



UPON hearing the counsel the Court made the following  
O R D E R

Permission to file Special Leave Petitions is granted.

Heard learned counsel for the parties.

The sole issue urged in the present special leave petitions is on the basis of the dictum of this court in State of Himachal Pradesh Vs. Nishant Sareen reported in 2010 (14) SCC 527, (which has reiterated the exposition in State of Punjab & Anr. Vs. Mohammed Iqbal Bhatti reported in 2009 (17) SCC 92) in that, the scope of review by the sanctioning authority is very limited and it is not open to exercise that power mechanically. This argument, in our opinion, is misplaced, keeping in mind the view expressed by this court in orders dated 07.03.2005, 09.05.2005 and the final order dated 25.07.2005 in Cr1. M.P. No. 9425 of 2004 in Writ Petition (Cr1.) No. 93 of 1994.

The first decision of the sanctioning authority on the proposal to accord sanction was put in issue before this court and in that context, the court had expressed its peremptory opinion as noted in the aforesaid

order(s), as a result of which, the sanctioning authority was required to revisit the proposal and eventually granted sanction to prosecute on 15.07.2005. This court noted the stated developments whilst disposing of the matter. These orders have attained finality, intrinsically upholding the process of revisiting the process of according sanction to prosecute the petitioner herein.

In other words, the High Court was right in following the dictum of this court, in particular, vide order dated 25.07.2005, as reproduced in paragraph 24 of the impugned order. The same is indicative of the fact that this court desired that the sanctioning authority ought to revisit the proposal and take a fresh decision. The sanctioning authority thus took a fresh decision which was then placed on record before this court. This court then put its seal of approval thereon, as can be discerned from order dated 25.07.2005.

Thus, the question which remains to be considered is limited to whether the sanction to prosecute as granted, is appropriate on other considerations. It is open to the accused to raise these pleas before the Trial Court and pursue the same. That must be decided in accordance

with law.

To put it differently, the parties can question the sanction on grounds as may be permissible in law, other than the correctness of the review process adopted by the sanctioning authority under the aegis of this court, in the peculiar facts of the present case.

For the above reasons, in our opinion, the exposition in the two decisions pressed into service will be of no avail to the petitioner.

We further make it clear that the Trial Court may decide the issues pertaining to the validity of sanction order on grounds other than noted above, without being influenced by any observation made in the impugned judgment on its own merits and in accordance with law.

The Special Leave Petitions are disposed of accordingly.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)  
COURT MASTER (SH)

(KAMLESH RAWAT)  
COURT MASTER (NSH)