

IN THE HIGH COURT OF JHARKHAND, RANCHI
Cr.M.P. No. 1876 of 2025

Sandeep Kumar, aged about 32 years, son of Late Mehru Lal
Saw, resident of village – Sundi Tola, near Middle School,
PO and PS – Giddi, District – Ranchi **Petitioner**

-- Versus --

Union of India through CBI **Opposite Party**

With

Cr.M.P. No. 955 of 2025

Sudhanshu Kumar Sharma, aged about 52 years, son of
Late Indradeo Singh, resident of Flat No.703, Sector – 1,
Block -10, Khelgaon Housing Complex, PO – Kokar, PS –
Khelgaon, District – Ranchi, Jharkhand **Petitioner**

-- Versus --

Central Bureau of Investigation **Opposite Party**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners	:-	Mr. Mahesh Tewari, Advocate
For the CBI	:-	Mr. Prashant Pallav, ASGI
	:-	Ms. Shivani Jaluka, AC to ASGI

05/12.02.2026 In both these petitions the common question of fact and

law are involved and in view of that these petitions are being
heard together.

2. Heard learned counsel appearing for the petitioners and
learned counsel appearing for the CBI.

3. In Cr.M.P. No.1876 of 2025 the prayer is made for
quashing of the entire criminal case being R.C. Case
No.11(A)/2023-R arising out of CBI/ACB R.C. No.10(A)/2023-R

registered for the offence under Section 7 of Prevention of Corruption Act, 1988 (as amended in 2018) pending in the Court of learned A.J.C.-XVIII-cum-Special Judge, CBI, Ranchi. The prayer is also made for quashing/setting aside the charge-sheet including the order taking cognizance dated 22.12.2023.

4. The case has been registered alleging therein that on the basis of complaint dated 19.09.2023 by one Smt. Lata Devi against this petitioner stating that he demanded bribe of Rs.30,000/- from her for placing her in service on compensatory ground in place of her late husband Raju Munda. After the complaint dated 19.09.2023 to verify the allegation Smt. Lata Devi was handed over with a digital voice recorder and asked to record the conversation with this petitioner and later on she informed that during conversation the petitioner demanded bribe of Rs.30,000/- to Rs.35,000/-. The recorded conversation was thereafter transferred to laptop and upon hearing the content of the recording shows that demand of bribe of Rs.30,000/- to Rs.35,000/- was made. Pre trap memorandum dated 04.10.2023 took place, thereafter, the team reached the office of the petitioner as decided in pre-trap memorandum Smt. Lata Devi signaled and thereafter, trap laying officer rushed towards the room where Sandeep Kumar was intercepted while rushing towards exit and he denied for receipt of the bribe and when he was taken back to the room Smt. Lata Devi confirmed about the acceptance of bribe by Sandeep Kumar and thereafter, Rs.30,000/- wrapped in A4 paper recovered from shelf

adjacent to the chair where Sandeep Kumar taken the bribe money was recovered. Thereafter, solution of sodium carbonate was prepared where the petitioner was asked to dip his right hand fingers in the said solution and on doing so the colour of the said solution turned pink, the wash was transferred to glass bottle and sealed and marked as RHW, similar procedure was conducted from left hand fingers and a sealed bottle marked as LHW. Thereafter, the conversation recorded in the micro SD card was listened. The memorandum of recovered and seizure list was prepared and arrest memo and personal search memo was handed over to the wife of the petitioner.

5. In Cr.M.P. No.955 of 2025 the prayer is made for quashing of the entire criminal proceeding including the order taking cognizance in connection with RC 03(A)/2024-R registered under Section 7 of Prevention of Corruption Act, 1988 pending in the Court of learned AJC-XVIII-cum-Special Judge, CBI, Ranchi.

6. The case has been registered alleging therein that the instant case was registered vide RC 0242024A0004 dated 02.04.2024 under section 7 of the Prevention of Corruption Act, 1988 (as amended in 2018) under the notification under Section 6 of Delhi Special Police Establishment Act, 1946 by the Government of Jharkhand on the basis of written complaint dated 13.03.2024 of Shri Krishna Kumar of District Chatra, Jharkhand, working as Coal Lifter of ABC Enterprises which is an authorized transporter of Adhunik Power and Natural Resources Ltd, as well as on the basis

of the verification report dated 15.03.2024 submitted by Shri Ajay Kumar Thakur, Inspector, CBI, ACB, Ranchi. It has been alleged therein that the accused Sudhanshu Kumar Sharma demanded Rs.91,000/- as illegal gratification from the complainant Shri Krishna Kumar for coal lifted by him against 02 delivery orders viz Delivery Order Nos.1002 and 1003 (for quantities 3798+3798 tonnes) of Adhunik Power and Natural Resources Ltd. from Amrapali Project, Central Coalfields Limited, Tandwa, District Chatra, Jharkhand. During verification conducted by CBI complainant approached the accused Sudhanshu Kumar Sharma in his office along with a secretly kept voice recorder. The conversation between the complainant and the accused substantiated the allegations made in the complaint, Shri Ajay Kumar Thakur, Inspector, CBI, ACB, Ranchi prepared the transcript of the said conversation. Since, the verification revealed demand of illegal gratification was established on the part of accused Sudhanshu Kumar Sharma, hence the present case has been lodged against the accused Sudhanshu Kumar Sharma under the alleged section.

7. Mr. Tewari, learned counsel appearing for petitioners submits that the petitioner (Sandeep Kumar) was arrested in this case on 03.10.2023 on the ground that he has demanded illegal gratification of Rs.30,000/- to Rs.35,000/- and recovery of amount of Rs.30,000/- has been made in a wrapped A4 size paper and subsequently granted bail by order dated 22.03.2024. He further

submits that in a most hurried manner a sanction was granted on 12.12.2023 and the investigation was completed by way of submitting the charge-sheet and the learned Court has been pleased to take cognizance.

8. Mr. Tewari, learned counsel appearing for the petitioners further submits that the case has been registered under the Prevention of Corruption Act in absence of notification for consent under Section 6 of Delhi Special Police Establishment Act, 1946 and that was taken on 12.12.2023 to proceed against the petitioner in the case of Sandeep Kumar. He then submits that in the case of Sudhanshu Kumar Sharma on 01.04.2024 consent was provided for registration of a case under Delhi Police Establishment Act. He next submits that in both the cases in absence of notification made without approval of Hon'ble Governor the CBI has investigated the matter and has registered the FIR which is against the mandate of law. He also submits that in light of Section 6 of Delhi Special Police Establishment Act, 1946 there is strict bar and in absence of prior approval of the State Government CBI is not competent to investigate and register the case.

9. He relied in the case of ***The State of West Bengal Vs. Union of India in Original Suit No.04 of 2021*** wherein at paragraph No.44 it has been held as under :-

44. As observed hereinabove, in a catena of judgments, it has been held that for considering the preliminary objections, only the averments made in the plaint are to be looked into to determine as to whether a cause of action has been made out

or not. In that regard, it will be relevant to refer to some of the paragraphs in the plaint, which read thus:

"3. Article 246(1) empowers the Parliament with exclusive power to make laws with respect to any of the matters enumerated in List I, Seventh Schedule (known as the Union List). Entry 80, List I is relevant in this regard:

"80. Extension of the powers and jurisdiction of members of a police force belonging to any State to any area outside that State, but not so as to enable the police of one State to exercise powers and jurisdiction in any area outside that State without the consent of the Government of the State in which such area is situated; extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State."

4. That the police powers come within the State's exclusive jurisdiction is also recognized in Article 246(3) of the Constitution, which provides that the State has exclusive power to make laws for such state for any of the matters enumerated in List II. Specifically, of such matters, Entry 1 and Entry 2 are relevant which are:

"1. Public order (but not including the use of any naval, military or air force or any other armed force of the Union or of any other force subject to the control of the Union or of any contingent or unit thereof in aid of the civil power).

2. Police (including railway and village police) subject to the provisions of entry 2A of List I."

5. Entries 1 and 2 of List II, the Seventh Schedule to the Constitution of India thus prescribe that public order and the police are exclusive subject matters of the concerned State. Further Entry 80, List I, ensures that the Union/Center does not transgress into the jurisdiction of the State without permission of the concerned State.

6. The CBI which draws its powers under the DSPE Act has acted in violation of the aforementioned

Constitutional provisions and the DSPE Act. The DSPE Act, as its preamble provides, was enacted to make provisions for the constitution of a Special 'Police Force' in Delhi for the investigation of certain offences in the Union Territory, for the superintendence and administration of the said Force and for the extension of its powers and jurisdiction in regard to the investigation of the said offences. Section 2 of the DSPE Act provides for constitution of the force, Section 3 thereof prescribes the offence which are to be investigated by CBI; Section 5 of DSPE Act provides extension of power and jurisdiction of CBI into any area (including a railway area) in a State; Section 6 thereof expressly provides that the force/CBI is required to obtain the consent of the concerned State in case of exercise of such power in terms of Section 5 of the DSPE Act.

7. Section 6 of the DSPE Act is the statutory recognition of the principle of federalism which forms a part of the basic structure of the Constitution of India, as also protected under Entry 80, List I and Entries 1 and 2, List II, Constitution of India. In absence of Section 6 in the statute book, the piece of legislation would have attracted the vice of unconstitutionality.

8. Any act of the CBI in violation of Section 6, DSPE Act, strikes at the roots of federalism, which this Hon'ble Court in S.R. Bommai v. Union of India, 1994 SCC (3) 1, has held to be a part of the Constitution's basic structure. Therefore, the CBI's exercise of powers by violating Section 6, DSPE Act, subverts the basic structure of the Constitution.

9. Under the Constitution, a threefold distribution of legislative power by the three Legislative Lists in the Seventh Schedule to the Constitution of India has been conceptualized (vide Article 246). List II of the Seventh Schedule to the Constitution of India is the part and parcel of a single constitutional instrument envisaging a federal scheme. It thus confers plenary power on the State to legislate on certain exclusive subject matters which includes "public order" and "police" in a State.

10. Section 6 of the DSPE Act is a component of such

federalism that provides for a prior approval of the State in case Centre wishes to transgress in the territory of the State and usurping the powers of the police force of the State.

11. The provision of Section 6 therefore, assumes immense significance and therefore, cannot be ignored and violated by the Defendant. Any such attempt on the part of the Defendant would cause an inroad to the constitutionalism and therefore, this Hon'ble Court being the conscience keeper of the Constitution ought not to permit the Defendant to do so.

12. In State of West Bengal and others v Committee for Protection of Democratic Right, West Bengal and others reported in (2010) 3 SCC 571, this Hon'ble Court held that although Section 5(1), DSPE Act empowers the Central Government to extend power and jurisdiction of members of the DSPE force to any area in a State, Section 6 imposes a restriction on such power of the Central Government requiring it to obtain the consent of the concerned State Government. This Hon'ble Court further held that the only exception is when either the Hon'ble High Courts or this Hon'ble Court, in exercise of its jurisdiction under Article 226 or 32 of the Constitution, respectively, directs the CBI to investigate a cognizable offence allegedly to have been committed within the territory of a state without the consent of that particular state; such direction under Articles 226 or 32 of the Constitution will neither impinge upon the federal structure of the Constitution nor violate the doctrine of separation of power, and shall be valid in law.

13. In the instant proceeding, the Plaintiff is challenging the act of the defendant in registering suo moto cases for offences that have occurred within the territory of the plaintiff de hors any direction from any competent court or prior consent granted by the Plaintiff.

14. In this regard, Section 6 of the DSPE Act is crucial since it requires prior consent of the State Government for exercising power and jurisdiction under the DSPE Act by CBI to any area in a State not having Union Territory or Railways. Before the provision of DSPE Act are

invoked to authorize the CBI to exercise its power and jurisdiction within any State, the following conditions are to be specified compulsorily.

i) A notification must be issued by the Central Government specifying the offences to be investigated by CBI (Section 3);

ii) An order must be passed by the Central Government extending power and jurisdiction of CBI to any area (including railway area) in a State not being an Union Territory in respect of offences specified under Section 3 (Section 5); and

iii) Consent of the State Government must be obtained for the exercise of power by CBI in the concerned State (Section 6).

10. Relying on the above judgment, Mr. Tewari, learned counsel appearing for the petitioner submits that prior approval is must and in absence of that the investigation has been made and as such the entire action is vitiated and once the statute provides to do one thing in particular way that is required to be followed which has not been done in this case, as such the entire criminal proceeding may kindly be quashed.

11. On the other hand, Mr. Pallav, learned counsel appearing for the CBI vehemently opposed the prayer and submits that now the charge-sheet has already been submitted and the learned Court has been pleased to take cognizance and at this belated stage the stand of the petitioner can be looked into in the trial only. He further submits that on 19.09.2023 the complaint was received by the CBI about the said gratification and on 20th September, 2023 the CBI has made a verification and consent came on 03.10.2023

and FIR lodged on 04.10.2023 in the case of Sandeep Kumar and in the case of Sudhanshu Kumar Sharma the consent of the Governor came on 01.04.2024 and the FIR has been registered on 02.04.2024. He then submits that this is not a case that FIR was registered without approval of the Governor.

12. He relied in the case of ***A.P. Pathak versus CBI reported in 2013 SCC OnLine Del 1773*** wherein at paragraph Nos.10, 11 and 14 it has been held as under :-

10. There is an obvious distinction between approval", consent" and sanction". An approval" or consent" implies mere concurrence or agreement whereas sanction" confers authority on the person in whose favour power to grant sanction is conferred. The difference between approval", consent" and sanction" is that of degree. In State of Maharashtra vs. Janardan Ramchandra Nawankar, 1987 Cri. L.J. 811 the Bombay High Court while dealing with the distinction between consent" and sanction" held as under:

"54. Besides, it must be remembered that Under Section 20 of the Prevention of Food Adulteration Act only consent of the Commissioner is necessary and not sanction. There is obvious difference between consent and sanction. Consent implies mere concurrence or agreement whereas sanction confers authority on the person in whose favour sanction is granted. Therefore, the considerations applicable in the case of sanction would, in my opinion, not be applicable to a case where mere consent is required.

11. It is thus evident that unlike sanction" which is mandatory in nature and has to be obtained prior to taking cognizance, an approval" can be taken ex-post facto as well. There is yet another aspect which needs consideration in the present case. Though initial searches were conducted without the approval, however thereafter on receipt of the intimation from the Petitioner that he was Joint Secretary level officer, the investigation was kept on hold and approval was taken. Thus, if this Court quashes the earlier

investigation prior to the approval, the same would be an incorrect procedure of law as investigation cannot be accepted or quashed piecemeal. Investigation has been defined by the Supreme Court in H.N. Rishbud Vs. State of Delhi (2007) 15 SCC 699 as:

5. To determine the first question it is necessary to consider carefully both the language and scope of the section and the policy underlying it. As has been pointed out by Lord Campbell in Liverpool Borough Bank v. Turner [(1861) 30 LJ Ch 379] , there is no universal rule to aid in determining whether mandatory enactments shall be considered directory only or obligatory with an implied nullification for disobedience. It is the duty of the Court to try to get at the real intention of the Legislature by carefully attending to the whole scope of the statute to be construed. (See Craieson Statute Law, p. 242, Fifth Edn.) The Code of Criminal Procedure provides not merely for judicial enquiry into or trial of alleged offences but also for prior investigation thereof. Section 5 of the Code shows that all offences shall be investigated, inquired into, tried and otherwise dealt with in accordance with the Code (except in so far as any special enactment may provide otherwise). For the purposes of investigation offences are divided into two categories cognizable and non-cognizable. When information of the commission of a cognizable offence is received or such commission is suspected, the appropriate police officer has the authority to enter on the investigation of the same (unless it appears to him that there is no sufficient ground). But where the information relates to a non-cognizable offence, he shall not investigate it without the order of a competent Magistrate. Thus it may be seen that according to the scheme of the Code, investigation is a normal preliminary to an accused being put up for trial for a cognizable offence (except when the Magistrate takes cognizance otherwise than on a police report in which case he has the power under Section 202 of the Code to order investigation if he thinks fit). Therefore, it is clear that when the Legislature made the offences in the Act cognizable, prior investigation by the appropriate police officer was contemplated as the normal preliminary to the trial in

respect of such offences under the Act. In order to ascertain the scope of and the reason for requiring such investigation to be conducted by an officer of high rank (except when otherwise permitted by a Magistrate), it is useful to consider what investigation under the Code comprises. Investigation usually starts on information relating to the commission of an offence given to an officer in charge of a police station and recorded under Section 154 of the Code. If from information so received or otherwise, the officer in charge of the police station has reason to suspect the commission of an offence, he or some other subordinate officer deputed by him, has to proceed to the spot to investigate the facts and circumstances of the case and if necessary to take measures for the discovery and arrest of the offender. Thus investigation primarily consists in the ascertainment of the facts and circumstances of the case. By definition, it includes all the proceedings under the Code for the collection of evidence conducted by a police officer. For the above purposes, the investigating officer is given the power to require before himself the attendance of any person appearing to be acquainted with the circumstances of the case. He has also the authority to examine such person orally either by himself or by a duly authorised deputy. The officer examining any person in the course of investigation may reduce his statement into writing and such writing is available, in the trial that may follow, for use in the manner provided in this behalf in Section 162. Under Section 155 the officer in charge of a police station has the power of making a search in any place for the seizure of anything believed to be necessary for the purpose of the investigation. The search has to be conducted by such officer in person. A subordinate officer may be deputed by him for the purpose only for reasons to be recorded in writing if he is unable to conduct the search in person and there is no other competent officer available. The investigating officer has also the power to arrest the person or persons suspected of the commission of the offence under Section 54 of the Code. A police officer making an investigation is enjoined to enter his proceedings in a diary from day-to-day. Where such investigation cannot be

completed within the period of 24 hours and the accused is in custody he is enjoined also to send a copy of the entries in the diary to the Magistrate concerned. It is important to notice that where the investigation is conducted not by the officer in charge of the police station but by a subordinate officer (by virtue of one or other of the provisions enabling him to depute such subordinate officer for any of the steps in the investigation) such subordinate officer is to report the result of the investigation to the officer in charge of the police station. If, upon the completion of the investigation it appears to the officer in charge of the police station that there is no sufficient evidence or reasonable ground, he may decide to release the suspected accused, if in custody, on his executing a bond. If, however, it appears to him that there is sufficient evidence or reasonable ground, to place the accused on trial, he is to take the necessary steps therefore under Section 170 of the Code. In either case, on the completion of the investigation he has to submit a report to the Magistrate under Section 173 of the Code in the prescribed form furnishing various details. Thus, under the Code investigation consists generally of the following steps: (1) Proceeding to the spot, (2) Ascertainment of the facts and circumstances of the case, (3) Discovery and arrest of the suspected offender, (4) Collection of evidence relating to the commission of the offence which may consist of (a) the examination of various persons (including the accused) and the reduction of their statements into writing, if the officer thinks fit, (b) the search of places or seizure of things considered necessary for the investigation and to be produced at the trial, and (5) Formation of the opinion as to whether on the material collected there is a case to place the accused before a Magistrate for trial and if so taking the necessary steps for the same by the filing of a charge-sheet under Section 173. The scheme of the Code also shows that while it is permissible for an officer in charge of a police station to depute some subordinate officer to conduct some of these steps in the investigation, the responsibility for every one of these steps is that of the person in the situation of the officer in charge of the police station, it having been clearly provided in Section 168 that when a subordinate

officer makes an investigation he should report the result to the officer in charge of the police station. It is also clear that the final step in the investigation, viz. the formation of the opinion as to whether or not there is a case to place the accused on trial is to be that of the officer in charge of the police station. There is no provision permitting delegation thereof but only a provision entitling superior officers to supervise or participate under Section 551.

14. In the present case had the approval not been taken at all and the investigation completed, the same would have been illegal. Further an investigation cannot be set at naught piecemeal. Thus in view of the fact that the CBI had taken the approval after it became aware of the status of the Petitioner the illegality committed at the inception of investigation gets cured and the same would not permit this Court to quash the earlier investigation. In view of the aforesaid discussion the petition is dismissed.

13. By way of relying on the above judgment, Mr. Pallav submits that this is not a case that approval was not taken and at this belated stage the entire prosecution including the order taking cognizance cannot be quashed. He further refers to the case of ***Central Bureau of Investigation versus M/s Narayan Niryat India Pvt. Ltd. & Ors. in Criminal Appeal No.4390 of 2025*** particularly at paragraph Nos.9 and 10 it has been held as under :-

9. The High Court, vide the impugned judgment dated 08.08.2024, allowed the above-stated petition and has quashed the entire proceedings, inter alia, on the grounds : (i) The initiation of investigation and the subsequent proceedings are vitiated for want of consent of the State of Madhya Pradesh under Section 6 of Delhi Special Police Establishment Act, 1946: and (ii) Even on merits, no case to prosecute respondent Nos.1 to 3 was made out as the allegations are inherently improbable, especially when no loss has been caused to the banks.

10. In our considered opinion, both the reasons given by the High Court are misconceived and misdirected. We say

so for the reasons that lack of consent under Section 6 of Delhi Special Police Establishment Act, 1946 ought to have been raised soon after registration of FIR. Once the investigation is complete, charge-sheet has been filed and the court of competent jurisdiction has taken cognizance, no such plea can be raised to vitiate the validity of an order taking cognizance of the chargesheet, save and except when it causes severe miscarriage of justice; or where proceedings for quashing of the FIR have been initiated and a charge-sheet has been filed during pendency of the quashing proceedings. In such a case, the aggrieved person may have some justification in contending that the filing of a chargesheet during the pendency of the quashing proceedings will not prejudice his right.

14. Relying on the above judgment, he submits that once the investigation is complete, the charge-sheet is filed that ground cannot be allowed to be taken at such belated stage.

15. Lastly, he relied in the case of ***Takam Sorang versus Central Bureau of Investigation (CBI) reported in 2024 SCC OnLine Gau 1693*** wherein at paragraph Nos.32 and 39 it has been held as under :-

32. *Reverting back to this case it is held that the petitioner has not stated that the illegality in the investigation has brought about a miscarriage of justice. By referring to the decision of the Hon'ble Supreme Court in Kanwal Tanuj v. State of Bihar (2020) 20 SCC 531, the Hon'ble Supreme Court has observed in Fertico Marketing's case (supra) that the offence was committed in Delhi and one of the accused was residing/employed in some other State outside Delhi and the members of DSPE had power to investigate the same without a specific consent being given by the State concerned, under Section 6 of DSPE Act.*

39. *It is apt to mention at this juncture that there is not even a whisper in the argument on behalf of the petitioner that the illegality in the investigation has brought about miscarriage of justice. It is submitted at the bar that this*

case is at the stage of trial and one witness has already been examined. I am of the firm belief that this petition cannot be allowed at this juncture by conclusively holding that due to lack of specific consent to proceed against the petitioner and due to lack of jurisdiction of the CBI, no case exists against the petitioner.

16. Relying on the above judgment, he submits that no prejudice has been caused to the petitioner and at this belated stage when investigation is complete this Court may not quash the entire criminal proceeding.

17. In view of above submission of learned counsel appearing for the parties, the Court has gone through the materials on record including the judgments relied by learned counsel appearing for the petitioners and the CBI, it transpires that these petitioners have been charge-sheeted for taking illegal gratification.

18. Admittedly, in the case of Sandeep Kumar the complaint was received on 19.09.2023, verification was made by the CBI on 20.09.2023, consent of the Governor has come on 03.10.2023 and FIR has been lodged on 04.10.2023 and in the case of Sudhanshu Kumar Sharma the complaint was received on 13.03.2024, verification has been made on 15.03.2024, consent of the Governor came on 01.04.2024 and the FIR has been lodged on 02.04.2024. Thus, *prima facie* it is clear that FIR has been registered only after the consent of the Governor and that fact has not been denied by the petitioner and the only contention of the petitioner is that verification has been made by CBI before the sanction, however, the fact is admitted that after sanction of the Governor the FIR has

been registered in both the cases.

19. In the case of ***The State of West Bengal versus Union of India (supra)*** on which reliance has been placed by learned counsel appearing for the petitioner in that case the Hon'ble Supreme Court is considering that case in view of the fact that the CBI has *suo moto* registered FIR without consent of the Governor of that State and in that background the Hon'ble Supreme Court has concluded that these are provisions of law which are required to be followed in making investigation in the State by the CBI and the said case is still pending before Hon'ble Supreme Court and the next date is said to be dated 24.02.2026 and so far these cases are concerned it is crystal clear that consent of the Governor has already come and thereafter the FIR has been registered. Further the charge-sheet has already been submitted and the learned Court has been pleased to take cognizance.

20. In the case of ***Judgebir Singh @ Jasbir Singh Samra @ Jasbir & Ors. versus National Investigation Agency reported in 2023 SCC OnLine SC 543*** wherein at paragraph No.46 and 47 it has been held as under :-

"46. In the case of Central Bureau of Investigation v. R.S. Pai and Another reported in (2002) 5 SCC 82, it was observed by this Court that "...it cannot be held that the additional documents cannot be produced subsequently. If some mistake is committed in not producing the relevant documents at the time of submitting the report or the charge-sheet, it is always open to the investigating officer to produce the same with the permission of the court." It was further observed that "...the word "shall" used in sub-

section (5) cannot be interpreted as mandatory, but as directory. Normally, the documents gathered during the investigation upon which the prosecution wants to rely are required to be forwarded to the Magistrate, but if there is some omission, it would not mean that the remaining documents cannot be produced subsequently. Analogous provision under Section 173(4) of the Code of Criminal Procedure, 1898 was considered by this Court in Narayan Rao v. State of A.P. [AIR 1957 SC 737 : 1958 SCR 283 : 1957 Cri LJ 1320] (SCR at p. 293) and it was held that the word "shall" occurring in sub-section (4) of Section 173 and sub-section (3) of Section 207-A is not mandatory but only directory. Further, the scheme of sub-section (8) of Section 173 also makes it abundantly clear that even after the charge-sheet is submitted, further investigation, if called for, is not precluded. If further investigation is not precluded then there is no question of not permitting the prosecution to produce additional documents which were gathered prior to or subsequent to the investigation. In such cases, there cannot be any prejudice to the accused...

" 47. From the aforesaid, it is evident that the order of sanction passed by the competent authority can be produced and placed on record even after the filing of the chargesheet. It may happen that the inordinate delay in placing the order of sanction before the Special Court may lead to delay in trial because the competent court will not be able to take cognizance of the offence without a valid sanction on record. In such an eventuality, at the most, it may be open for the accused to argue that his right to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution. This may at the most entitle the accused to pray for regular bail on the ground of delay in trial. But the same cannot be a ground to pray for statutory/default bail under the provisions of Section 167(2) of the CrPC."

21. In the above case it has been held by the Hon'ble Supreme Court that even after filing of the charge-sheet, the sanction can be produced and in the case in hand before lodging of the FIR

consent of the Governor has already come. There is no doubt that what has been discussed by Hon'ble Supreme Court in the case of ***The State of West Bengal versus Union of India (supra)*** on which the reliance has been place by learned counsel appearing for the petitioners that has to be followed, however, so far the fact of the present case is concerned it is otherwise.

22. The constitution Bench in the case of ***Subramanian Samy v. Director, CBI, New Delhi reported in (2014) 8 SCC 682*** while dealing with Section 6A of Delhi Special Police Establishment Act was pleased to observe that there cannot be any rational basis which would entitle bureaucrats of Joint Secretary level and above, who are working with the Central Government should be protected under Section 6A of the DSPE Act while the same level of officers who are working in the State will not get such protection, though both classes of these officers are accused of an offence under the P.C. Act, 1988. Discrimination or differentiation must be based on pertinent and real differences, which are to be distinguished from irrelevant and artificial ones. In paragraph 70 of the said judgment it has been held that "every public servant against whom there is a reasonable suspicion of commission of a crime or there are allegations of an offence under the PC Act has to be treated equally and similarly under law."

23. The petitioners herein are the employees of CCL and in view of that the CBI's power to investigate and prosecute its own officials cannot be in any way impeded or interfered by the State

even if the offences were committed within the territory of the State. This Court is conscious of the limited jurisdiction of this Court under Section 528 of B.N.S.S. and cannot be interfered at this stage as the consent is there prior of registering of the FIR, charge-sheet has already been submitted and the learned Court has been pleased to take cognizance and these all aspects can be looked into in the trial only.

24. In view of the aforesaid facts, reasons and analysis this Court further comes to a conclusion that once the adherence will be led on the issue in question in the trial then only that can be the subject matter of consideration before any higher court and the sanction is not challenged in the present case and everything is a subject to trial only.

25. The issue in question is answered accordingly. These Cr.M.Ps. are hereby dismissed.

(Sanjay Kumar Dwivedi, J.)

Dated 12.02.2026
Sangam/
A.F.R.