



2025 INSC 1356

REPORTABLE
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2025
(Arising out of SLP(Crl.) No(s). 11160-11161 of 2024)

T. MANJUNATH **....APPELLANT(S)**

VERSUS

THE STATE OF KARNATAKA
AND ANR. **....RESPONDENT(S)**

J U D G M E N T

Mehta, J.

1. Heard.
2. Leave granted.
3. These appeals, by special leave, call into question the order dated 26th July, 2024, passed by the High Court of Karnataka at Bengaluru¹, whereby the High Court decided two Criminal Revision Petitions, being Criminal Revision Petition No. 422 of

¹ Hereinafter, referred to as the “High Court”.

2018² and Criminal Revision Petition No. 599 of 2018³, arising out of the order dated 23rd August, 2017, passed by the LXXVI Additional City Civil and Sessions Court & Special Court, Bengaluru⁴. By the impugned order, the High Court allowed the revision petition filed by the State and dismissed the revision petition preferred by T. Manjunath⁵, consequently setting aside and reversing the order of the trial Court, whereby the application for discharge filed by the accused-appellant had been allowed. The High Court further granted liberty to the investigating agency to proceed against the appellant in accordance with law, including permission to file a fresh chargesheet after obtaining the requisite sanction from the competent authority.

² Preferred by the State.

³ Preferred by T Manjunath (accused-appellant).

⁴ Hereinafter, referred to as the “trial Court”.

⁵ Hereinafter, referred to as the “accused-appellant”.

Factual Background

4. The factual matrix relevant and essential for the disposal of the appeals may be noted hereinbelow.

5. The accused-appellant was working as a Senior Inspector of Motor Vehicles at R.T.O. Office, K.R. Puram, Bengaluru, when a trap was attempted/arranged against him. The Lokayuktha Inspector Sri Sanjeevarayappa secured two independent witnesses who were Government servants, and in their presence, conducted the pre-trap proceedings.

6. During the pre-trap proceedings, an amount of Rs. 15,000/- was entrusted to the complainant to be handed over to the accused-appellant upon demand.

7. Thereafter, the Lokayuktha Inspector, along with his trap team, two independent witnesses, and the complainant, left for the RTO office, KR Puram, Bengaluru, where the accused-appellant was

working. The accused-appellant was trapped while demanding and accepting illegal gratification of Rs.15,000/- from the complainant through co-accused H. B. Mastigowda (accused No.2), a private person who is alleged to have received the amount at the instance of accused-appellant (accused No. 1).

8. The trap proceedings led to registration of Crime No.48/2012 under the Prevention of Corruption Act, 1988⁶. During the investigation, exercising powers under Section 19 of the PC Act, sanction was granted by the Commissioner of Transport for prosecution of the accused-appellant for the offences punishable under Section 7, 8, 13(1)(d), read with 13(2) of the PC Act. Chargesheet was filed against the accused-appellant for the aforesaid offences.

9. Thereafter, the accused-appellant preferred an application under Section 227 read with Section 239

⁶ For short, 'PC Act'.

of the Code of Criminal Procedure, 1973⁷, seeking discharge.

10. Two primary grounds were raised by the accused-appellant:

(a) That the accused-appellant, having been appointed by the State Government, could not have been prosecuted on the strength of sanction issued by the Commissioner of Transport, who was not competent to accord sanction for prosecuting the appellant;

(b) That the accused-appellant stood exonerated in the departmental proceedings instituted on the same charges and allegations, as were levelled in the criminal case, and hence, the continued criminal prosecution against the accused-appellant was unjustified.

⁷ For short, 'CrPC'.

11. The trial Court *vide* order dated 23rd August, 2017, allowed the application and discharged the accused-appellant as well as the co-accused H.B. Mastigowda on the ground that the sanction for prosecution was not valid, as the authority that exercised jurisdiction was not the competent authority. However, liberty was given to the investigating agency to file a fresh chargesheet after obtaining sanction from the competent authority in accordance with law. The relevant findings from the trial Court's order are reproduced hereinbelow for the sake of ready reference:

"8. The issue regarding the validity of the Sanction Order is taken up for consideration as a preliminary issue.

9. As per Sec 19 of the Prevention of Corruption Act, 1988, obtaining of valid sanction from the Competent Authority to prosecute the public servant is mandatory. The accused No 1 is a Public servant, working as Senior Inspector of Motor Vehicles. He is a Group-B Officer. The service particulars of the accused No 1 (page-50 of the charge sheet file) would disclose that the Authority competent to remove the accused No 1 from the said post is the Government of

Karnataka But the Sanction Order accorded in this case is by the Commissioner of Transport which is invalid and no sanction in the eye of law.

10. The accused No. 2 is a private person. According to the prosecution, the accused No. 2 received the tainted currency notes from the complainant at the instance of the accused No. 1. Obtaining of valid sanction from the Competent Authority to prosecute the accused No 1 is mandatory It is well settled that cognizance can be taken in respect of the offences alleged against the accused only once and if there are several accused, against some of whom sanction for prosecution may be necessary, it is mandatory that sanction be awaited till such time cognizance is awaited or otherwise, it would lead to confused state of affairs which is impermissible **Since the Sanction Order accorded to prosecute the accused No 1 in this case is by the Commissioner of Transport, which is invalid and non-est, it is just and proper to return the entire charge sheet papers to the Investigating Agency with liberty to the State to proceed further in accordance with law and to file a charge-sheet afresh after obtaining necessary sanction from the Competent Authority as far as the accused No 1 is concerned who is a public servant along with the accused No 2 Till such time, it is just and proper to discharge the accused No 1 & 2 Hence, I answer the above point accordingly."**

[Emphasis supplied]

12. The above order was assailed by both the State and the accused-appellant by way of separate revision petitions before the High Court.

13. The High Court allowed the revision petition filed by the State and dismissed the revision petition preferred by the accused-appellant, setting aside the order passed by the trial Court.

14. In doing so, the High Court held that the sanction had been accorded by the competent authority observing that no liberty could be granted to the accused to contest the proceedings on the ground of the validity of sanction because the order of sanction was accorded by the competent authority in terms of the notification dated 11th February, 2010, which confers jurisdiction upon the Transport Commissioner to accord the sanction.

15. The impugned order was set aside, and the trial Court was directed to proceed against both the accused in accordance with law. The aforesaid order of the High Court is in challenge before us at the

instance of the accused-appellant T. Manjunath in these appeals by special leave.

Submissions on behalf of the accused-appellant

16. Learned senior counsel, Shri Devadatt Kamat, representing the accused-appellant, vehemently and fervently contended that the departmental proceedings were instituted against the accused-appellant on identical charges and same set of facts and evidence and have culminated in the exoneration of the accused-appellant, and therefore, his prosecution in the criminal case is totally unjustified. He urged that the witnesses examined in the departmental disciplinary proceedings were the same as those who were cited by the prosecution in the criminal case. The disciplinary authority, upon a comprehensive appreciation of the evidence, recorded a categorical finding that Shri K.R. Manjunath (complainant), Shri Nagesh (shadow witness), and

Shri Maruthiraj (witness) did not support the case of the department, and that the testimony of the Investigating Officer remained uncorroborated. Based on these findings, the disciplinary authority proceeded to exonerate the accused-appellant of the charges.

17. It was the contention of learned senior counsel that the standard of proof required to bring home the charges in the disciplinary proceedings is of significantly lower degree than the standard of proof required to establish the guilt of the accused in a criminal trial. While in departmental proceedings, charges can be established merely on basis of preponderance of possibilities, in a criminal trial, the prosecution would be required to establish the charges by proving its case beyond all manner of doubt.

18. Thus, once the delinquent employee stands exonerated in the departmental proceedings, where the burden of proof is much lesser, the continuance of criminal proceedings founded on the very same set of allegations and evidence would not be justified.

19. To buttress his contentions, learned senior counsel placed reliance on ***Ashoo Surendranath Tewari v. Dept Superintendent***⁸, and urged that the criminal proceedings sought to be pursued against the accused-appellant deserve to be quashed.

20. Further, during the course of hearing, learned senior counsel Shri Kamat handed over to the Court the office memorandum dated 3rd December, 1991, evidencing the appointment of the accused-appellant T. Manjunath, to the post of Inspector of Motor Vehicles. He referred to this document and contended that the appointment of the accused-appellant had

⁸ (2020) 9 SCC 636.

been made under the authority of the Governor of Karnataka and, therefore, the appointing authority of the accused-appellant was the State Government. On this premise, it was urged that the sanction for prosecution could have been validly accorded only by the State Government and not by the Commissioner.

21. Shri Kamat further argued that the expression “competence” occurring in Section 19(4) of the PC Act, has to be treated at par with “jurisdiction”. According to him, by virtue of Section 19(1) of the Act, the authority competent to grant sanction for prosecution of the accused-appellant was the State Government alone, and sanction accorded by an officer not authorised to remove the accused from the post was without the authority of law and suffered from patent lack of jurisdiction. He thus urged that the view taken by the High Court in reversing the

order passed by the trial Court is absolutely unjustified and deserves to be set aside.

Submissions on behalf of the respondent-State

22. *Per contra*, Shri Aman Panwar, learned AAG representing the State of Karnataka, vehemently and fervently opposed the submissions advanced on behalf of the accused-appellant. He contended that the mere exoneration of the accused-appellant in the disciplinary proceedings cannot, by itself, furnish a ground to quash the criminal proceedings even if both proceedings are founded on the same set of facts. He submitted that the exoneration of the accused-appellant in the disciplinary proceedings was occasioned solely because the complainant, the shadow witness, and the accompanying witness did not support the case of the department. The exoneration was totally unjustified because the trap-

laying Officer had, in his deposition, fully supported the case of department.

23. He urged that the law is well settled by a catena of judgments rendered by this Court that in cases where the accused is apprehended for accepting illegal gratification, the mere fact of the complainant, the shadow witness and the accompanying witness turning hostile, would have no bearing on the outcome of the case, and that the conviction in the criminal case can be based/sustained even on the sole testimony of the trap laying officer, if found credible and trustworthy. He further submitted that the accused himself admitted having demanded the bribe when the trap memo was prepared and thus, the prosecution case is founded on unimpeachable material, the worth whereof would have to be assessed at the trial.

24. Learned counsel placed reliance on ***State v. T. Murthy***⁹, ***State of MP v. Virender Kumar Tripathi***¹⁰, and ***State of Bihar v. Rajmangal Ram***¹¹ to urge that the controversy regarding the competence of the sanctioning authority and its effect on the trial has been settled by this Court in these precedents expressly holding that a sanction order cannot be struck down on the ground of lack of competence of the authority issuing it.

25. Learned AAG has vehemently and fervently controverted the claim made by Shri Kamat based on documents handed over during the course of hearing that the appointing authority of the appellant is the State Government. He urged that no such plea was taken by the appellant before the High Court and that the unverified documents handed over by the

⁹ (2004) 7 SCC 763.

¹⁰ (2009) 15 SCC 533.

¹¹ (2014) 11 SCC 388.

appellant across the board cannot be considered to decide the issue of appointing authority. He further contended that the office memorandum relied upon by the accused-appellant is not the appointment order at all; it is merely a posting order issued under the authority of the Governor of Karnataka. As a matter of fact, the appointing authority of the accused-appellant is none other than the Commissioner. To substantiate this contention, learned counsel handed over an order dated 11th February, 2010, which, according to him, conclusively establishes that the Commissioner was the appointing authority competent to remove the accused-appellant from service and, as a necessary corollary, to grant sanction for prosecution. He thus urged that on both facets, namely, the question of competence as well as the aspect of the appointing authority, the accused-appellant has failed to make

out any case warranting interference in the impugned order.

Discussion and Analysis

26. We have given our thoughtful consideration to the submissions advanced at the Bar and have carefully gone through the impugned order dated 26th July, 2024 passed by the High Court, as well as the order dated 23rd August, 2017 passed by the trial Court. We have also minutely perused the findings recorded by the disciplinary authority while exonerating the accused-appellant in the departmental proceedings.

A. Effect of Departmental Clean Chit/Exoneration on Criminal Proceedings

27. First, we will consider the plea of the accused-appellant that, as the departmental proceedings have resulted in his exoneration, the criminal proceedings cannot be continued.

28. For this purpose, we have perused the findings as recorded in the Enquiry report dated 23rd September, 2021. Relevant excerpts of the report are reproduced hereinbelow for the sake of ready reference: -

“13) The points that arise for my consideration are

Point No 1: Whether the Disciplinary Authority has proved the charges?

Point No 2: What order?

14) Above points are answered as under

Point No 1: In the Negative

Point No 2: As per final order for the following,

REASONS

15) The Disciplinary Authority has examined the shadow witness as PW-1, complainant as PW-2, colleague of the complainant as PW-3, and the Investigation Officer came to be examined as PW-4 and got marked documents Ex P-1 to P-26. The shadow witness, complainant and his colleague i.e., PW-1 to 3 have not supported the version of the Disciplinary Authority. Even though, the Disciplinary Authority cross-examined PW-1 to 3 and suggested the version of the Disciplinary Authority that, DGO has demanded bribe of Rs 24,000/- for twelve tippers, but after negotiation with the complainant PW-2, the bribe amount was reduced to Rs 18,000/- and at last PW-1 gave Rs 15,000/- to Paramesh @ Mastigouda on the say of the DGO but, the said

version of the disciplinary authority has been denied by PW-1 to 3.

16) No doubt, the Disciplinary Authority succeeded in proving about the lodging of the complaint Ex P-10, basing on it, PW-4 registered crime No 48/2012 and sent FIR vide Ex P-12 to court and his superiors. The pre-trap mahazar was drawn on 13/06/2012 vide Ex P-2. PW-1 has produced Rs 18,000/- (500x36) currency notes and their numbers were noted in the sheet Ex P-1 by the panch witness i.e., PW-1 and Vishwas Investigation Officer has deposed about drawing of Ex P-4 panchanama on 13/06/2012, wherein the trap was unsuccessful as the DGO was not in the office at about 5:15 pm on 13/06/2012.

17) PW-4 has further deposed about trap panchanama Ex P-5, which was conducted on 14/06/2012, wherein the trap was conducted at 2nd floor of the RTO office, KR Puram at 12:30 pm. PW-4 deposed about the recovery of Rs 15,000/- from Mastigouda and his hand wash was made in the sodium carbonate solution, the solution turned to pink colour. The said mahazar Ex P-5 was concluded at Lokayukta police, MS Building, Bengaluru at 4:50 pm.

18) The prime witnesses for establishing the charges leveled against the DGO are the complainant, PW-2 and his colleague PW-3 and shadow witness PW-1. But, the said prime witnesses have not supported the version of the Disciplinary Authority. The complainant is working as a Supervisor in Prashanth Crushers, which has twelve tippers plying within jurisdiction of KR Puram RTO, wherein DGO was serving as Motor Vehicle Inspector. The

allegation of PW-1 is that, the DGO was stopping the said tippers near Hoskote often and insisted the drivers to telephone to their owner asking him to look after the DGO otherwise DGO threatened to book case against the said tippers The owner of the said Prashanth Crushers has asked PW-2 to lodge the complaint to the Lokayukta police Accordingly, PW-2 approached PW-4 on 12/06/2012 and disclosed about the demand of bribe amount by the DGO to PW-4, PW-4 directed PW-1 to record the conversations held between the DGO in respect of demand of bribe amount by giving the voice-recorder PW-1 met the DGO and made negotiation of bribe amount i.e. , DGO alleged to have demanded Rs 2,000/- per tipper in total Rs 24,000/-, but after negotiation, amount was reduced to Rs 18,000/- PW-1 has again approached PW-4 on 13/06/2012 and lodged the complaint, Ex P-10 and basing on it, Cr No 48/2012 was registered and FIR, Ex P-12 was sent to court and his superiors

19) PW-2, complainant has deposed before the court that, he has affixed his signature on the complaint at Ex P-10, on the say of his owner, but shown his ignorance about its content PW-2 further deposed that, DGO has never demanded bribe amount and also not asked the complainant to give the amount in the hands of said Paramesh @ Mastigouda He has given Rs 15,000/- to said Paramesh (@ Mastigouda No doubt, PW-4 has recovered Rs 15,000/- from said Paramesh under the trap and hands of the said Paramesh were washed in the sodium carbonate solution, which turned to pink colour

20) PW-3, the colleague of PW-2 has shown his ignorance about demand of bribe amount by the

DGO from PW-2 and he has not accompanied PW-2 to the RTO, KR Puram office, he has not gone inside the said RTO office and he is unaware of the incident that has taken place in the RTO office. Even though, the Presenting Officer cross-examined PW-3, but nothing is elicited during the cross-examination to establish the charge levelled against DGO.

21) The shadow witness, PW-1 has deposed half-heartedly before the Inquiry Officer and he does not remember how much amount was given by the complainant to the Police Inspector. He further deposed that, PW-1 was standing near the door of the chamber of DGO and the door was closed, hence he could not hear the conversations and also witness anything which transpired between the complainant and the DGO. PW-1, could not hear the conversation that took place inside the chamber, but PW-1 has witnessed complainant giving the tainted money of Rs 15,000/- to one Sri Mastigouda and the said amount was kept in his trouser pocket and he could not hear as to who instructed Sri Mastigouda to receive the said money. During the cross-examination made by the Presenting Officer, PW-1 admitted that, he was standing near the door, when the complainant went inside the chamber and door was slightly opened at that time, he could not hear, but denied the suggestions made by the Presenting Officer that, he heard the conversations of DGO that he demanded bribe amount from the complainant and further heard that, the complainant negotiated with DGO for reducing the bribe amount and DGO asked the complainant to give the said money to Sri Mastigouda.

22) According to the theory of the Disciplinary Authority, the complainant and DGO negotiated the bribe amount from Rs 24000/- to Rs 18,000/- in order to permit twelve tippers belonging to Prashanth Crushers to ply on road i.e., within the jurisdiction of RTO, KR Puram, the complainant approached PW-4 as per the directions of his owner to lodge complaint Ex P-10, but the complainant has not supported the said version that, DGO demanded bribe amount of Rs 24,000/- and after negotiation, it was reduced to Rs 18,000/- The said amount of Rs 18,000/- (500x36) was given to PW-4 on 13/06/2012 and the value and number of the said currency notes were written on a sheet Ex P-1 by the panch witnesses PW-3 was present at the time of drawing pre-panchanama, Ex P-3 and also trap panchanama Ex P-5 on 14/06/2012 But, PW-3, who is the colleague of PW-2 i.e., employee of Prashanth Crushers has completely turned hostile and there is no corroboration in the evidence of PW-2 and 3 with respect to demand of bribe amount by the DGO from PW-2 and he has given bribe amount of Rs 15,000/- to the said Paramesh @ Mastigouda on the say of the DGO.

23) According to Disciplinary Authority, the shadow witness, PW-1, accompanied PW-2 and 3 to the RTO office, KR Puram i.e, 2nd floor and was standing near the door of the DGOs chamber and heard the conversations between PW-2 and DGO regarding negotiation of reducing the bribe amount and he witnessed the receipt of Rs 15,000/- by the said Paramesh from PW-2 on the say of the DGO But, PW-1 categorically deposed that, he has not heard the conversations held between PW-2 and DGO and he had witnessed the incident of giving amount of Rs

15,000/- by PW-2 to the said Paramesh Evidence of PW-1 to 3 is not linking the chain of events i.e., DGO has demanded bribe amount from PW-2 and PW-2 has given the said amount to said Paramesh as per the say of the DGO The said fact of demand of bribe amount from DGO and receipt of said bribe amount by the said Paramesh as per the say of the DGO from PW-2 is totally missing from the evidence of PW-1 to 3.

24) The solitary evidence of Investigation Officer, PW-4 alone will not establish the charge leveled against DGO PW-4 deposed that, PW-2 had approached PW-4 on 12/06/2012 disclosed about the demand of bribe amount by DGO PW-4 directed PW-2 to record the conversations of DGO in the voice-recorder PW-4 registered crime No 48/2012 on the basis of the complaint lodged by PW-2 on 13/06/2012 PW-4 has secured PW-1 and another panch witness namely, Sri Vishwas and introduced them to PW-2 and disclose about the complaint, Ex P-10 PW-4 has further deposed that, PW2 has produced Rs 18,000/- (500 x36) currency notes and the value of the said notes and numbers were noted in the sheet Ex P1 One of the police staff had smeared the phenolphthalein powder on the said currency notes and as per the directions of PW-4, Panch witness namely, Vishwas kept the said tainted notes in the pant pocket of PW-2 and the hand wash of the said Vishwas was made in the sodium carbonate solution, which turned to pink PW4 directed the complainant to give the said tainted notes to the DGO, only after demand and PW-1 had to accompany PW-2 along with PW-3 to the RTO office, KR Puram for trap Trap was not successful on 13/06/2012 as DGO left the office at

5:00 pm itself In that respect mahazar Ex P-4 was drawn PW-1 to 4 along with Vishwas and staff have returned back to PW 4's office and returned the tainted notes and also voice-recorder and also the pen camera and asked the said raiding party to come on 14/06/2012 at 10:00 am

25) PW-4 was successful in getting the trap on 14/06/2012 at 12:30 pm at 2nd floor of the RTO office, KR Puram by accompanying PW-1 to 3 and Vishwas along with his staff and the trap mahazar was drawn vide Ex P-5 at PW-4's office PW-4 has followed PW-1 to 3 along with Vishwas and the staff to RTO office He was standing at the 2nd floor amidst public PW-4 has directed PW-2 to give signal after giving the said tainted notes after demand PW-2 made signal and the said raiding party went to the chamber of DGO and PW-2 stated that, he had given the amount to the said Paramesh and hand wash of the said Paramesh was made in the sodium carbonate solution, which turned into pink colour and the amount was seized from said Paramesh at the RTO office itself.

26) There is no corroboration in the evidence of PW-4 and PW-1 to 3 The important aspect of demand of bribe amount by the DGO is not forthcoming from the evidence of PW-1 to 3, though it is finding place in the complaint, Ex P-10, Ex P-2 and Ex P-5 trap panchanama The acceptance of bribe amount by the said Paramesh as per say of DGO is also missing from the evidence of PW-1 to 3 The charge levelled against DGO is that, he has demanded bribe amount from PW-2 The main ingredients of illegal demand of bribe amount from the complainant and receipt of the bribe amount by said Paramesh on the say of the

DGO are missing in the instant case on hand The evidence of the PW-1 to 4 in other aspect may corroborate, but it is no way helpful to the Disciplinary Authority in proving the charge levelled against the DGO.

....

32) On appreciation of entire oral and documentary evidence, I hold that the charge leveled against the DGO is not established and preponderance of probabilities also do not point at his misconduct

Point No 1: Hence, Point No 1 is answered in the Negative

Point No 2: For the reasons stated above, I proceed to record the following findings –

FINDINGS

The Disciplinary Authority has not proved the charges framed against DGO Sri T Manjunath, Senior Inspector of Motor Vehicles, Office of Regional Transport Officer KR Puram, Bengaluru DGO will retire from service on 31/05/2028.

This report is submitted to the Hon'ble Upalokayukta in a sealed cover,

Dated this the 23 September, 2021

Sd/-”

29. Upon perusal of the above report, it is evident that the disciplinary authority's discretion was swayed by the fact that the Sri K.R. Manjunath (complainant), Sri Nagesh (shadow witness), and Sri

Maruthiraj (colleague of the complainant) did not support the department's case and feigned ignorance about the transaction of bribe. However, the order of the disciplinary authority also takes note of the fact that Sri Sanjeevarappa (Investigating Officer) fully supported the case of the department and proved the trap *panchnama*, as per which the tainted currency notes were recovered from the hands of Paramesh @ Mastigowda (accused No. 2), and the allegation of demand of a bribe was proved against the accused-appellant. We feel that the conclusion drawn by the disciplinary authority that guilt of the delinquent employee could not be proved merely on the testimony of the trap laying officer, is premature and unfounded.

30. This Court has, in a catena of decisions¹², held that the mere fact that a decoy/complainant in a trap case turns hostile would not adversely affect the case of prosecution and that conviction can be based even on the evidence of the trap laying officer, if found reliable and trustworthy.

31. We may further observe that when a witness deposing on oath in a criminal trial resiles from the original version and does not support the prosecution case, he would be liable to face prosecution for perjury. Under this pressure, the witness may choose to speak the truth. Thus, the mere fact that some of the witnesses did not support the department's case in the disciplinary proceedings would, by itself, not give any assurance that they would behave in the same manner at the criminal

¹² *N. Narsinga Rao v. State of A.P.*, (2001) 1 SCC 691; *Neeraj Datta v. State (Government of NCT of Delhi)* (2023) 4 SCC 731.

trial. In the present case, as is evident, the exoneration of the accused-appellant in the departmental proceedings is merely on the ground that the decoy and associating witnesses did not support the case of department.

32. The possibility of the criminal case still resulting into conviction, irrespective of the factum of the witnesses turning hostile being a realistic possibility, we feel that there is no merit behind the argument of Shri Kamat that exoneration in the departmental proceeding should lead to automatic discharge in the criminal case. Hence, the said argument advanced on behalf of the accused-appellant, placing reliance on **Ashoo Surendranath Tewari (supra)**, has no merit and is rejected.

33. Though the core facts in both proceedings may bear resemblance, the viewpoint, scope, and standards for adjudication are entirely different, and

each is governed by a distinct forum and procedure. Hence, exoneration in the departmental proceedings does not, *ipso facto*, furnish a ground for dropping the criminal charges more particularly in Trap Cases.

B. Sanction Under Section 19 PC Act: Competence and Jurisdictional Validity

34. The second fold of the argument advanced by learned counsel for the accused-appellant was based on the alleged illegality vitiating the sanction order.

35. The question of competence of the sanctioning authority – being the bone of contention between the parties, the same requires to be considered. The controversy essentially turns around whether the expression “competence” is to be understood as synonymous with “authority” or “jurisdiction” to remove the employee from service for the purposes of Section 19 of the PC Act, 1988.

36. For appreciating this submission, the language of the enabling provision, i.e., Section 19 needs to be reproduced hereunder: -

“19. Previous sanction necessary for prosecution.—

(1) No court shall take cognizance of an offence punishable under [sections 7, 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 and is not removable from his office save by or with the sanction of the Central Government, 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 and is not removable from his office save by or with the sanction of the State Government, of that Government;

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

[Provided that no request can be made, by a person other than a police officer or an officer of an investigation agency or other law enforcement authority, to the appropriate Government or

competent authority, as the case may be, for the previous sanction of such Government or authority for taking cognizance by the court of any of the offences specified in this sub-section, unless—

- (i) such a person has filed a complaint in a competent court about the alleged offences for which the public servant is sought to be prosecuted; and
- (ii) the court has not dismissed the complaint under section 203 of the Code of Criminal Procedure, 1973 (2 of 1974) and directed the complainant to obtain the sanction for prosecution against the public servant for further proceeding:

Provided further that in the case of request from the person other than a police officer or an officer of an investigation agency or other law enforcement authority, the appropriate Government or competent authority shall not accord sanction to prosecute a public servant without providing an opportunity of being heard to the concerned public servant:

Provided also that the appropriate Government or any competent authority shall, after the receipt of the proposal requiring sanction for prosecution of a public servant under this sub-section, endeavour to convey the decision on such proposal within a period of three months from the date of its receipt:

Provided also that in case where, for the purpose of grant of sanction for prosecution, legal consultation is required, such period may, for the reasons to be recorded in writing, be extended by a further period of one month:

Provided also that the Central Government may, for the purpose of sanction for prosecution of a public servant, prescribe such guidelines as it considers necessary.

Explanation. —For the purposes of sub-section (1), the expression “public servant” includes such person—

(a) who has ceased to hold the office during which the offence is alleged to have been committed; or

(b) who has ceased to hold the office during which the offence is alleged to have been committed and is holding an office other than the office during which the offence is alleged to have been committed.]

(2) Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section (1) should be given by the Central Government or the State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) no finding, sentence or order passed by a special Judge shall be reversed or altered by a Court in appeal, confirmation or revision on the ground of the absence of, or any error, omission or irregularity in, the sanction required under sub-section (1), unless in the opinion of that court, a failure of justice has in fact been occasioned thereby;

(b) no court shall stay the proceedings under this Act on the ground of any error, omission or irregularity in the sanction granted by the authority, unless it is satisfied that such error, omission or irregularity has resulted in a failure of justice;

(c) no court shall stay the proceedings under this Act on any other ground and no court shall exercise the powers of revision in relation to any interlocutory order passed in any inquiry, trial, appeal, or other proceedings.

(4) In determining under sub-section (3) whether the absence of, or any error, omission or irregularity in, such sanction has occasioned or resulted in a failure of justice the court shall have regard to the fact whether the objection could and should have been raised at any earlier stage in the proceedings.

Explanation.—For the purposes of this section,—

(a) error includes competency of the authority to grant sanction;

(b) a sanction required for prosecution includes reference to any requirement that the prosecution shall be at the instance of a specified authority or with the sanction of a specified person or any requirement of a similar nature.”

[Emphasis supplied]

37. Section 19(1) clearly stipulates that where the appointing authority of the accused is the State Government, the sanction for prosecution must be accorded by the State Government and by none other. The judgments in *T. Murthy (supra)*, *Virender Kumar Tripathi (supra)*, and *Rajmangal Ram*

(supra) relied upon by the learned standing counsel for the State, advert to the Explanation appended under Section 19(4). In our view, the Explanation to Section 19(4) would become relevant and come into play only when the question of validity or otherwise of the sanction is under scrutiny before the appellate or the revisional forum¹³ as provided in sub-Section (3) of Section 19. In the present case, such a determination was made by the learned Special Judge in the original jurisdiction, who held that the sanction was invalid as it had been issued by an authority lacking jurisdiction to do so, and that no authority other than the State Government could have granted a sanction in respect of the accused-appellant, his appointment having been made by the State Government itself.

¹³ *Nanjappa v. State of Karnataka*, (2015) 14 SCC 186.

38. In this factual background, the Explanation below Section 19(4) is not germane to the controversy, for it operates only in situations where the finding, sentence, or order of the Special Judge on the aspect of sanction is under scanner before the appellate or revisional Court on the grounds specified therein. Thus, these decisions are of no assistance to the State and are distinguishable on facts.

C. Divergent claims regarding the Appointing Authority

39. Having held so, we now proceed to advert to the situation that has arisen owing to the inconsistency in the diverse claims regarding the authority who actually appointed the accused-appellant. As noted hereinabove, competing assertions have been advanced regarding the actual appointing authority of the accused-appellant, based on the documents handed over to the Court during the course of the hearing of the appeals. While learned counsel for the

State maintains that the Commissioner is the appointing authority of the accused-appellant, the learned senior counsel representing the accused-appellant, on the other hand, asserts that the appointing authority is the State Government.

40. In view of this disputed factual scenario, we are of the considered opinion that, for a proper and effective resolution of the controversy, it would be expedient in the interest of justice to remit the matter to the trial Court for fresh adjudication on the limited issue regarding the actual appointing authority of the accused-appellant and the consequential bearing thereof on the validity of the sanction order.

41. The contention advanced on behalf of the accused-appellant that he is entitled to be discharged on account of his exoneration in the departmental proceedings does not merit acceptance and is, accordingly, rejected.

42. The finding recorded by the High Court on the aspect of the validity of the sanction is set aside, and the matter is remitted to the trial Court for fresh determination of the issue of sanction in accordance with law, keeping in view the above observations.

43. For this purpose, the trial Court shall be at liberty to summon the original records/contemporaneous documents pertaining to appointment of the accused-appellant, and thereafter to take an appropriate decision regarding the validity or otherwise of the sanction, in accordance with law. In case the trial Court finds that the sanction has been issued by a competent authority, the trial shall proceed. However, in case the conclusion is otherwise, the trial Court shall return the chargesheet to the investigating agency for procuring fresh sanction from the appropriate authority.

44. The appeals are disposed of in these terms.

45. Pending application(s), if any, shall stand disposed of.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
NOVEMBER 10, 2025.