IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.3849 OF 2019
C/W
WRIT PETITION NO.48145 OF 2018 (GM-RES)

IN CRL.P NO.3849/2019:

BETWEEN:

1. H.M. KHYUM ALI
RETD. DEPUTY DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
S/O ZAINULLABEDIN
AGED ABOUT 63 YEARS
PRESENTLY AT R/AT NO.121
3RD MAIN, AUSTIN TOWN LAYOUT
BENGALURU-560 047.

...PETITIONER

(BY SRI. ADITYA NARAYAN, ADVOCATE)

AND:

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

1. STATE OF KARNATAKA
BY POLICE INSPECTOR
KARNATAKA LOKAYUKTHA POLICE WING
CITY DIVISION, BENGALURU-560 001
REPRESENTED BY SPECIAL PUBLIC PROSECUTOR

...RESPONDENT

(BY SRI. VENKATESH S. ARABATTI, SPECIAL PUBLIC PROSECUTOR)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE CRIMINAL PROCEEDINGS IN SPL.C.C.NO.177/2012 INITIATED BY THE RESPONDENT POLICE BEFORE THE HON'BLE 76TH ADDITIONAL CITY CIVIL AND SESSIONS COURT AND SPECIAL COURT AT BENGALURU

CITY, ARISING FROM CRIME NO.77/2008 (PREVEOUSLY NUMBERED AS CRIME NO.21/2008) (ANNEXURE A) THE CHARGE SHEET DATED 03.08.2012 (ANNEXURE B) AND THE SUMMONS ORDER DATED 13.09.2012 (ANNEXURE C) AND ALL ACTIONS PURSUANT THERETO.

IN WP NO.48145/2018:

BETWEEN:

1. SRI. M.K. BALDEVAKRISHNA
   S/O. LATE N.K. MARUTHI
   AGED ABOUT 65 YEARS
   R/AT NO.282, 4TH MAIN ROAD,
   KENGERI SATELLITE TOWN,
   BENGALURU.

...PETITIONER

(BY SRI. ABHISHEK M.K., ADVOCATE FOR
SRI. SANDEEP PATIL, ADVOCATE)

AND:

1. STATE OF KARNATAKA
   BY POLICE INSPECTOR,
   KARNATAKA LOKAYUKTHA POLCIE WING
   CITY DIVISION
   BENGLAURU-560001
   REPRESENTED BY SPECIAL PUBLIC PROSECUTOR.

...RESPONDENT

(BY SRI. VENKATESH S ARBATTI, SPECIAL PUBLIC PROSECUTOR)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA R/W SECTION 482 OF THE CRIMINAL PROCEDURE CODE, PRAYING TO QUASH THE FIR IN CRIME NO.38/2008 DATED 26.06.2008 REGISTERED BY THE RESPONDENT POLICE (VIDE ANNEXURE-A); AND QUASH CHARGESHEET DATED 12.05.2014 PENDING ON THE FILE OF 76TH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (VIDE ANNEXURE-B); AND QUASH ORDER OF TAKING CONGIZANCE DATED 10.06.2014 PASSED BY 76TH

ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (VIDE ANNEXURE-C); AND QUASH ORDER DATED 27.08.2018 PASSED BY 76TH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (VIDE ANENXURE-D); AND QUASH ORDER OF CHARGE DATED 27.08.2018 PASSED BY 76TH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (VIDE ANNEXURE-E).

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 06.10.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

CAV ORDER

Heard learned counsel for petitioner in Crl.P.No.3849/2019 and learned counsel for petitioner in W.P.No.48145/2018 and learned counsel for respondent in both the petitions.

2. Crl.P.No.3849/2019 is filed by the petitioner praying this Court to quash criminal proceedings in Spl.C.C.No.177/2012 initiated by the respondent-State of Karnataka by Police Inspector, Karnataka Lokayuktha arising out of Crime No.77/2008 and quash the charge sheet dated 03.08.2012 and summoning order dated 13.09.2012 i.e., Annexures-A to C and grant such other relief as deems fit in the circumstance of the case.

3. The factual matrix of case of the prosecution is that this petitioner entered into Government Service as an Assistant Geologist with the Department of Mines and Geology, Raichur, Karnataka on 02.04.1974. The petitioner was serving as the Additional Director, Department of Mines and Geology, Bangalore, prior to his retirement. On 26.06.2008, the respondent registered a *suo moto* case in Crime No.77/2008 against the petitioner for the alleged offence under Section 13(1)(e) r/w. Section 13(2) of the Prevention of Corruption Act, 1988 ('PC Act' for short) on the basis of the source report and based on registration of the case, respondent-police investigated the matter and categorized the petitioner's assets into Schedules and called upon the petitioner to produce the documentation in respect of the said assets. Accordingly, petitioner has furnished information and supporting documentation relating to Schedules 17 to 23 and indicated that he was in the midst of collating documents relating to Schedules 1 to 16B, and requested further time to produce the same. However, the respondent-Police have completed the investigation and filed the charge sheet without the details of information in respect of Schedules 1 to 16B. The allegation made against the petitioner is that, his assets valued at

Rs.62,75,866.77/-, total expenditure of Rs.53,24,253.63/- and an income of Rs.67,88,796.44/- during the check period i.e., from 11.02.1974 to 27.06.2008 and comes to the conclusion that disproportionate assets worked out to 70.81% in excess of the income from unknown sources. It is also stated that on 31.03.2012, he has submitted a detailed response to the competent authority with information and documentation, including in respect of Schedules 1 to 16B, pertaining to all aspects of income, expenditure and assets. The petitioner was retired from Government service on 31.05.2012. The petitioner also wrote to the competent-authority requesting it to forward his detailed representation dated 31.03.2012 to the respondent for further detailed investigation and for their consideration on 14.06.2012 and even submitted the representation on 18.06.2022. The competent authority issued a letter to the respondent dated 19.07.2012, indicating that issue of consideration of sanction to prosecute the petitioner had become irrelevant, and forwarded the petitioner's representation and supporting documents dated 31.03.2012 to the respondent for consideration.

4. The respondent filed the charge sheet in Crime No.77/2008 and the respondent has admitted that the detailed

materials made available to it by the competent authority had not at all been considered prior to filing of the charge sheet. It is contended that source information is 900%, but while filing the charge sheet, disproportionate assets have been shown as Rs.48,11,323.96 and assets to the extent of Rs.41,31,381/- have been wrongly taken into account. The Investigating Officer has failed to take note of income of check period, the salary of Rs.2,20,193/- and rental income omitted to the extent of Rs.6,23,000/-. So also, Fixed Deposit interest earned on maturity at Rs.35,152 and advance on rental and tuition income Rs.3,60,000 and there is absolutely, no disproportionate assets.

5. Learned counsel for the petitioner would vehemently contend that there cannot be any criminal prosecution against the petitioner. The counsel also contend that an amendment was brought into Section 19(1) of the PC Act on 26.07.2018 and pursuant to the said amendment, when the proviso was substituted, there cannot be any criminal prosecution before sanction. The counsel also vehemently contend that Trial Judge committed an error in taking cognizance and proceeding against the petitioner. The petitioner also filed an application under Section 227 of Cr.P.C.

seeking discharge and on the same day, it was dismissed without any application of mind or consideration for the Amendment Act, 2018 and the respondent's admission in cross-examination also was not taken note of. Hence, prayed this Court to set aside the proceedings.

6. Learned counsel for the petitioner in support of his argument also filed written submission, wherein he has contended that though he was appointed on 02.04.1974 and served for about 34 years in the Department and also submitted the information in respect of Schedules 17 to 23 on 23.03.2011 and sought time to give details in respect of Schedules 1 to 16B and failed to consider the same and prosecution case is based on an incomplete investigation. The prosecution against the petitioner is wholly misconceived. The counsel also would contend that the petitioner is now aged about 75 years.

7. The counsel in support of his argument relied upon judgment of Division Bench of Madras High Court in **RANGANATHAN vs. STATE** reported in **1996 CR.LJ 2041**, wherein it is held that "it is the duty of the Investigating Agency to collect all materials relatable to the case and counter

case and ultimately form an opinion on the materials so collected.

8. The counsel also relied upon judgment of the Apex Court in **VIJAYEE SINGH vs. STATE OF U.P.** reported in **(1990) 3 SCC 190,** wherein the Apex Court held that "…where the accused introduces material to displace the presumption which may affect the prosecution case or create a reasonable doubt about the existence of one or other ingredients of the offence and then it would amount to a case where prosecution failed to prove its own case beyond reasonable doubt.

9. The counsel also relied upon judgment of Bombay High Court in **SHIVAJI GANU NAIK vs. STATE OF MAHARASHTRA** reported in **1999 CR. LJ 471,** wherein the Bombay High Court held that the duty of an Investigating Officer is not to suppress inconvenient evidence but to place before the Court all evidence.

10. The counsel also relied upon judgment of the Apex Court in **RAJIV THAPAR vs. MADAN LAL KAPOOR** reported in **(2013) 3 SCC 330,** wherein the Apex Court held that High Court while exercising the power under Section 482 of Cr.P.C. to quash a proceeding on basis of defence material, if the

material leads to conclusion that his/her defence is based on sound, reasonable and indubitable facts and it amounts to abuse of process, the Court can exercise the powers.

11. The counsel also with regard to Amendment to Section 19(1) of the Prevention of Corruption Act, 1988 has contended that it is applicable retrospectively by way of substitution and amendment makes it very clear that sanction is necessary not only for subjecting a public servant while in service (or who is in service) but also a public servant who has retired from service (who was in service). This amendment is by way of substitution, and it takes effect from the inception in the sense it must be understood as if the substituted provision is there from the day when the law was enacted. Hence, it is contended that the respondent ought to have taken sanction before prosecuting the petitioner.

12. The counsel also relied upon judgment in **STATE OF KARNATAKA vs. DR. V. CHANDRASHEKHAR** in **CRL.R.P.NO.790/2015** decided on **09.02.2022,** wherein also this Court held that substituted Section 19 of PC Act operates retrospectively and protects retired public servants also.

13. The counsel also in respect of taking cognizance is concerned, brought to notice of this Court order dated 13.09.2012, wherein the Court took cognizance, wherein it is only mentioned that "seen the final report, cognizance taken, register the case and issue summons to accused". The counsel contend that there must be satisfaction of the Court that there exists a prima facie basis for proceeding against the accused.

14. The counsel in support of his argument relied upon judgment of the Apex Court in **PEPSI FOODS LTD. vs. SPECIAL JUDICIAL MAGISTRATE** reported in **(1988) 5 SCC 749,** wherein the Apex Court held that summoning an accused is a serious matter. The order must reflect application of mind to the facts and applicable law.

15. The counsel also relied upon judgment of the Apex Court in **MEHMOOD UI REHMAN vs. KHAZIR MOHAMMAD TUNDA** reported in **(2015) 12 SCC 420,** wherein the Apex Court held that process must not be issued in a mechanical manner and the Magistrate is duty bound to show application of mind to relevant issues.

16. Per contra, learned counsel appearing for the respondent in his argument would be contend that there is no

need of sanction, since he is retired and also charge sheet was filed in 2012 and as on the date of filing of charge sheet and taking of cognizance, he was not in service.

17. The counsel in support of his argument relied upon judgment of the Apex Court in **STATE BY DEPUTY SUPERINTENDENT OF POLICE vs. B.T. RAMESH & ANR.** reported in **[2025] 8 S.C.R. 202,** wherein the Apex Court held that High Court committed an error in quashing the criminal proceedings on the ground that charge sheet was filed more than four years after the date of the alleged incident and lack of sanction and held that the Rule of Construction under Rule 214 has no application to suppress pending criminal proceedings in the early stage or for stifling such proceedings after cognizance of offence has been taken for no better reason than that the timelines embodied therein have not been adhered to and High Court committed an error in quashing the same. So also, discussed with regard to scope of Section 197 and held that erred in quashing the proceedings qua the offences under the PC Act as it did not appreciate that Section 19 thereof, prior to its amendment to 2018, applied only to public servants, who were in office at the time of taking of cognizance of offence. Thus, since the respondent retired in 2012 and the cognizance

of offence was taken four years after his retirement, he was not entitled to protection under Section 19 of PC Act. Such protection would have been available to him only if cognizance was taken while he was still in service.

18. The counsel also relied upon judgment of the Apex Court in **STATION HOUSE OFFICER, CBI/ACB/BANGALORE vs. B.A. SRINIVASAN AND ANR.** reportable in **CRL.A.NO.1837/2019 (Arising out of Special Leave Petition (Crl.) No.6106/2019** dated **05.12.2019,** wherein the Apex Court discussed in detail both Section 19 and Section 197 of Code and so also discussed with regard to scope of Section 482 of the Code and held that the High Court clearly erred in allowing Criminal Revision Petition and accepting the challenge raised by the Respondent No.1 on the issue of sanction and set aside the view taken by the High Court and restored the order passed by the Trial Court, wherein held that the basic issue pertaining to issue of sanction we shall not be taken to have expressed any view on merits which shall be considered independently.

19. The counsel also relied upon judgment of the Apex Court in **STATE OF TELANGANA vs. MANAGIPET ALIAS**

MANGIPET SARVESHWAR REDDY reported in **(2019) 19 SCC 87,** wherein also discussion was made with regard to law as it stood on the date of the alleged crime that will apply, wherein also observed that the FIR in the present case was registered on 09.11.2011 i.e., much before the amendment made in PC Act in 2018, whether any offence had been committed or not must be examined in the light of provisions of PC Act, as they stood prior to above enactment.

20. The counsel also vehemently contend that an application is filed for discharge and the same was rejected and while rejecting the application, learned Trial Judge also given reasons. The counsel also would contend that when the statement of father-in-law was recorded, he categorically stated that on the costs of this petitioner itself, construction was made and he admitted that amount was given by this petitioner for construction and a detailed order was passed. The accused also has not given reply to Schedules and subsequently, it was given after 3½ years. When the charge sheet is already filed and disproportionate assets are also shown and P.W.1 to P.W.6 are already examined and cross-examined, question of entertaining the petition does not arise.

21. The similar question also involved in another case in W.P.No.48145/2018. Hence, this Court clubbed the said writ petition for consideration and taken up the said petition for discussion in view of clubbing both the matters.

22. In W.P.No.48145/2018 prayer is sought by the petitioner to issue writ in the nature of certiorari to quash the suo moto case registered in Crime No.38/2008 for the offence punishable under Section 13(1)(e) read with Section 13(2) of PC Act, so also writ in the nature of certiorari to quash the charge sheet dated 12.05.2014, quash the order taking cognizance dated 10.06.2014 and issue writ in the nature of certiorari or any other order quashing the order dated 27.08.2018 and grant such other relief.

23. The factual matrix of case of the petitioner is that he was then working as Managing Director, Dr. Ambedkar Development Corporation and the respondent-police conducted a raid at the residence of the petitioner on 27.06.2008 and after completion of investigation, submitted a final report, wherein also alleged that, he has total assets valued at Rs.2,68,97,390/-, total expenditure of Rs.1,63,99,183/- and an income of Rs.2,00,05,899/- during the check period. The final

report shows that alleged disproportionate assets worked out at 116.41% in excess of the income from known sources. The petitioner was in service at the time of filing of final report. The investigating report was submitted to the competent authority seeking for sanction to prosecute the petitioner under Section 19 of PC Act. The Government of Karnataka forwarded the final report to the petitioner and called upon to submit the Schedules and comments as per the guidelines issued by the Government of India. The petitioner vide letter dated 25.07.2011 furnished a detailed reply to the report and submitted the Schedules 1 to 23. In the meanwhile, a committee was constituted vide Government Order dated 21.09.2011 to examine the proposal received from the respondent regarding sanction for prosecution in raid. The counsel would contend that the Chief Secretary, Karnataka has issued a letter on 04.11.2011 to the Additional Director General of Police, Karnataka requesting to obtain and furnish the comments/views of the Investigation Officer on the reply furnished by the petitioner, so as to enable the State Government to proceed further in the matter.

24. The State Government issued another letter seeking for remarks of Investigating Officer on the Schedules forwarded

by the petitioner on 24.01.2012. The Government of Karnataka took a decision to reject the request for grant of sanction for prosecuting the petitioner and requested the Department of Personnel and Training, Government of India vide letter dated 30.03.2013 to give concurrence for the same as the petitioner was then in the IAS Cadre and in turn, Government of India called for supporting documents and view/comments/ recommendations of the State Government vide letter dated 05.04.2013. In the interregnum, petitioner retired from his service. Accordingly, the Committee informed the respondent-police that issue of consideration of sanction to prosecute petitioner has become irrelevant and further directed the same to be communicated to Department of Personnel and Training, Government of India. Thereafter, the Special Judge took cognizance of alleged offence under Section 13(1)(e) read with Section 13(2) of the PC Act.

25. The petitioner had filed an application under Section 91 of Cr.P.C. to summon certain documents and the Special Judge dismissed the said application. Against the said order, petitioner had preferred a Crl.P.No.5328/2016 and this Court disposed of the petition and held that, it is open to the petitioner to make his submission before the Trial Court in

respect of the Schedules having been submitted and been available with the respondent and the Trial Court would take a call on whether those documents would be looked into. Thereafter, the petitioner also filed an application for discharge and the same was resisted by the respondent-Lokayukta and the Trial Judge dismissed the said application. It is also the contention that Section 19 of the PC Act has been amended, wherein sanction is necessary for prosecution by a person, who was a public servant and the said provision is also applicable to the case on hand and sanction was a pre-requisite condition for taking cognizance. In the absence of a valid sanction, the Special Judge has no jurisdiction to take cognizance. These are the grounds raised by the petitioner in the present writ petition and grounds which have been urged are similar to that of Crl.P.No.3849/2019.

26. The counsel also in support of his argument filed written arguments stating factual aspects in respect of this case is concerned. The counsel also relied upon judgment in **STATE OF PUNJAB vs. LABH SINGH** in **CRL.A.NO.2168/2010,** wherein it is held that prosecution cannot keep waiting until a Public Servant retires and thereafter choose to file the charge sheet against him after his retirement, thereby setting at

naught the protection available to such Public Servant under Section 19 of the PC Act.

27. The counsel also would vehemently contend that the learned Judge proceeded to take cognizance of the alleged offence on 10.06.2014 and the operative portion of the order is that "perused the final report. Cognizance is taken. Register the case and issue summons to accused returnable by 07.07.2014" and passing such an order is nothing but without application of mind. There is no indication in the said order as to the material which constitutes sufficient ground for proceeding.

28. The counsel relied upon judgment of the Apex Court in **SUNIL BHARATI MITTAL vs. CENTRAL BUREAU OF INVESTIGATION** reported in **(2015) 4 SCC 609,** wherein also discussion was made with regard to Section 190 of the Code of Criminal Procedure and proceeds to issue process under Section 204 of the Code of Criminal Procedure, the order must disclose that there exists sufficient ground for proceeding against the accused and there is no application of mind and the very approach of the learned trial Judge is erroneous.

29. It is contended that in ***Labh Singh***'s case, the Apex Court held that while dealing with prosecution of retired Public

Servants, specifically deprecated the conduct of the prosecution in waiting until a Public Servant retires, and thereafter filing the charge sheet so as to defeat the protection available under Section 19 of the PC Act. The counsel also vehemently contend that the amendment to Section 19 of the PC Act is not a mere technical or procedural formality. The sanctioning authority is required to apply its independent mind and relies upon judgment of the Apex Court in **NANJAPPA vs. STATE OF KARNATAKA** reported in **(2015) 14 SCC 186,** wherein the Apex Court held that the question relating to the validity of sanction can be raised at any stage and that the competence of the Court to try the accused depends upon the existence of a valid sanction.

30. The counsel also relied upon judgment of the Apex Court in **VAKIL PRASAD SINGH vs. STATE OF BIHAR** reported in **(2009) 3 SCC 355** and brought to notice of this Court paragraph Nos.18 to 20, wherein the Apex Court has held that seriousness of the allegations does not by itself justify permitting an unexplained and constitutionally impermissible delay to continue indefinitely.

31. The counsel also relied upon judgment of the Apex Court in **P. RAMACHANDRA RAO vs. STATE OF KARNATAKA** reported in **(2002) 4 SCC 578** and also Constitution Bench judgment in **ABDUL REHMAN ANTULAY vs. R.S. NAYAK** reported in **(1992) 1 SCC 225,** wherein the Apex Court held that the question of violation is required to be determined having regard to the totality of circumstances, including the length of delay, reasons for delay, responsibility for the delay and the prejudice caused to the accused.

32. The counsel also relied upon judgment of the Apex Court in **STATE OF HARYANA vs. BHAJAN LAL** reported in **1992 SUPP (1) SCC 335,** the counsel particularly brought to notice of this Court paragraph No.102. The counsel referring these judgments would vehemently contend that continuation of proceedings against the petitioner is nothing but an abuse of process and the respondent cannot delay investigation, then permit the petitioner to retire and thereafter, proceed against the petitioner and the Court has to take note of malafides on the part of the respondent-police.

33. The counsel also relied upon judgment of the Apex Court in **DELHI RACE CLUB (1940) LIMITED AND OTHERS**

vs. STATE OF UTTAR PRADESH AND ANOTHER reported in **(2024) 10 SCC 690** and brought to notice of this Court discussion made in the judgment with regard to scope of inquiry under Section 202 of Cr.P.C. and brought to notice of this court paragraph No.23, wherein discussion was made with regard to summoning of an accused in a criminal case is a serious matter.

34. Per contra, learned counsel appearing for the respondent-Lokayukta would vehemently contend that case was registered based on the source report and investigated the matter and filed the charge sheet, wherein 116% disproportionate assets were found. The counsel would vehemently contend that sanction was not rejected and the same was sent to the Central Government for consideration and during the said process, the petitioner has retired from service and then, intimation was given that no need of sanction in view of retirement. The counsel also brought to notice of this Court the said report sent to the Central Government and the same is not rejected. The counsel also would vehemently contend that judgment of the Apex Court in ***Delhi Race Club's*** case is not applicable to the case on hand and when the

material was found against the petitioner, charge sheet was filed.

35. The counsel also would vehemently contend that when the discharge application was filed, the same was rejected and the reasoning was given. The counsel also vehemently contend that when the Schedules were furnished seeking for details, the prosecution had not furnished the details in respect of Schedules 1 to 23. When such being the case, question of quashing the proceedings does not arise, as sought in the petition.

36. Having heard learned counsel for the petitioner in Crl.P.No.3849/2019, learned counsel for the petitioner in W.P.No.48145/2018 and learned counsel for the respondent in both the petitions and also the principles laid down in the judgments referred supra, the Court has to take note of material regarding each case and whether it is a fit case to quash the proceedings initiated against the respective petitioners and the points that would arise for consideration of this Court are:

(1) Whether the petitioner in Crl.P.No.3849/2019 has made out a case to quash the proceedings ?

(2) Whether the petitioner in W.P.No.48145/2018 has made out a ground to entertain the writ petition and grant the relief as sought in the writ petition ?

(3) What order ?

Point No.(1):

37. The main contention of learned counsel appearing for the petitioner in Crl.P.No.3849/2019 is that there was no sanction and when the discharge application was filed, the same was not considered in a proper perspective and sanction is necessary, even if the petitioner is retired from service. The counsel also contend that when the explanation was given, the same was not considered and also relies upon judgment to that effect. On the other hand, it is the contention of learned counsel appearing for the respondent that charge sheet was filed long back and cognizance was taken prior to the amendment and material also discloses that father-in-law himself has made the statement that construction was made at

the cost of the petitioner and these are the factors are to be considered during the course of trial.

38. It is also important to note that in the case on hand, already charges are framed and discharge application was also filed and the same was dismissed. When the witnesses P.W.1 to P.W.6 were examined and cross-examined and when the evidence had already been commenced, the question of entertaining the petition under Section 482 of Cr.P.C. does not arise. The allegation against the petitioner is also that though in the source report, it was mentioned that petitioner is having disproportionate assets to the extent of 900% and the Investigating Officer also considered the details given in respect of Schedules 17 to 23 and time was sought to furnish details in respect of Schedules 1 to 16B, but the same was furnished later on at a belated stage after 3½ years as contended by learned counsel appearing for the respondent. When the charge sheet is filed stating that disproportionate assets are is more than 70% and the same has to be considered only during the course of trial. This Court cannot venture to exercise its power under Section 482 of Cr.P.C. when the disputed facts are involved and no doubt, earlier, Schedules were answered in

respect of Schedules 17 to 23, but subsequently, after filing of the charge sheet, other details are also given.

39. It has to be noted that when the cognizance was taken, no doubt, there is no need to pass any detailed order but, while passing the order, it is mentioned that seen the final report, that means, the learned Judge has perused the final report and cognizance was taken and it requires judicious application of mind. Hence, reference was made that, perused the final report, that means the learned Judge has looked into charge sheet material and considering judgments which have been relied upon by learned counsel appearing for the petitioner i.e., ***Pepsi Foods Ltd.'s*** case as well as ***Mehmood Ui Rehman****'s* case, it cannot be contended that order has been passed in a mechanical manner. No doubt, summoning of the accused is a serious matter, when the investigation was conducted and final report was filed, perused the final report. Hence, the said contention cannot be accepted that it was a mechanical order.

40. The counsel also relies upon amendment made to Section 19 of the PC Act and contend that it is retrospective application and the same cannot be accepted, in view of recent

judgment of the Apex Court in ***State By Deputy Superintendent Of Police's*** case and the same is very clear with regard to no need of sanction, if a public servant is retired and the Apex Court quashed the order of the High Court. When such recent judgment is pronounced by the Apex Court, the other judgments which have been relied upon by learned counsel appearing for the petitioner will not come to the aid of the petitioner. So also the judgment of the Apex Court in ***Managipet Alias Mangipet Sarveshwar Reddy***'s case is very clear and the Apex Court held that once cognizance was taken, it goes back to the date of alleged offence and already charge sheet was filed prior to amendment and thereafter cognizance was taken.

41. This Court also in **SRI B.G. PRAKASH KUMAR vs. THE STATE OF KARNATAKA AND ANOTHER** in **CRL.R.P.NO.902/2026 C/W. CRL.R.P.NOS.893/2026, 926/2026** dated **19.09.2026** made an elaborate discussion with regard to this subject is concerned when similar situation arose and when the charge sheet was filed and cognizance was taken, the aid of amendment does not arise and the same is prospective and not retrospective. Hence, I do not find any error on the part of the Trial Court in proceeding against the

petitioner. So also, the contention that the prosecution case is based on incomplete investigation also cannot be accepted. Admittedly, when the Schedules were furnished, only limited details were given and not furnished full details and subsequent to filing of the charge sheet, same are given which is also a matter of defence and when already P.W.1 to P.W.6 have been cross-examined by learned counsel appearing for the petitioner, question of entertaining all these grounds does not arise and also defence cannot be considered in a petition under Section 482 of Cr.P.C. Hence, I am of the opinion that petitioner has not made out any grounds to quash the proceedings by exercising the power under Section 482 of Cr.P.C. Accordingly, I answer point No.(1) as 'negative'.

Point No.(2):

42. The relief sought in W.P.No.48145/2018 by the petitioner is to issue writ in the nature of certiorari quashing FIR in Crime No.38/2008 and quash the charge sheet dated 12.05.2014 and so also quash the order taking cognizance dated 10.06.2014 and issue writ in the nature of certiorari or any other order quashing the order dated 27.08.2018 and grant such other relief.

43. The main contention of learned counsel appearing for the petitioner is that FIR was registered in 2008 and no dispute with regard to the said fact. The counsel would vehemently contend that sanction was rejected on 30.03.2013 as per Annexure-H. This Court has to take note of Annexure-H and having perused Annexure-H, it is not in dispute that when the sanction was sought, a decision was taken that not a case for granting sanction. But, the same was sent to the Central Government for consideration, as the petitioner is an IAS Officer. However, learned counsel appearing for the petitioner would contend that it was rejected. Learned counsel appearing for the respondent would contend that it was not rejected and the petitioner being an IAS Officer, the same has to be considered by the Central Government.

44. It is also to be noted that, in the meanwhile, the petitioner retired from the service and hence, a communication was sent to the Government in view of retirement and there cannot be any sanction. Hence, there is a force in the contention of learned counsel appearing for the respondent that there is no need of sanction. This Court also in **CRL.R.P.NO.902/2026 C/W. CRL.R.P.NOS.893/2026, 926/2026** dated **19.09.2026** considering the judgment of the

Apex Court in ***State by Deputy Superintendent of Police's*** case comes to the conclusion that sanction is not required, if a public servant is not in service, if it is in respect of PC Act. No doubt, learned counsel appearing for the petitioner relied upon several judgments and contend that intentionally waited for retirement of the petitioner, the said contention cannot be accepted for the reason that when the matter was referred to the Central Government, the same was pending for consideration and in the meanwhile, the petitioner retired from service and a communication was sent in view of retirement, the question of consideration of writ petition does not arise. Hence, the very contention of learned counsel appearing for the petitioner relying upon judgment in ***Sunil Bharati Mittal's*** case, so also judgment in ***Delhi Race Club's*** case will not come to the aid of the petitioner. So also, the judgments which have been relied upon by learned counsel appearing for the petitioner in ***Labh Singh's*** case, the other judgment in ***Nanjappa's*** case, ***Vakil Prasad Singh's*** case will come to the aid of the petitioner and the Court has to take note of recent judgment of the Apex Court in ***State by Deputy Superintendent of Police's*** case.

45. It is also important to note that main contention of learned counsel for the petitioner is that cognizance was taken, but while taking cognizance, the learned Trial Judge committed an error and did not apply his mind. But, the order is very clear that perused the final report and cognizance is taken. On perusal of final report and on application of mind, cognizance is taken and no doubt, not specifically mentioned that it is a case for proceeding against the petitioner, but the law is very clear that, it requires application of mind, if documents are perused along with the charge sheet while taking cognizance. The contention that after sanction was rejected, waited till retirement of the petitioner also cannot be accepted as the same was consideration by the Central Government and when it was pending before the Central Government, the petitioner has retired.

46. The other ground of learned counsel for the petitioner is that discharge application was rejected is a matter of trial, since there is disproportionate assets to the extent of 116% and particularly, Schedules have not been answered by the petitioner. When such being the case, the scope is very limited in a writ petition and disputed fact cannot be considered.

47. The other contention is that the petitioner was aged about 75 years is not a ground to quash the proceedings and age is not a material and whether there was disproportionate assets or not has to be ascertained during the course of trial and the petitioner can raise all these contentions as a defence and defence cannot be considered while considering the writ petition and the relief as sought. It has to be noted that in the source report, disproportionate assets of the petitioner is shown to the extent of 180%, but considering the material on record by the Investigating Officer, he arrived at a conclusion that it is 116.41%, whether it is 180% or 116.41% and it matches with the salary and expenditure is a matter of trial. Hence, I do not find any ground to issue a writ in the nature of certiorari to quash the suo moto case registered in Crime No.38/2008 for the offence punishable under Section 13(1)(e) read with Section 13(2) of PC Act, so also writ in the nature of certiorari to quash the charge sheet dated 12.05.2014, order taking cognizance dated 10.06.2014 and order dated 27.08.2018 as contended by learned counsel appearing for the petitioner. The Court cannot conduct any mini-trial and no ground is made out to quash the proceedings issuing writ in the nature of certiorari

as sought in the writ petition. Accordingly, I answer point No.(2) as 'negative'.

Point No.(3):

48. In view of the discussion made above, I pass the following:

ORDER

(i) The Crl.P.No.3849/2019 is ***dismissed.***

(ii) The W.P.No.48145/2018 is also ***dismissed.***

Sd/-
(H.P.SANDESH)
JUDGE

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