

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

S.B. Criminal Appeal No. 800/2013

State Of Rajasthan

----Appellant

Versus

Dilip Bhatnagar S/o Bhawati Prasad Bhattnagar R/o Modiyo Ka Bas, Sojet City, Pali presently suspended Gram Sevek cum Secretary, Panchayat Samiti Raipur District Pali

----Respondent

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| For Appellant(s)  | : | Mr. Surendra Bishnoi, AGA |
| For Respondent(s) | : | Dr. Kshmendra Mathur      |

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**HON'BLE MR. JUSTICE FARJAND ALI**

**Judgment**

**Reportable-**

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|-------------------------------------------|-------------------|
| <b>DATE OF CONCLUSION OF ARGUMENTS</b>    | <b>05/03/2026</b> |
| <b>DATE ON WHICH JUDGMENT IS RESERVED</b> | <b>05/03/2026</b> |
| <b>FULL JUDGMENT OR OPERATIVE PART</b>    | <b>Full Order</b> |
| <b>DATE Of PRONOUNCEMENT</b>              | <b>24/04/2026</b> |

**BY THE COURT:-**

1. The State of Rajasthan initially instituted the present matter as an application seeking leave to appeal under Section 378(iii) read with Section 378(1) of the Code of Criminal Procedure against the judgment dated 26.03.2012 passed by the learned Special Judge (Prevention of Corruption Act Cases), Jodhpur in Criminal Regular Case No.33/2007, whereby the accused-respondent came to be

acquitted of the charges under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. Leave having already been granted by this Court, the matter now stands converted into and is being considered as a regular criminal appeal against acquittal.

2. Briefly stated, the prosecution case was that on 23.04.2006, the complainant alleged before the Anti Corruption Bureau, Pali that his family fell within the Below Poverty Line category and that his daughter-in-law, Sumitra, had applied for allotment of a dwelling unit under the Indira Awaas Yojana. It was alleged that though the first installment had been released, the accused-respondent, serving as Gram Sevak-cum-Secretary, demanded illegal gratification for release of the second installment. Acting upon the complaint, a trap was allegedly organized, currency notes were recovered, FIR was registered, and after investigation a charge-sheet was filed upon receipt of sanction for prosecution.

3. The learned trial Court framed charges under Sections 7 and 13(1)(d) read with Section 13(2) of the Act. The accused denied the allegations and claimed trial. The prosecution examined fourteen witnesses and exhibited several documents. The accused, in defence, offered explanation under Section 313 Cr.P.C. and placed reliance on documentary material marked as Exhibits D/1 to D/19. Upon appreciation of the entire record, the learned trial Court acquitted the accused-respondent. Aggrieved thereby, the State has approached this Court.

4. Learned Public Prosecutor would contend that the learned trial Court erred in discarding cogent trap evidence and in granting undue benefit of doubt despite recovery of tainted currency from the possession of the accused. It is urged that once demand and acceptance stood established, the statutory presumption under Section 20 of the Act ought to have been invoked. It is further contended that the sanction order was validly granted and the acquittal rests upon hyper-technical appreciation of evidence.

5. Per contra, learned counsel for the respondent supports the judgment impugned and submits that the learned trial Court has passed a well-reasoned acquittal after meticulous scrutiny of the evidence. It is argued that the prosecution failed to establish foundational facts of demand and conscious acceptance beyond reasonable doubt. More importantly, it is contended that the sanction for prosecution was a mere ritualistic exercise, devoid of independent application of mind, and thus strikes at the root of jurisdiction in view of Section 19 of the Act, thus, no interference is called for in the said order and the appeal deserves to be dismissed.

6. I have heard the submissions advanced by the counsel for the parties and minutely perused the impugned judgment as well as record of the case.

6.1. It is trite law that where two views are reasonably possible on the evidence available, an appellate Court would be slow in disturbing an order of acquittal. Unless the findings recorded by

the trial Court are perverse, manifestly illegal, or wholly unsustainable, interference is not warranted. The presumption of innocence stands fortified by acquittal.

6.2. Section 19 of the Prevention of Corruption Act, 1988 mandates prior sanction before a competent public servant can be prosecuted for offences under the Act. Such sanction is not an idle incantation nor a ceremonial signature. It is intended as a solemn safeguard ensuring that a public servant is not exposed to criminal prosecution without the competent authority independently examining whether the material collected during investigation justifies such prosecution.

6.2.1 At this juncture, it becomes apposite to delineate the true doctrinal import and statutory architecture of Section 19 of the Act. The requirement of “previous sanction” operates as a **jurisdictional precondition** to the very assumption of cognizance by the criminal Court. In its absence, or where such sanction is vitiated by patent illegality, the Court is rendered incompetent to take cognizance of offences punishable under Sections 7, 11, 13 and 15 of the Act. The legislative command is couched in negative phraseology—“no Court shall take cognizance”—thereby unequivocally prohibiting judicial action in the absence of a valid sanction from the competent authority, i.e., the authority competent to remove the public servant from office. The statutory scheme further clarifies that sanction must emanate from the appropriate Government or competent authority

depending upon the service conditions of the public servant, and any ambiguity in this regard is resolved by reference to the authority competent to effect removal at the time of commission of the alleged offence. The provision, thus, ensures that prosecution is not launched lightly or vexatiously against a public servant without institutional scrutiny at the highest administrative level.

Indeed, sanction functions as the legal gateway to the Court's jurisdiction; it is the foundational trigger upon which the criminal Court assumes authority to entertain and proceed with the prosecution. In the absence of such sanction, the Court is denuded of jurisdiction and cannot entertain the charge-sheet or proceed against the accused. It bears emphasis that "sanction" in the eyes of law connotes a valid, legally sustainable sanction, one reflecting due application of mind by the competent authority and not a mere formal or mechanical approval.

Indeed, such a foundational safeguard is deeply embedded in criminal jurisprudence itself, which does not countenance the initiation or continuation of criminal proceedings in derogation of a mandatory jurisdictional precondition. The law does not permit the prosecution to bypass or dilute this statutory mandate and proceed as if the requirement were merely procedural or curable. On the contrary, compliance with Section 19 stands as a condition precedent, the non-fulfilment whereof strikes at the very root of the Court's jurisdiction.

Thus, where the foundational requirement of a valid sanction collapses, the entire edifice of prosecution, commencing from cognizance, extending to framing of charge, conduct of trial, recording of evidence, and culminating in adjudication, stands irreparably vitiated. In such a scenario, the proceedings cannot be sustained in the eye of law, as they are erected upon a jurisdictional infirmity, rendering the superstructure legally unsound.

6.3. The Hon'ble Supreme Court in ***State of Karnataka v. Ameerjan MANU/SC/7922/2007*** and in ***Mohd. Iqbal Ahmad v. State of Andhra Pradesh AIR 1979 SC 677*** has authoritatively held that grant of sanction requires conscious scrutiny of the material placed before the authority and genuine satisfaction founded upon application of mind. Mechanical approval, granted without due consideration, vitiates the sanction. The relevant observations of the Hon'ble Apex Court in ***Mohd. Iqbal Ahmad (Supra)*** are reproduced as under :-

*.... It is incumbent on the prosecution to prove that a valid sanction has been granted by the Sanctioning Authority after it was satisfied that a case for sanction has been made out constituting the offence. This should be done in two ways; either (1) by producing the original sanction which itself contains the facts constituting the offence and the grounds of satisfaction and (2) by adducing evidence aliunde to show that the facts placed before the Sanctioning Authority and the satisfaction arrived at by it.*

*It is well settled that any case instituted without a proper sanction must fail because this being a manifest difficult (sic-defect) in the prosecution, the entire proceedings are rendered void ab initio."*

6.4. The Hon'ble Supreme Court in ***Mallappa & Ors. v. State of Karnataka (Criminal Appeal No.1162/2011 decided on 12.02.2024)*** has reiterated that interference with an order of acquittal is warranted only in cases of manifest illegality or perversity. The principles enunciated therein emphasize that where two views are possible, the one favouring the accused must prevail, and a plausible view taken by the Trial Court ought not to be supplanted. Paragraph 36 of the said judgment encapsulates the doctrine in the following terms:

*"36. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty...*

*(i) Appreciation of evidence must be holistic and comprehensive;*

*(ii) Selective or truncated evaluation may itself occasion miscarriage of justice;*

*(iii) If two views are possible, the one favourable to the accused must ordinarily prevail;*

*(iv) A legally plausible view of the Trial Court cannot be supplanted merely because another view is possible;*

*(v) In reversing an acquittal, the appellate Court must deal with all reasons assigned by the Trial Court;*

*(vi) Conversion of acquittal into conviction requires demonstration of manifest illegality, perversity, or patent error in the Trial Court's approach."*

Tested on the anvil of the aforesaid settled principles and upon a thorough scrutiny of the record, this Court finds no compelling reason to take a view different from that taken by the learned Trial Court. The appreciation of evidence appears to be judicious, comprehensive, and in accordance with law.

6.5. The record of the present case assumes decisive significance. Exhibit D/1 is the communication by which the investigating agency forwarded papers to the sanctioning authority. Exhibit D/2 is the document described as "Prarup", i.e., a draft format or template. A perusal thereof reveals that it was nothing but a ready-made proforma prepared in advance. The said draft appears to have been sent by the investigator to the sanctioning authority.

6.6. What is of grave consequence is that the final sanction order, Exhibit P/9 is substantially identical to the draft proforma. Save and except the signature appended by the sanctioning authority, no meaningful alteration, no independent reasoning, no insertion suggestive of personal satisfaction, and no discernible reconsideration of facts appear on the face of the record. Even punctuation, language, phraseology, and textual composition remain materially unchanged.

6.7. The learned trial Court has, therefore, rightly concluded that the sanctioning authority did not undertake an autonomous evaluation of the evidence, but merely affixed signature upon a prepared format transmitted by the investigator. Such an exercise cannot be dignified as lawful sanction in the eye of law. It is

nothing beyond an empty formality performed to complete procedural ritual.

7. The expression “application of mind” in the context of prosecution sanction connotes that the authority must:

- (i) independently peruse the statements of witnesses and documentary record;*
- (ii) examine whether ingredients of the alleged offences are prima facie disclosed;*
- (iii) satisfy itself that prosecution is warranted in public interest;*
- (iv) exclude extraneous influence of the investigating agency; and*
- (v) record approval as a conscious administrative determination, not as clerical concurrence.*

Where the authority merely signs upon a ready draft supplied by the investigator, the statutory safeguard collapses into illusion.

7.1. In prosecutions under the Act, valid sanction is not a trivial irregularity but a jurisdictional precondition. Where sanction itself is demonstrably mechanical and non est in law, continuation of prosecution becomes legally infirm. The learned trial Court was, therefore, justified in extending benefit of doubt to the accused.

7.2. This Court finds that the learned trial Judge has examined the documentary exhibits with commendable care and has correctly appreciated the evidentiary value of Exhibits D/1, D/2 and P/9. The finding that the sanction order was merely a reproduced draft carrying only the signature of the authority is borne out from the record. No perversity, misreading, or manifest illegality is shown.

7.2. Once the very substratum of valid sanction stood shaken, the prosecution case suffered a serious legal impediment. In such circumstances, the acquittal recorded by the learned trial Court cannot be said to be either unreasonable or contrary to law. Rather, it appears to be a judicious and legally sustainable determination.

7.3. In view of the foregoing discussion, this Court is of the considered opinion that the findings recorded by the learned trial Court are sound, cogent, and founded upon proper appreciation of law as well as evidence. The sanction for prosecution being a mechanical exercise lacking independent application of mind, no case for interference against acquittal is made out.

8. Consequently, the appeal stands dismissed. The judgment dated 26.03.2012 passed by the learned Special Judge (Prevention of Corruption Act Cases), Jodhpur is affirmed.

9. Record be returned forthwith.

**(FARJAND ALI),J**