



2025:PHHC:051956



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-17032-2025

Reserved on 07.04.2025

Pronounced on : 23.04.2025

Sachin Ahlawat

.....Petitioner

Versus

Central Bureau of Investigation

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by : Mr. Bipan Ghai, Sr. Advocate with
Mr. Nikhil Ghai, Advocate and
Ms. Pragyat Bhardwaj, Advocate
for the petitioner.

Mr. Ravi Kamal Gupta, Advocate
for the respondent-CBI.

MANJARI NEHRU KAUL, J.

1. The present petition has been filed by the petitioner under Section 528 of the BNSS, 2023 seeking quashing/setting aside of order of cognizance as well as summoning order dated 13.02.2025 (Annexure P-1) passed by learned Special Judge (CBI), Panchkula, Haryana, in FIR No.RC0052021A0014 dated 28.06.2021 (Annexure P-2) registered under Section 7 of the Prevention of Corruption Act (hereinafter referred to as 'PC Act') and Section 120-B of the IPC in case tilted as "CBI Vs. Rohit Sharma and another", case No. PC/10/2022 registered as CNR No.HRPK-01-004807-2022, vide which the petitioner was summoned for committing offence under Section 120-B of IPC.

Submissions on Behalf of the Petitioner

2. Learned senior counsel for the petitioner contended that the impugned order dated 13.02.2025, whereby cognizance was taken



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and summoning orders were issued against the petitioner, suffers from a fundamental legal infirmity. It was submitted that the learned Trial Court has erred in taking cognizance of the case without prior sanction under Section 19 of PC Act, which is a mandatory precondition for prosecuting a public servant for offences under the said Act. Learned senior counsel further submitted that cognizance has been taken against the petitioner solely under Section 120-B of the IPC, in the absence of any substantive offence under the Indian Penal Code being attributed to him. It was asserted that this amounts to a circumvention of the statutory bar imposed by Section 19 of the PC Act.

3. Learned senior counsel further argued that the CBI after concluding its investigation, admittedly forwarded the entire material collected during their investigation to the competent authority, namely the Ministry of Finance, Department of Revenue, CBIC, for consideration of sanction under Section 19 of the PC Act. However, the competent authority, upon due application of mind to the entire material on record, including the complaint, transcripts, and verification report, declined to accord sanction for prosecution of the petitioner. In support, learned senior counsel drew the attention of this Court to the communication annexed as Annexure P-4.

4. It was urged that once the competent authority has declined to grant sanction, the learned Trial Court could not have overridden that decision. In the absence of sanction, no cognizance could have been lawfully taken under Section 7 of the PC Act. It was argued that the learned Trial Court could not have circumvented the statutory bar by



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taking recourse to Section 120-B IPC.

5. Learned senior counsel still further submitted that the case of the prosecution, as per the charge sheet dated 30.11.2022 (Annexure P-3), was confined to an alleged conspiracy between the petitioner and co-accused Rohit Sharma, Superintendent, CGST, Rohtak to commit the offence under Section 7 of the PC Act. There was no independent allegation of criminal conspiracy unconnected with PC Act. The prosecution did not even allege that the petitioner was separately liable under Section 120-B of IPC in the absence of the underlying offence under the PC Act.

6. Therefore, in the absence of cognizance being taken under Section 7 of the PC Act, due to the denial of sanction, the proceedings under Section 120-B of the IPC could not be sustained either, as the purported object of the conspiracy is legally non-triable.

7. It was still further vehemently argued that without prejudice to the above submissions, and assuming the charge sheet was to be examined on its own merits, there was no material on record to establish any demand or acceptance of illegal gratification by the petitioner. On the contrary, learned senior counsel referred to paragraph 16.44 of the charge sheet wherein it stood recorded that co-accused Rohit Sharma informed the complainant that the petitioner had rejected the request not to arrest the associate of the complainant and had proceeded with the arrest. This conduct, it was submitted, clearly negated the existence of any conspiracy involving the petitioner, and contradicted the case as was being attempted to be projected by the



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prosecution. Learned counsel has thus contended that, in the absence of any substantive offence alleged under the IPC, and with the allegation of conspiracy being confined solely to an offence under the Prevention of Corruption Act—particularly when sanction to prosecute the petitioner had been declined by the competent authority—the learned Trial Court could not have taken cognizance, let alone issued summons to the petitioner.

Submissions on Behalf of the Respondent-CBI

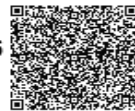
8. *Per contra*, learned standing counsel for CBI opposed the prayer and submissions made by the counsel opposite and defended the impugned order. It was submitted by the learned standing counsel that the learned Trial Court was justified in taking cognizance under Section 120-B IPC, in light of the material collected during the investigation which, according to the CBI, *prima facie* disclosed the role of the petitioner in the conspiracy to demand illegal gratification.

9. It was further submitted that sanction under Section 19 of the PC Act was not required for taking cognizance of offences under the Indian Penal Code, such as Section 120-B of the IPC. In support of this proposition, reliance was placed on the judgment of Hon'ble the Supreme Court in **A. Sreenivasa Reddy Vs. Rakesh Sharma and another : 2023(3) RCR (Criminal) 836**, wherein it was held that even in the absence of a sanction under the PC Act, prosecution for offences under the IPC can still be sustained.

10. While the learned standing counsel for the CBI did not dispute that sanction under Section 19 of PC Act was declined by the



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competent authority, and that the entire incriminating material collected by the investigating agency was duly placed before the competent authority, it was submitted that criminal conspiracy remains an independent offence under the IPC. It was argued that cognizance of the offence of criminal conspiracy, insofar as it relates to an offence under the Prevention of Corruption Act, could be taken even if the substantive offence was neither made out nor proved, or where cognizance of the said substantive offence was statutorily barred owing to denial of sanction.

11. Learned standing counsel for the CBI also disputed the contention made by learned Senior counsel for the petitioner that there was no demand or illegal gratification, by arguing that the same contention was misleading and contrary to the material on record. It was argued that the charge sheet was supported by electronic evidence, statements of witnesses, and other materials which, according to the standing counsel, *prima facie*, connected the petitioner with the crime in question, as a conspirator.

12. On a specific query posed by this Court to the learned standing counsel for the CBI as to whether any other offence under IPC apart from Section 120-B had been invoked in the FIR in question, he candidly submitted that no other offence under the IPC had been added during the investigation. Upon further query as to whether the alleged conspiracy pertained exclusively to the commission of the offence under Section 7 of the PC Act, it was fairly conceded that as per the investigation conducted by the CBI, the conspiracy alleged was



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confined solely to the demand of illegal gratification, which constituted the foundation of the alleged offence under Section 7 of the PC Act. Upon an additional query, learned standing counsel also did not dispute that the competent authority's order refusing sanction to prosecute the petitioner under the PC Act has not been challenged by the CBI.

12A. In support, reliance was placed upon **State of Andhra Pradesh Vs. Kandimalla Subbaiah : 1961 AIR Supreme Court 1241; Shadakshari Vs. State of Karnataka : 2024(1) RCR (Criminal) 730 and Ajay Aggarwal Vs. Union of India : 1993(3) RCR (Criminal) 34.**

FINDINGS OF THE COURT

13. I have heard learned counsel for the parties and perused the relevant material on record.

14. The question that arises for consideration of this Court is : Whether a public servant—against whom sanction for prosecution under the Prevention of Corruption Act, 1988 has been expressly declined by the competent authority, where the denial of sanction has not even been challenged by the prosecuting agency and who is not charged with any independent or substantive offence under the Indian Penal Code—can nonetheless be prosecuted solely for criminal conspiracy under Section 120-B IPC, when the sole object of that conspiracy is the commission of an offence under the PC Act.

15. The foundational facts are not in dispute; the charge sheet dated 30.11.2022 alleges the commission of offence punishable under Section 7 of the PC Act and Section 120-B of the IPC. It names two



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accused-Rohit Sharma and the present petitioner Sachin Ahlawat, both public servants at the relevant time. Sanction for prosecution under Section 19 of the PC Act has been duly accorded in the case of accused Rohit Sharma by the competent authority. In contrast, the competent authority has expressly declined to accord sanction against petitioner Sachin Ahlawat, as is evident from communication dated 11.01.2024 annexed as Annexure P-5.

16. Despite the statutory embargo under Section 19 of the PC Act, the CBI now seeks to prosecute the petitioner solely for criminal conspiracy under Section 120-B IPC. As admitted by the learned standing counsel for the CBI, the alleged conspiracy pertains exclusively to the purported demand for illegal gratification—an offence that squarely falls within the ambit of Section 7 of the PC Act. In essence, the object of the alleged conspiracy is an offence for which prosecution stands barred due to the express denial of sanction.

17. It is a settled principle of law that while conspiracy constitutes an independent offence under the IPC, it cannot be assessed in isolation from its object. The viability of a conspiracy charge is inextricably tied to the lawfulness of the act sought to be achieved. Where the object of the alleged conspiracy is an offence for which the law prohibits prosecution—such as under the PC Act in the absence of valid sanction—the ancillary charge of conspiracy cannot independently survive.

18. It needs to be reiterated that the statutory protection under



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Section 19 of the PC Act is not a procedural technicality but a substantive safeguard conferred upon public servants. Once the competent authority, after due application of mind to the material submitted by the investigating agency, declines to grant sanction, the embargo under Section 19(1) becomes operative and bars the court from taking cognizance of the offence.

19. In the present case, the foundation of the alleged conspiracy rests entirely on an offence under the PC Act. With sanction expressly refused by the competent authority, to which no challenge has been made by the prosecuting agency, any attempt to prosecute the petitioner for conspiracy alone—when the object of that conspiracy is itself legally non-prosecutable—amounts to a colourable exercise of power. It constitutes a clear attempt to achieve indirectly what the law prohibits directly, thereby undermining the statutory mandate and rendering the protection under Section 19 illusory.

20. The reliance placed by standing council for the CBI on the decisions in **State of Andhra Pradesh Vs. Kandimalla Subbaiah : 1961 AIR Supreme Court 1241; Shadakshari Vs. State of Karnataka : 2024(1) RCR (Criminal) 730 and Ajay Aggarwal Vs. Union of India : 1993(3) RCR (Criminal) 34** is misplaced, those decisions being distinguishable on facts and not applicable to the present context. Similarly, reliance on the judgment of Hon'ble the Supreme Court in **A. Sreenivasa Reddy's case (supra)** is equally unavailing. In **A. Sreenivasa Reddy's case (supra)**, the allegations



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against the accused involved not only offences under the PC Act, but also serious and independent offences under the Indian Penal Code, including forgery and cheating under Sections 420, 467, 468 and 471 IPC. The Court, in that case, held that in the absence of sanction under the PC Act, prosecution could still proceed on the strength of distinct and independent offences under the IPC.

21. In contrast, the present case stands on a fundamentally different footing. No other offence under the IPC has been alleged against the petitioner apart from Section 120-B of the IPC. Further, the prosecution has conceded that the alleged conspiracy pertains solely to the offence under Section 7 of the PC Act. There is no material on record to suggest any independent criminal act or conspiratorial objective that is unconnected to the PC Act.

22. Hon'ble the Supreme Court while parting with the matter expressed a concern in **A. Sreenivasa Reddy's case (supra)** by observing as follows:-

“60. Before, we close this matter, we would like to observe something which, this Court may have to consider sooner or later. The object behind the enactment of Section 19 of the PC Act, 1988 is to protect the public servants from frivolous prosecutions. Take a case wherein, the sanctioning authority at the time of declining to accord sanction under Section 19 of the PC Act, 1988 observes that sanction is being declined because the prosecution against the accused could be termed as frivolous or vexatious. Then, in such circumstances what would be its effect on the trial so far as the IPC offences are concerned? Could it be said that the prosecution for the offences under the PC Act, 1988 is frivolous but the same would not be for the offences under the IPC? We are not going into this question in the present matter as sanction initially was not declined on the ground that the prosecution against the appellant herein is frivolous or



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vexatious but the same was declined essentially on the ground that what has been alleged is mere procedural irregularities in discharge of essential duties. Whether such procedural irregularities constitute any offence under the IPC or not will be looked into by the trial court. What we have highlighted may be examined by this Court in some other litigation at an appropriate time.”

23. The above observations of the Hon'ble the Supreme Court highlight the critical issue of whether prosecution under the Indian Penal Code can be sustained when sanction under the Prevention of Corruption Act has been denied on the ground that the allegations are either frivolous or pertain merely to procedural irregularities. Although the Apex Court expressly left the question open, its observations reflect a clear judicial concern regarding prosecutorial overreach in the absence of valid sanctions.

24. It also would be most apposite to refer to the affirmation made by Hon'ble the Supreme Court in **Pavana Dibbur Vs. Directorate of Enforcement : (2023) 15 SCC 91**, where it was held that a charge of criminal conspiracy under 120-B IPC cannot be sustained in isolation and must relate to a substantive scheduled offence. Though the case arose in the context of the Prevention of Money Laundering Act (PMLA), the underlying principle applies equally to the Prevention of Corruption Act. Where the substratum of the allegation of conspiracy is an offence for which prosecution is legally barred, the consequential conspiracy charge cannot independently survive.

25. Adverting to the case in hand , even otherwise , this Court



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has perused the material placed on record, including the transcripts of telephonic conversations. On a *prima facie* evaluation, there is no cogent or credible material to suggest any express or tacit agreement between the petitioner and the co-accused to demand or accept illegal gratification. In fact, the charge sheet itself, particularly paragraph 16.44 which stands extracted hereinunder, records that the petitioner declined the request made on behalf of the associate of the complainant and proceeded with lawful enforcement action. Such conduct negates, rather than supports, the inference of a conspiratorial understanding:-

*“16.44 Investigation revealed that during the said meeting Sh. Om Sehrawat enquired from Naresh about the telephonic recording done by him of conversation with accused Rohit Sharma and whether he or his friend Sh. Gaurav or any other person on their behalf had filed any complaint in CBI against accused Rohit Sharma and other officials of CGST, Rohtak. When complainant Naresh Kumar asked him where the complaint was made, then Om Sehrawat informed him that complaint has been made in CBI, Chandigarh. Sh. Naresh Kumar denied the same and informed him that he has not made any complaint. After sometime Sh. Om Sehrawat telephonically discussed the matter with Rohit Sharma and informed him that Naresh Kumar is denying about the complaint and asked Rohit Sharma to come and confirm the same from Sh. Naresh Kumar. After half an hour accused Rohit Sharma also reached there and tried to inquire from Sh. Naresh Kumar whether he or his friend Sh. Gaurav or any other person on their behalf had filed any complaint in CBI against him. When complainant denied the same Rohit Sharma tried to build pressure on him that if he had made the complaint in CBI then he should withdraw the same. **During conversation accused Rohit Sharma informed him that he had requested his senior Sachin Ahlawat, Dy. Commissioner to not arrest his friend Gaurav Kumar when his statement was going on but Sachin Ahlawat denied his request and arrest Gaurav Kumar. Accused Rohit Sharma was trying to convince him that it was not his decision. Accused Rohit Sharma was repeatedly enquiring from complainant that whether he or some other person known to him on behalf of Gaurav had***



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made any complaint in CBI. All the conversation held among above named persons was recorded by complainant in his mobile phone.

26. It is a settled proposition of law that conspiracy cannot be inferred from conjecture, suspicion, or tenuous associations . The mere allegation that an act was done, “on behalf of” another, without any concrete material to establish a prior meeting of minds or common design, cannot suffice to sustain a charge under Section 120-B, IPC. The law demands a higher threshold of proof to establish the existence of a criminal conspiracy.

27. Thus, the central question—whether the petitioner, a public servant not charged with any substantive offence under the PC Act and against whom sanction has been expressly refused, can be prosecuted for conspiracy alone—must be answered in the negative when admittedly no other distinct IPC offence has been alleged against the petitioner. The attempt to invoke Section 120-B IPC in such a scenario amounts to a colourable exercise of power intended to circumvent the statutory protection under Section 19 of the PC Act.

28. It is a well-settled principle of law that what cannot be done directly cannot be done indirectly. Allowing the prosecution of a public servant under Section 120-B IPC for conspiracy to commit an offence under the PC Act, despite the denial of sanction, would effectively render the provision of Section 19 of the PC Act nugatory. Such an approach would circumvent the legislative safeguards designed to protect public servants by enabling a colorable prosecution under



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Section 120-B IPC, bypassing the procedural requirement of sanction. This would create an anomalous situation where a public servant could be tried for an offence under the PC Act, despite no cognizance being permissible in the absence of sanction. The safeguard of sanction would thus become illusory, and the constitutional protection under Article 14 would be compromised, allowing for the selective and unjust application of penal consequences. Such a scenario would undermine the clear legislative intent, eroding the protective framework designed to shield public servants from unwarranted prosecution.

29. Such a position cannot be countenanced in law.

30. In view of the foregoing analysis, this Court is of the considered view that a public servant, in respect of whom sanction to prosecute has not been granted under Section 19 of the PC Act, and who is, therefore, not charged with any substantive offence under the said Act, cannot be proceeded against solely under Section 120-B of the IPC, when the alleged object of the conspiracy is the commission of offences under the PC Act.

31. The charge of conspiracy under Section 120-B of the IPC, in such circumstances, is legally unsustainable, as it amounts to an indirect prosecution for an offence which is otherwise barred by statute. Accordingly, the instant petition is allowed, and the impugned order is set aside qua the petitioner only.

23.04.2025

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No