, be administrative lapses, the High Court observed:-

> “10… …These aspects of administrative lapses, it is to be stated, cannot be considered at the time of framing charge. Unless the witnesses are subjected to cross-examination, no finding can be given whether the omission in following the procedure amounts to administrative lapse or was deliberate. Therefore, this

> point of argument cannot be a ground for discharging accused No.1. Therefore, given a conclusion, it can be opined that the materials on record are sufficient to frame a charge against accused no.1, the findings of the Special Court in this regard do not indicate non-application of mind or, any infirmity or illegality in coming to an opinion that accused no.1 cannot be discharged on this ground. This finding needs to be sustained.

On the issue of sanction, the High Court, however, stated:-

> "11. However, another finding regarding sanction cannot be sustained. The special court has held that the sanction is not necessary as accused no.1 has retired by the time charge-sheet was filed. But the argument of petitioner's counsel is that sanction in accordance with Section 197 CrPC is necessary. Before adverting to this point, I think it necessary to opine that the offences triable by Special Judge related to time when an accused was in service as a public servant. Sanction under Section 19 of Prevention of Corruption Act is necessary to see that a public servant is not entangled in a frivolous and false case. Sanction insulates a public servant from a false or vexatious or frivolous prosecution. Therefore, a protection available to a public servant while in service should also be available after his retirement. It cannot be forgotten that even after retirement, he is prosecuted for offences under prevention of Corruption Act. Indeed, the retirement removes one from the garb of a public servant; but justice requires that same protection should be available even after one's retirement. …"
>
> (underlined by us)

Thereafter, while dealing with submissions based on the decisions of this Court in ***Kalicharan Mahapatra vs. State of Orissa***[2], ***R.***

2 AIR 1998 SC 2595

***Balakrishna Pillai vs. State of Kerala***[3]***, State of Punjab vs. Labh Singh***[4] and ***N.K. Ganguly vs. CBI, New Delhi***[5], the matter was considered as under:-

> "The learned standing counsel for CBI submitted insofar as offences under Indian Penal Code are concerned, they cannot be said to have been committed in discharge of official duty; sanction therefore is not necessary even under Section 197 CrPC. If the allegations levelled against the first accused are seen, and particularly with reference to conspiracy, it is to be stated at the stage of framing charge, it is difficult to discern whether offences can be connected to official capacity or not. Thorough trial requires to be held. If facts in N.K. Ganguly (supra) are seen, there also the accused were sought to be prosecuted for the offences under Prevention of Corruption Act in addition to some of the offences under Indian Penal Code. Thus seen, the first accused should get the benefit of discharge for absence of sanction under Section 197 of CrPC. …"

Thus, it was concluded that the material on record was sufficient to frame a charge against Respondent No.1. The benefit of discharge was however granted on the issue of absence of sanction under Section 197 of the Code.

7. In this appeal challenging the view taken by the High Court, we heard Mrs. Sonia Mathur, learned Senior Advocate, in support of the

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3 (1996) 1 SCC 478
4 (2014) 16 SCC 807
5 (2016) 2 SCC 143

appeal and Mrs. V. Mohana, learned Senior Advocate for the Respondent No.1.

8. Mrs. Sonia Mathur, learned Senior Advocate, submitted that the protection under Section 19 of the Act is available to a public servant only till he is in the employment and no sanction is necessary after the public servant has demitted office or has retired from service. As regards sanction under Section 197 of the Code, it was submitted that for an action to come within the purview of Section 197 of the Code, it must be integrally connected with the official duties or functions of a public servant and that if the office was merely used as a cloak to indulge in activities which result in unlawful gain to the beneficiaries, the protection under said Section 197 would not be available.

It was also submitted that the decision of this Court in ***N.K. Ganguly vs. Central Bureau of Investigation, New Delhi***[5] was in the context of the peculiar facts involved therein.

On the other hand, Mrs. V. Mohana, learned Senior Advocate, submitted that the Respondent No. 1 retired in the year 2012; that the allegations levelled against him would, at best, amount to administrative lapses on his part and there was certainly no criminal intent so as to attract

the charges under the relevant sections; and that this Court may not in its jurisdiction under Article 136(1) of the Constitution interfere in the matter.

9. In ***S.A. Venkataraman vs. The State***[6] while dealing with the requirement of sanction under the *pari materia* provisions of the Prevention of Corruption Act, 1947, it was laid down that the protection under the concerned provisions would not be available to a public servant after he had demitted his office or retired from service. It was stated:-

> "… …if an offence under s. 161 of the Indian Penal Code was committed by a public servant, but, at the time a court was asked to take cognizance of the offence, that person had ceased to be a public servant one of the two requirements to make s. 6 of the Act applicable would be lacking and a previous sanction would be unnecessary. The words in s. 6(1) of the Act are clear enough and they must be given effect to. There is nothing in the words used in s. 6(1) to even remotely suggest that previous sanction was necessary before a court could take cognizance of the offences mentioned therein in the case of a person who had ceased to be a public servant at the time the court was asked to take cognizance, although he had been such a person at the time the offence was committed. … …"

The law so declared by this Court has consistently been followed. For example, in ***Labh Singh***[4] it was observed:-

> "9. In the present case the public servants in question had retired on 13-12-1999 and 30-4-2000. The sanction to prosecute them was rejected subsequent to

6 [1958] SCR 1037

> their retirement i.e. first on 13-9-2000 and later on 24-9-2003. The public servants having retired from service there was no occasion to consider grant of sanction under Section 19 of the PC Act. The law on the point is quite clear that sanction to prosecute the public servant for the offences under the PC Act is not required if the public servant had already retired on the date of cognizance by the court. In *S.A. Venkataraman* v. *State*[6] while construing Section 6(1) of the Prevention of Corruption Act, 1947 which provision is in pari materia with Section 19(1) of the PC Act, this Court held that no sanction was necessary in the case of a person who had ceased to be the public servant at the time the court was asked to take cognizance. The view taken in *S.A. Venkataraman*[6] was adopted by this Court in *C.R. Bansi* v. *State of Maharashtra*[7] and in *Kalicharan Mahapatra* v. *State of Orissa*[2] and by the Constitution Bench of this Court in *K. Veeraswami* v. *Union of India*[8]. The High Court was not therefore justified in setting aside the order passed by the Special Judge insofar as charge under the PC Act was concerned."

10. Consequently, there was no occasion or reason to entertain any application seeking discharge in respect of offences punishable under the Act, on the ground of absence of any sanction under Section 19 of the Act. The High Court was also not justified in observing '*that the protection available to a public servant while in service, should also be available after his retirement*'. That statement is completely inconsistent with the law laid down by this Court in connection with requirement of sanction under Section 19 of the Act.

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7 (1970) 3 SCC 537
8 (1991) 3 SCC 655

11. Again, it has consistently been laid down that the protection under Section 197 of the Code is available to the public servants when an offence is said to have been committed *'while acting or purporting to act in discharge of their official duty'*, but where the acts are performed using the office as a mere cloak for unlawful gains, such acts are not protected. The statements of law in some of the earlier decisions were culled out by this Court in ***Inspector of Police and another vs. Battenapatla Venkata Ratnam and another***[9] as under:-

> "7. No doubt, while the respondents indulged in the alleged criminal conduct, they had been working as public servants. The question is not whether they were in service or on duty or not but whether the alleged offences have been committed by them "while acting or purporting to act in discharge of their official duty". That question is no more res integra. In *Shambhoo Nath Misra* v. *State of U.P.*[10], at para 5, this Court held that: (SCC p. 328)
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> > "5. The question is when the public servant is alleged to have committed the offence of fabrication of record or misappropriation of public fund, etc. can he be said to have acted in discharge of his official duties. It is not the official duty of the public servant to fabricate the false records and misappropriate the public funds, etc. in furtherance of or in the discharge of his official duties. The official capacity only enables him to fabricate the record or misappropriate the public fund, etc. It does not mean that it is integrally connected or inseparably interlinked with the crime committed in the course of the

9 (2015)13 SCC 87
10 (1997) 5 SCC 326

> same transaction, as was believed by the learned Judge. Under these circumstances, we are of the opinion that the view expressed by the High Court as well as by the trial court on the question of sanction is clearly illegal and cannot be sustained."

8. In *Parkash Singh Badal* v. *State of Punjab*[11], at para 20 this Court held that: (SCC pp. 22-23)

> "*20*. The principle of immunity protects all acts which the public servant has to perform in the exercise of the functions of the Government. The purpose for which they are performed protects these acts from criminal prosecution. However, there is an exception. Where a criminal act is performed under the colour of authority but which in reality is for the public servant's own pleasure or benefit then such acts shall not be protected under the doctrine of State immunity."

and thereafter, at para 38, it was further held that: (*Parkash Singh Badal case*[11], SCC p. 32)

> "*38*. The question relating to the need of sanction under Section 197 of the Code is not necessarily to be considered as soon as the complaint is lodged and on the allegations contained therein. This question may arise at any stage of the proceeding. The question whether sanction is necessary or not may have to be determined from stage to stage."

9. In a recent decision in *Rajib Ranjan* v. *R. Vijaykumar*[12] at para 18, this Court has taken the view that: (SCC p. 521)

> "*18. … even while discharging his official duties, if a public servant enters into a criminal conspiracy or indulges in criminal misconduct,*

11 (2007) 1 SCC 1
12 (2015) 1 SCC 513

> *such misdemeanour on his part is not to be treated as an act in discharge of his official duties and, therefore, provisions of Section 197 of the Code will not be attracted*."
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> (emphasis already supplied)

12. It has also been observed by this Court that, at times, the issue whether the alleged act is intricately connected with the discharge of official functions and whether the matter would come within the expression '*while acting or purporting to act in discharge of their official duty',* would get crystalized only after evidence is led and the issue of sanction can be agitated at a later stage as well. In ***P.K. Pradhan vs. State of Sikkim represented by the Central Bureau of Investigation***[13], this Court stated:-

> "15. Thus, from a conspectus of the aforesaid decisions, it will be clear that for claiming protection under Section 197 of the Code, it has to be shown by the accused that there is reasonable connection between the act complained of and the discharge of official duty. An official act can be performed in the discharge of official duty as well as in dereliction of it. For invoking protection under Section 197 of the Code, the acts of the accused complained of must be such that the same cannot be separated from the discharge of official duty, but if there was no reasonable connection between them and the performance of those duties, the official status furnishes only the occasion or opportunity for the acts, then no sanction would be required. If the case as put forward by the prosecution fails or the defence

13 (2001) 6 SCC 704

> establishes that the act purported to be done is in discharge of duty, the proceedings will have to be dropped. It is well settled that question of sanction under Section 197 of the Code can be raised any time after the cognizance; maybe immediately after cognizance or framing of charge or even at the time of conclusion of trial and after conviction as well. But there may be certain cases where it may not be possible to decide the question effectively without giving opportunity to the defence to establish that what he did was in discharge of official duty. In order to come to the conclusion whether claim of the accused that the act that he did was in course of the performance of his duty was a reasonable one and neither pretended nor fanciful, can be examined during the course of trial by giving opportunity to the defence to establish it. In such an eventuality, the question of sanction should be left open to be decided in the main judgment which may be delivered upon conclusion of the trial."
>
> (underlined by us)

13. The offences involved in the case of ***N.K. Ganguly***[5] were under Section 120-B IPC read with Sections 13(1)(d) and 13(2) of the Act i.e. relating to conspiracy to commit offences punishable under the provisions of the Act. Secondly, the conclusion was drawn in the context of the facts available therein which is evident from the following: -

> "35**.** From a perusal of the case law referred to supra, it becomes clear that for the purpose of obtaining previous sanction from the appropriate Government under Section 197 CrPC, it is imperative that the alleged offence is committed in discharge of official duty by the accused. It is also important for the Court to examine the allegations contained in the final report against the appellants, to decide whether previous sanction is required to be obtained by the

> respondent from the appropriate Government before taking cognizance of the alleged offence by the learned Special Judge against the accused. In the instant case, since the allegations made against the appellants in the final report filed by the respondent that the alleged offences were committed by them in discharge of their official duty, therefore, it was essential for the learned Special Judge to correctly decide as to whether the previous sanction from the Central Government under Section 197 CrPC was required to be taken by the respondent, before taking cognizance and passing an order issuing summons to the appellants for their presence."
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> (underlined by us)

14. We now turn to the cases relied upon by Mrs. V. Mohana, learned Senior Advocate. In ***Rishipal Singh vs. State of Uttar Pradesh and another***[14] this Court observed:-

> "13. What emerges from the above judgments is that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made in the complaint prima facie establish the case. The courts have to see whether the continuation of the complaint amounts to abuse of process of law and whether continuation of the criminal proceeding results in miscarriage of justice or when the court comes to a conclusion that quashing these proceedings would otherwise serve the ends of justice, then the court can exercise the power under Section 482 CrPC. While exercising the power under the provision, the courts have to only look at the uncontroverted allegation in the complaint whether prima facie discloses an offence or not, but it should not convert itself to that of a trial court and dwell into the disputed questions of fact."

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14 (2014) 7 SCC 215

This decision thus dealt with the parameters which ought to be considered while entertaining an application under Section 482 of the Code and is not a decision directly on the point. The decision in ***Anil Kumar Bose vs. State of Bihar***[15] pertained to a case which had arisen after a full fledged trial, where, as regards offence punishable under Section 420/34 IPC, it was observed that the essential ingredient being *mens rea*, mere failure on part of the concerned employees to perform their duties or to observe the rules/procedure may be administrative lapses but could not be said to be enough to attract the penal provisions under Section 420 IPC. The matter was considered after the facts had crystalized in the form of evidence before the court and as such, this decision is of no relevance for the present purposes.

15. Having considered the matter in entirety, in our view, the High Court clearly erred in allowing Criminal Revision Petition and accepting the challenge raised by the Respondent No.1 on the issue of sanction. We, thus, allow this Appeal, set aside the view taken by the High Court, restore the order passed by the Trial Court and dismiss the application seeking discharge preferred by the Respondent No.1.

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15 (1974) 4 SCC 616

16. It is made clear that we have adverted to the facts and the allegations only for the purpose of considering the basic issue pertaining to issue of sanction and we shall not be taken to have expressed any view on merits which shall be considered independently. It has been stated by the learned counsel that the matter is listed before the Special Court on 11.12.2019. The Respondent No.1 shall appear before the Special Court on that day and the matter shall, thereafter, be proceeded in accordance with law.

17. This Appeal is allowed in aforestated terms.

……J.
[Uday Umesh Lalit]

……J.
[Indu Malhotra]

……J.
[Krishna Murari]

New Delhi;
December 05, 2019.