

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (Cr.) No. 1043 of 2024

Pooja Singhal, aged about 45 years, wife of Shri Abhishek Jha, resident of Flat No. 3, IAS Officers Bungalow, Governor House, Morabadi, P.O. Morabadi, P.S. Bariatu, District Ranchi

--- --- Petitioner

Versus

Directorate of Enforcement, Union of India represented through its Assistant Director (PMLA)

--- --- Respondent

--

CORAM: **Hon'ble Mr. Justice Ambuj Nath**

For the Petitioner(s) : M/s Indrajit Sinha, Sneh Singh,
Akhouri Awinash Kumar, Ashwini Priya, Advocates

For the Respondent-ED : M/s Zoheb Hossain, Amit Kumar Das,
Sourav Kumar, Varun Girdhar,
Pranjal Tripathi, Advocates

Reserved on: 13.10.2025

Pronounced on: 22.12.2025

Ambuj Nath, J: Petitioner has filed this writ application for quashing of the cognizance order dated 19.07.2022 (Annexure-2) qua the petitioner, passed by Shri Prabhat Kumar Sharma, learned Special Judge, Prevention of Money Laundering Act, Ranchi in connection with ECIR Case No. 03 of 2018, in which cognizance of the offences under sections 3 and 4 of the Prevention of Money Laundering Act, 2002 was taken without adhering to the mandatory requirement of sanction under section 197 of the Code of Criminal Procedure, 1973 corresponding to Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Case of the Respondent Directorate of Enforcement, Union of India is that the prosecution complaint being Complaint Case No. 03 of 2018 dated 12.12.2018 numbered as 03 before the Special Court was filed against one Ram Vinod Prasad Sinha. It is further case of the Respondent that 13 FIRs were registered by the Jharkhand Police at Khunti, number of each case has been mentioned at para-1.2 of the prosecution complaint. During the investigation of all the FIRs, it transpired that defalcation of huge amount of Government money running into crores was found to be true against the named accused persons, as per the audit report. It has also come to light that the petitioner Pooja Singhal who was officiating as the Deputy Commissioner, Khunti defalcated Government money in many projects. The Audit Committee suggested that defalcation to the tune of Rs. 18.06 crore was committed during the period from 16.02.2009 to 19.07.2010, when she was the Principal Authority for sanctioning the funds for different development projects in

connivance with the engineers who are the named accused persons. During the course of investigation, various premises including that of the petitioner and her associates were raided and searched and huge cash amounting to Rs. 19.76 crores were recovered apart from cash and documents/records/digital devices, etc. related to the investigation were also found. The list of money seized from the various associates of this petitioner has been mentioned at page-27 of the prosecution report. The petitioner was confronted with the aforesaid recovery, but she failed to provide any legal source of income. As such, she was arrested on 11.05.2022. Ill gotten money was also invested by the petitioner through her husband, who is also accused in this case.

3. It is also the case of the Respondent that during the investigation, the petitioner was misguiding as well as frustrating the investigation by way of evading question and becoming non-responsive to several questions. In light of the evidence collected during the investigation, as per the Respondent, it is clearly established that the source of such huge cash / ill-earned money was not properly accounted by the petitioner Pooja Singhal. Learned Special Judge took cognizance of the offences under 3 punishable under section 4 of P.M.L. Act, 2002.

4. Case of the petitioner is that the learned Court had taken cognizance under the aforesaid section without obtaining prior sanction under section 197(1) of the Code of Criminal Procedure.

5. It was submitted that the petitioner is admittedly a public servant. Therefore, additional safeguard in the form of sanction under section 197 (1) of the Code of Criminal Procedure has to be considered. It was submitted that cognizance order was bad in law as the mandatory requirement under section 197(1) of the Code of Criminal Procedure was not adhered to. Learned counsel has placed reliance upon the decision of the Hon'ble Supreme Court in the case of **Enforcement Directorate versus Bibhu Prasad Acharya** reported in [2024 SCC Online SC 3181], wherein it was held as under:

“23. Section 65 makes the provisions of CrPC applicable to all proceedings under PMLA, provided the same are not inconsistent with the provisions contained in PMLA. The words “all other proceedings” include a complaint under Section 44(1)(b) PMLA. We have carefully perused the provisions of PMLA. We do not find that there is any provision therein which is inconsistent with the provisions of Section 197(1) CrPC. Considering the object of Section 197(1) CrPC, its applicability cannot be excluded unless there is any provision in PMLA which is inconsistent with Section 197(1). No such provision has been pointed out to us. Therefore, we hold that the provisions of Section 197(1) CrPC are applicable to a complaint under Section 44(1)(b) PMLA.

24. Section 71 gives an overriding effect to the provisions of PMLA notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Section 65 is a prior section which specifically makes the provisions of CrPC applicable to PMLA, subject to the condition that only those provisions of CrPC will apply which are not inconsistent with the provisions of PMLA. Therefore, when a particular provision of CrPC applies to proceedings under PMLA by virtue of Section 65 PMLA, Section 71(1) cannot override the provision of CrPC which applies to PMLA.

25. Once we hold that in view of Section 65 PMLA, Section 197(1) will apply to the provisions of PMLA, Section 71 cannot be invoked to say that the provision of Section 197(1) CrPC will not apply to PMLA. A provision of CrPC, made applicable to PMLA by Section 65, will not be overridden by Section 71. Those provisions of CrPC which apply to PMLA by virtue of Section 65 will continue to apply to PMLA, notwithstanding Section 71. If Section 71 is held applicable to such provisions of CrPC, which apply to PMLA by virtue of Section 65, such interpretation will render Section 65 otiose. No law can be interpreted in a manner which will render any of its provisions redundant.

26. In this case, the cognizance of the offence under Section 3, punishable under Section 4 PMLA, has been taken against the respondent-accused without obtaining previous sanction under Section 197(1) CrPC. Therefore, the view taken by the High Court is correct. We must clarify that the effect of the impugned judgment [*Bibhu Prasad Acharya v. Enforcement Directorate*, 2019 SCC OnLine TS 287] is that the orders of the Special Court taking cognizance only as against the accused B.P. Acharya and Adityanath Das stand set aside. The order of cognizance against the other accused will remain unaffected.

27. However, it will be open for the appellant to move the Special Court to take cognizance of the offence against the two respondents if a sanction under Section 197(1) CrPC is granted in future. This liberty will be subject to legal and factual objections available to the respondents. Hence, the appeals must fail and are dismissed subject to what is observed above.”

6. Learned lawyer appearing on behalf of the Respondent submitted that the requirement of sanction under section 197(1) of the Code of Criminal Procedure is to protect the responsible public servants against institution of vexatious criminal proceedings against them while they are acting as public servants. The policy of the legislature is to afford adequate protection to them in order to ensure that they are not prosecuted for anything done by them in the discharge of their official duties without reasonable cause and if sanction is granted, to confer on the Government, if they choose to exercise it, complete control of the prosecution. It was further submitted that this protection has certain limits and is available only when the alleged act done by the public servant is reasonably connected with the discharge of his official duty and is not merely a cloak for doing the objectional act. It was further submitted that if in official duty, any public servant acts in excess of his duty, but there is a

reasonable connection between the act and the performance of his official duty, the excess will not be a sufficient ground to deprive the public servant of the protection. Reliance has been placed upon a decision of the Hon'ble Supreme Court rendered in the case of **State of Orissa versus Ganesh Chandra Jew [(2004) 8 SCC 40]**, wherein the Hon'ble Supreme Court at para-7, 8, 9 and 10 has held as under:

“7. The protection given under Section 197 is to protect responsible public servants against the institution of possibly vexatious criminal proceedings for offences alleged to have been committed by them while they are acting or purporting to act as public servants. The policy of the legislature is to afford adequate protection to public servants to ensure that they are not prosecuted for anything done by them in the discharge of their official duties without reasonable cause, and if sanction is granted, to confer on the Government, if they choose to exercise it, complete control of the prosecution. This protection has certain limits and is available only when the alleged act done by the public servant is reasonably connected with the discharge of his official duty and is not merely a cloak for doing the objectionable act. If in doing his official duty, he acted in excess of his duty, but there is a reasonable connection between the act and the performance of the official duty, the excess will not be a sufficient ground to deprive the public servant of the protection. The question is not as to the nature of the offence such as whether the alleged offence contained an element necessarily dependent upon the offender being a public servant, but whether it was committed by a public servant acting or purporting to act as such in the discharge of his official capacity. Before Section 197 can be invoked, it must be shown that the official concerned was accused of an offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duties. It is not the duty which requires examination so much as the act, because the official act can be performed both in the discharge of the official duty as well as in dereliction of it. The act must fall within the scope and range of the official duties of the public servant concerned. It is the quality of the act which is important and the protection of this section is available if the act falls within the scope and range of his official duty. There cannot be any universal rule to determine whether there is a reasonable connection between the act done and the official duty, nor is it possible to lay down any such rule. One safe and sure test in this regard would be to consider if the omission or neglect on the part of the public servant to commit the act complained of could have made him answerable for a charge of dereliction of his official duty. If the answer to this question is in the affirmative, it may be said that such act was committed by the public servant while acting in the discharge of his official duty and there was every connection with the act complained of and the official duty of the public servant. This aspect makes it clear that the concept of Section 197 does not get immediately attracted on institution of the complaint case.

8. At this juncture, we may refer to *P. Arulswami v. State of Madras* [AIR 1967 SC 776: 1967 Cri LJ 665] wherein this Court held as under: (AIR p. 778, para 6)

“It is not therefore every offence committed by a public servant that requires sanction for prosecution under Section 197(1) of the Criminal Procedure Code; nor even every act done by him while

he is actually engaged in the performance of his official duties; but if the act complained of is directly concerned with his official duties so that, if questioned, it could be claimed to have been done by virtue of the office, then sanction would be necessary. It is the quality of the act that is important and if it falls within the scope and range of his official duties the protection contemplated by Section 197 of the Criminal Procedure Code will be attracted. An offence may be entirely unconnected with the official duty as such or it may be committed within the scope of the official duty. Where it is unconnected with the official duty there can be no protection. It is only when it is either within the scope of the official duty or in excess of it that the protection is claimable.”

9. Prior to examining if the courts below committed any error of law in discharging the accused, it may not be out of place to examine the nature of power exercised by the court under Section 197 of the Code and the extent of protection it affords to public servants, who apart from various hazards in discharge of their duties, in absence of a provision like the one may be exposed to vexatious prosecutions. Sections 197(1) and (2) of the Code read as under:

“197. (1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction—

(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 the Central 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 the State Government:

(2) No court shall take cognizance of any offence alleged to have been committed by any member of the armed forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.”

The section falls in the chapter dealing with conditions requisite for initiation of proceedings. That is, if the conditions mentioned are not made out or are absent then no prosecution can be set in motion. For instance, no prosecution can be initiated in a Court of Session under Section 193, as it cannot take cognizance, as a court of original jurisdiction, of any offence unless the case has been committed to it by a Magistrate or the Code expressly provides for it. And the jurisdiction of a Magistrate to take cognizance of any offence is provided by Section 190 of the Code, either on receipt of a complaint, or upon a police report or upon information received from any person other than a police officer, or upon his knowledge that such offence has been committed. So far as public servants are concerned, the cognizance of any offence, by any court, is barred by Section 197 of the Code unless sanction is obtained from the appropriate authority, if the offence, alleged to have been committed, was in discharge of the official duty. The section not only specifies the persons to whom the protection is afforded but it also specifies the conditions and circumstances in which it shall be available and the effect in law if the conditions are satisfied. The

mandatory character of the protection afforded to a public servant is brought out by the expression “no court shall take cognizance of such offence except with the previous sanction”. Use of the words “no” and “shall” makes it abundantly clear that the bar on the exercise of power by the court to take cognizance of any offence is absolute and complete. The very cognizance is barred. That is, the complaint cannot be taken notice of. According to *Black's Law Dictionary* the word “cognizance” means “jurisdiction” or “the exercise of jurisdiction” or “power to try and determine causes”. In common parlance it means taking notice of. A court, therefore, is precluded from entertaining a complaint or taking notice of it or exercising jurisdiction if it is in respect of a public servant who is accused of an offence alleged to have been committed during discharge of his official duty.

10. Such being the nature of the provision the question is, how should the expression, “any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty”, be understood? What does it mean? “Official”, according to the dictionary, means pertaining to an office, and official act or official duty means an act or duty done by an officer in his official capacity. In *B. Saha v. M.S. Kochar* [(1979) 4 SCC 177 : 1979 SCC (Cri) 939] it was held : (SCC pp. 184-85, para 17)

“17. The words ‘any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty’ employed in Section 197(1) of the Code, are capable of a narrow as well as a wide interpretation. If these words are construed too narrowly, the section will be rendered altogether sterile, for, ‘it is no part of an official duty to commit an offence, and never can be’. In the wider sense, these words will take under their umbrella every act constituting an offence, committed in the course of the same transaction in which the official duty is performed or purports to be performed. The right approach to the import of these words lies between these two extremes. While on the one hand, it is not every offence committed by a public servant while engaged in the performance of his official duty, which is entitled to the protection of Section 197(1), an act constituting an offence, *directly and reasonably* connected with his official duty will require sanction for prosecution under the said provision.”

(emphasis in original)

Use of the expression “official duty” implies that the act or omission must have been done by the public servant in the course of his service and that it should have been in discharge of his duty. The section does not extend its protective cover to every act or omission done by a public servant in service but restricts its scope of operation to only those acts or omissions which are done by a public servant in discharge of official duty.”

Section 197(1)(a)(b) of the Code of Criminal Procedure provides as under:

“197. Prosecution of Judges and public servants. - (1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction-

(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 the Central 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 the State Government.

Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of Article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression "State Government" occurring therein, the expression "Central Government" were substituted.

Explanation.- For the removal of doubts it is hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 166-A, section 166-B, section 354, section 354-B, section 354-C, section 354-D, section – 370, section 375, section 376 [Section 376-A, 376-AB, section 376-C, section 376-D, section-376DA, section 376-DB] or section 509 of the Indian Penal Code (45 of 1860)"

7. Section 197 of the Code of Criminal Procedure gives protection to public servants employed in the Central Government or the State Government, protecting them from vexatious criminal proceeding while acting as public servants. By various judicial pronouncements, protection has been extended to any act which exceeds their official duty while officiating as a public servant. If there is reasonable connection between the act and the performance of their official duty any excess will not be sufficient ground to deprive the public servants from protection conferred under section 197(1) of the Code of Criminal Procedure. However, accumulating ill-gotten wealth by siphoning State funds cannot be said to be part of official duty of any public servant.

8. From the facts of the present case, it can be said that the petitioner Pooja Singhal had sanctioned funds for different development projects which she was not authorized to do so and in turn, she has accumulated ill-gotten money. Prima facie, as per the case of the Respondents, she has not been able to account for the money which has been recovered or attributed to have been recovered from her or her associates.

Sanction under section 197 of the Code of Criminal Procedure is only for the acts reasonably connected to official duty, not personal illegal acts even if done by the public servants. Sanction under section 197 of the Code of Criminal Procedure is not for shielding corrupt officials.

In the case of **Gurmeet Kaur versus Devendra Gupta** reported in [2024 SCC OnLine SC 3761], the Hon'ble Supreme Court has held that guiding

principle governing the necessity of prior sanction stands well crystalized. Pivotal inquiry is that whether the impugned act is reasonably connected to discharge of official duty. If the act is wholly unconnected or manifestly devoid of any nexus to official functions of the public servant, the requirement of sanction obviate. Conversely, whether there exists any reasonable link between the act complained of and the official duty of public servant, the protective umbrella of section 197 of the Code of Criminal Procedure and section 170 of the Police Act is attracted. In such cases, prior sanction assumes the character of sine qua non regardless of, whether public servant exceeds the scope of authority or acted improperly while discharging his duty.

9. Now, the question is, whether the learned Special Judge should have taken cognizance after obtaining sanction for prosecution of the petitioner. It is settled principle of law that the issue of sanction under section 197 of the Code of Criminal Procedure can be taken up before the learned Trial Court at any stage of the proceedings. It would depend on the nature of the evidence that the prosecution may lead in course of the trial. In fact, sanction can be obtained at any stage before the pronouncement of the judgment.

10. In view of the aforesaid discussion, I am of the opinion that taking of cognizance in the present case by the Special Court without sanction will not vitiate the cognizance order. Accordingly, this writ application is dismissed.

Pending I.A., if any, also stands disposed of.

(Ambuj Nath, J)