



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

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**CRM-M-36904-2025
Date of decision: 15.07.2025**

Rajesh Kumar

.....Petitioner

Versus

Central Bureau of Investigation

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Karanvir Singh Khehar, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking quashing of the summoning order dated 29.03.2025 (Annexure P-6) passed by learned Special Judicial Magistrate, CBI, Haryana, Panchkula, as affirmed by the learned Revisional Court vide order dated 27.05.2025 (Annexure P-7), whereby cognizance was taken against him under Section 120-B read with Sections 409, 420, 468, 471 and 201 of the IPC, in respect of acts allegedly committed during his tenure as Deputy Director (Investigation, Income Tax, Gurugram), in case FIR No.RC0052020A0008 dated 30.06.2020 registered under Sections 120-B, 420, 201 of the IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (as amended in 2018) (hereinafter referred to as 'PC Act').

2. Learned counsel for the petitioner has assailed the impugned orders on the following principal grounds:-



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(i) that cognizance has been taken in violation of the mandatory preconditions contemplated under Section 19 of the PC Act, and Section 197 of the Cr.P.C., despite denial of sanction by the competent authority;

(ii) that the alleged acts were committed while discharging official duties as a public servant, and thus fall within the protective umbrella of Section 197 of the Cr.P.C.;

(iii) that offences under the IPC now invoked are inseparably linked to the allegations under the PC Act, and in the absence of sanction under Section 19 of the PC Act, no valid prosecution can be sustained even under the IPC;

(iv) that the order taking cognizance lacks application of mind and is merely a mechanical reproduction of the narrative contained in the chargesheet.

3. Learned counsel has submitted that the allegations pertain to the seizure, handling, and alleged tampering of hard disk, obtained during an authorised search under the Income Tax Act. The proposal for prosecution sanction, covering Sections 13(2) read with Section 13(1)(d) of the PC Act, and Sections 120-B, 409, 420, 468, 471 and 201 of the IPC, was considered by the Central Board of Direct Taxes (CBDT) in consultation with the Central Vigilance Commission (CVC), and was ultimately declined vide order dated 27.08.2024, annexed as Annexure P-3. It has been urged that the refusal was a composite decision covering the entire allegations, and the attempt by the prosecution to proceed selectively under the provisions of the IPC



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amounts to a colourable device intended to circumvent the refusal of sanction.

4. While placing reliance upon the decision of this Court in ***CRM-M-17032-2025 titled as 'Sachin Ahlawat Vs. Central Bureau of Investigation', decided on 23.04.2025***, it has been vehemently contended that where allegations under IPC and PC Act stem from a common set of facts, prosecution cannot proceed under IPC alone, if sanction under the PC Act is denied.

5. Learned counsel has further submitted that even assuming arguendo that the sanction under the PC Act was limited, the prosecution is nevertheless barred under Section 197 of the Cr.P.C. The petitioner was a serving public servant, acting in discharge of official functions during the relevant period. The allegations themselves pertain to the execution of duties under the Income Tax Act, and the disciplinary proceedings initiated against the petitioner under Rule 14 of the CCS (CCA) Rules, 1965 are indicative of the official character of the acts complained of. In such circumstances, sanction under Section 197 of the Cr.P.C., it is urged, was not a mere procedural formality, but a jurisdictional prerequisite. In support, reliance has been placed upon ***Criminal Appeal No.975 of 2025 titled as 'Suneeti Toteja Vs. State of UP and others'***. It has been contended that the Hon'ble Apex Court held that where the alleged act is reasonably connected to the discharge of official duty, cognizance without prior sanction is impermissible. Learned counsel has also placed reliance upon ***G.C. Manjunath & Others Vs. Seetaram, 2025 INSC 439***.



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6. Notice of motion.

7. On asking of the Court, Mr. Akashdeep Singh, Special Public Prosecutor for the CBI accepts notice on behalf of the respondent-CBI.

8. Learned Special Public Prosecutor for CBI has opposed the prayer and submissions of the counsel opposite and defended the impugned orders passed by the learned Trial Court and which were affirmed by the learned Revisional Court. It has been submitted that the prosecution under the provisions of IPC is in accordance with the provisions of law and unaffected by the refusal of sanction under the PC Act. It has been pointed out that the refusal dated 27.08.2024 (Annexure P-3) was confined solely to the offences under the PC Act and did not encompass or bar prosecution under the provisions of IPC. It has still further been urged that the proposal for sanction was considered by the competent authority only in the context of offences under Sections 13(1)(d) read with 13(2) of the PC Act.

9. Learned Special Public Prosecutor for CBI has still further submitted that the prosecution under IPC is based on distinct and substantive offences, including forgery, destruction of evidence, criminal breach of trust, and cheating, all of which are supported by specific forensic evidence. It has been vehemently submitted that the CFSL report reveals a mismatch between the hash values of the original and resealed hard disk and establishes that critical data was deliberately deleted during the period it remained in the custody of the petitioner. It has been further contended that images of official documents recovered



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from the personal mobile device of the petitioner indicate a conscious effort to withhold material evidence and mislead the department.

10. It has still further been urged by the learned Special Public Prosecutor for CBI that these acts cannot be regarded as having been committed in the exercise of official duty. Rather, they constitute an abuse of public trust and a calculated effort to interfere with regulatory proceedings. Learned Special Public Prosecutor for the CBI has placed reliance on the judgement of the Hon'ble Supreme Court in ***A. Sreenivasa Reddy Vs. Rakesh Sharma and another (Criminal Appeal No.2339 of 2023, decided on 08.08.2023)***, to submit that prosecution under the provisions of IPC can proceed independently, even where sanction under the PC Act has been declined.

11. It has still further been argued by the learned Special Public Prosecutor for CBI that the decision in ***Sachin Ahlawat's case (supra)*** is distinguishable on facts, as that case involved no substantive offences under IPC other than conspiracy under Section 120-B of the IPC. In contrast, the present case involves substantive allegations of forgery, criminal breach of trust, cheating and tampering with evidence, supported by forensic reports.

12. A prayer has, therefore, been made for dismissal of the instant petition as it is an attempt by the petitioner to evade prosecution on technical grounds even though criminality is evident from the record.

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



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14. The following issues arise for determination of this Court:-

(i) Whether the refusal of sanction under Section 19 of the PC Act bars prosecution under the IPC?

(ii) Whether the IPC offences are inextricably linked to allegations under the PC Act and cannot stand alone?

(iii) Whether sanction under Section 197 of the Cr.P.C. was required in the facts of the present case?

15. Answer to the above framed issues is as under:-

Issue No.(i): Whether the refusal of sanction under Section 19 of the PC Act bars prosecution under the IPC?

(a) The order dated 27.08.2024 (Annexure P-3) whereby sanction was declined reads as follows :-

*“2. With regards to the above, this is to state that CBI, ACB, Chandigarh made a request for granting of sanction for prosecution in the case of Sh. Rajesh Kumar (09122), the then DDIT (Inv.) Unit-II, Gurugram, Vide its report dated 19.12.2022, CBI has stated that Sh. Rajesh Kumar, the then DDIT (Inv.) Unit-II, Gurugram, Sh. Anand Jain MD of M/s Indo Auto Tech Ltd, Sh. Sudhir Choudhary CA & Sh. Parrieep Kumar linal by their act and omissions constitute the offences punishable u/s 120-B, 201, 409, 420, 468, 471 of IPC and u/s 13(2) t/w Section 13(1)(d) of PC Ayt, 1988, The CBI, ACB, Chandigarh **has requested necessary sanction of the competent authority under section 19 of PC Act 1988 (as amended in 2018).***

3. On examining the CBI report along with material available on record and after consultation with the CVC, Competent authority does not agree with the proposal of the CBI, ACB, Chandigarh for granting of sanction for prosecution in the case of Sh. Rajesh Kumar (09122), the then DDIT (Inv.) Unit-II, Gurugram.”

(b) A plain reading of the above makes it evident that the



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refusal was limited to prosecution under the PC Act. The proposal considered was one seeking sanction under Section 19 of the PC Act, and the decision was rendered accordingly. No decision was taken on, nor was any sought, under Section 197 of the Cr.P.C. in relation to offences under IPC.

(c) The Hon'ble Supreme Court in *A. Sreenivasa Reddy's case (supra)* has authoritatively clarified that sanction under Section 19 of the PC Act and under Section 197 of the Cr.P.C. operate in distinct spheres. A refusal of sanction under the PC Act does not operate as a blanket bar on prosecution under provisions of the IPC, provided the ingredients of those offences are independently satisfied.

(d) Accordingly, this issue is answered in the negative.

Issue No.(ii): Whether the offences under IPC are inextricably linked to allegations under the PC Act and cannot stand alone?

(a) The argument by learned counsel for the petitioner that the offences under IPC are inseparable from the allegations under the PC Act is premised on the assumption that both arise from a single transaction, and thus prosecution under IPC is impermissible following refusal of sanction under the PC Act.

(b) This contention, however, cannot be accepted. In *Sachin Ahlawat's (supra)*, the only offence under IPC alleged was conspiracy under Section 120-B, and the prosecution was inseparable from the charge under the PC Act. In the present case, however, the petitioner is charged with substantive offences under Sections 409, 420, 468, 471,



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and 201 IPC—each of which is independently defined and supported by *prima facie* evidence, including the report of CFSL noting deletion of data and alteration of the contents of the hard disk, as well as recovery of official documents from the personal device of the petitioner.

(c) In *A. Sreenivasa Reddy's case (supra)*, the Supreme Court held that even if the public servant is discharged of offences under the PC Act, prosecution under IPC may continue if the allegations constitute distinct offences.

(d) The offences under IPC in the instant case involve distinct ingredients—breach of trust, forgery, falsification of digital records, and destruction of evidence—which are legally severable from the misconduct alleged under the PC Act.

(e) This issue is also answered in the negative.

Issue No.(iii): Whether sanction under Section 197 of the Cr.P.C. was required in the facts of the present case?

(a) Learned counsel for the petitioner vehemently asserted entitlement to protection under Section 197 of the Cr.P.C. on the ground that the acts alleged were committed during the course of official duties as Deputy Director (Investigation, Income Tax).

(b) This contention too is without merit. The acts alleged—tampering with digital evidence, deletion of official records, and resealing a forensic device with altered content—are not acts that can be said to have been committed in the discharge of official duty, but rather in derogation of it.



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(c) The Hon'ble Supreme Court has consistently held that where a public servant is accused of acts that are not in furtherance of, but contrary to, the lawful discharge of official duties, the bar under Section 197 of the Cr.P.C. does not apply.

(d) This Court, while dealing with a similar contention in ***CRR-1306-2020 titled as 'Rajeev Arora Vs. CBI' decided on 15.05.2025***, held as under :-

“63. Coming next to the question of sanction under Section 197 of the Cr.P.C., in the impugned order, the learned Special Judge has rightly observed that prior sanction under Section 197 of the Cr.P.C. is not a prerequisite for prosecuting a public servant for offences punishable under Sections 420 and 120-B of the IPC. The reasoning offered is rooted in the intrinsic nature of the offence of cheating, which, by its very character, is incapable of being committed by a public servant in the discharge or purported discharge of official duty....”

(e) Similarly in ***Suneeti Toteja's case (supra)***, the Supreme Court reaffirmed that the requirement of sanction under Section 197 of the Cr.P.C. is attracted only where the act is directly and reasonably connected with official duty, which in turn would depend on the facts and circumstances of the case.

(f) No doubt, Learned Counsel for the petitioner has placed heavy reliance on the recent judgment of the Hon'ble Supreme Court in ***G.C. Manjunath's case (supra)***, to contend that even where a public servant exceeds his authority, the protection of Section 197 of the Cr.P.C. is attracted if there exists a reasonable nexus with official duty. However, the reliance is misplaced in the facts of the present case. In ***G.C. Manjunath's case (supra)***, the accused were police officers acting under the colour of authority while investigating criminal cases



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involving a person who had already been declared a "rowdy sheeter" and had a long history of prior cases. The Supreme Court held that, even if the acts alleged (assault, excesses, humiliation) were excessive or improper, they occurred during the course of discharge of official functions related to police investigation, and thus the requirement of sanction under Section 197 of the Cr.P.C. was mandatory. The pivotal reasoning was that the conduct, though allegedly wrongful, was reasonably connected to official functions. In contrast, the acts alleged against the present petitioner involve a deliberate deletion of digital evidence, mismatch in hash values, and concealment of documents on a personal device, with no corresponding lawful duty that permits or justifies such actions. Unlike in *G.C. Manjunath's case (supra)*, the petitioner was not acting in pursuit of official investigation when he tampered with evidence or withheld forensic data. These were not acts committed in excess of duty, but acts committed in betrayal of entrusted authority, constituting an independent criminal design.

(g) Still further, The Hon'ble Supreme Court in *G.C. Manjunath's case (supra)* itself reiterated the principle laid down in *D. Devaraja Vs. Owais Sabeer Hussain, (2020) 7 SCC 695*, that "*an offence committed entirely outside the scope of the duty of the public servant would certainly not require sanction*", and that "*if the act is connected to the discharge of official duty, sanction is necessary; but if it is a cloak to justify independent criminal acts, it is not.*" Applying this test, the present acts cannot be said to have a reasonable nexus to the discharge of official duties under the Income Tax Act. No public



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servant is empowered by his official function to erase or falsify forensic material or to suppress evidence for the benefit of a private assessee.

(h) This issue too is accordingly answered in the negative.

16. In the light of the foregoing discussion, this Court finds no legal infirmity in the impugned orders. The summoning order dated 29.03.2025 (Annexure P-6) discloses due application of mind. The learned Revisional Court has rightly upheld that the prosecution under the provisions of IPC is not barred by the refusal of sanction under Section 19 of the PC Act or the embargo under Section 197 of the Cr.P.C. The prosecution is supported by *prima facie* material, including reports of Forensic Science Laboratory, and cannot be interdicted on technical grounds.

17. Consequently, the instant petition is hereby dismissed.

18. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

15.07.2025

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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