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

**CRA-S-4184-SB-2017**
**Date of Reserve:15.05.2026**
**Date of Decision:08.06.2026**

ASI, Joga Singh and Ors. …Appellants

Vs.

Manmohan Singh …Respondent

**Coram : Hon'ble Mr. Justice N.S.Shekhawat**

Present: Ms. Supriya Garg, Advocate
for the appellants No.1 and 3 to 7.

Mr. Lakshay Bector, Advocate
Ms. Tanvi Dhull, Advocate
for appellant No.2.

Mr. Amandeep Singh Manaise, Advocate
for the respondent.

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**N.S.Shekhawat J.**

1. The appellants have filed the present appeal against the impugned order dated 09.09.2017 (Annexure P-1), passed by the Judge, Special Court/Additional Sessions Judge, Ludhiana, whereby, the application (Annexure P-5) filed by respondent under Section 58 of NDPS Act, Section 195 IPC and under Section 357-A Cr.P.C was allowed. A further prayer has been made to quash the complaint (Annexure P-2) and all consequential proceedings arising out therefrom.

2. Learned counsel for the appellants vehemently argued that on 12.09.2011, Manmohan Singh, respondent was apprehended by the police in the area of Village Kothe Kajuran, which is 100-150 yards towards Village Gagran. Ultimately, after his search and recovery, one FIR No.159 dated 12.09.2011,

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under Sections 15/61/85 of NDPS Act, Police Station City Jagraon was ordered to be registered against him. Vide the judgment dated 11.07.2013 (Annexure P-4), the Special Court, Ludhiana, acquitted the respondent by extending him benefit of doubt as the prosecution has failed to prove its case beyond the shadow of reasonable doubt. After nearly six months of disposal of the trial by the trial Court, respondent filed an application dated 28.01.2014 (Annexure P-5), for taking action against the appellants for giving false evidence, forged documents and planting the case property on the respondent. It was also prayed that a compensation to the tune of Rs.3,00,000/- may also be awarded to respondent for mental and physical harassment. The respondent submitted that he was apprehended on 08.09.2011 on the allegations of commission of theft and was confined in police custody till 13.09.2011 and rather, on 12.09.2011, he was involved in the present case and was produced before the Court on 13.09.2011. Notice qua the application was issued to the appellants and thereafter, without holding any preliminary enquiry, the Trial Court held on 16.01.2017 that the application has to be dealt with under Section 340 Cr.P.C and kept the matter for evidence. Even, no opportunity was granted to the appellants to lead evidence during the enquiry, so conducted, which is apparent from various zimni orders (Annexure P-6) produced before the Trial Court. Even, appellants were not allowed to lead any evidence and no preliminary enquiry/investigation was conducted in the present case. Ultimately, vide the impugned order dated 09.09.2017 (Annexure P-1), the Trial Court ordered the filing of a complaint under Section 58 of NDPS Act and Section 195 of IPC against the appellants and further directed that the complaint may be filed against them in this regard. Ultimately, complaint (Annexure P-2) was wrongly

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filed against the appellants.

3. Learned counsel for the appellants further argued that the Trial Court had no jurisdiction to pass the impugned order and to institute a complaint against the appellants as the Court had already become *functus officio* in view of the provisions contained under Section 362 Cr.P.C. In fact, in a way, the Trial Court had reviewed its own judgment and all the proceedings as well as the complaint (Annexure P-2) are abuse of the process of the Court. Apart from that, Section 340 of the Cr.P.C enjoins upon a Court to formulate an opinion, before filing of a complaint under Section 195 (1) Cr.P.C. The Court is bound to hold a preliminary enquiry and to record a finding to the effect that it was expedient in the interest of justice that an enquiry should be made into any of the offences referred to in Section 195(1) Cr.P.C. Learned counsel further contends that in fact, the respondent even though was apprehended on 08.09.2011 for the offence of theft, yet he was let off at the spot. Neither any F.I.R was registered against him nor any entry was made in any official record regarding his arrest. Even, H.C Tarsem Singh had made a statement in this regard, but the Trial Court overlooked the statement made by an official and believed a newspaper report. Apart from that, respondent is a hardened criminal and 28 F.I.Rs were registered against him and he had lodged the present complaint only with a view to harass the police officials. Apart from that, while recording the acquittal of respondent, the Trial Court had not commented adversely against the present appellants and only the benefit of doubt was extended to respondent as the prosecution had failed to prove the case beyond the shadow of reasonable doubt. Learned counsel further submits that no sanction under Section 197 Cr.P.C was taken against the appellants, prior to

lodging a complaint against them and the complaint (Annexure P-2) and all subsequent proceedings are liable to be quashed by this Court.

4. On the other hand, learned counsel appearing on behalf of respondent vehemently argued that the police had wrongly arrested him on 08.09.2011 for the commission of offence of theft, however, he was kept confined for four days and on 13.09.2011, he came to know that he had been falsely involved in the present F.I.R. Consequently, he had rightly moved an application (Annexure P-5) before the Trial Court for initiating action against the appellants under Section 58 of NDPS Act and Section 195 of IPC. Thus, the present appeal deserves to be dismissed by this Court.

5. I have heard learned counsel for the parties and perused the record carefully.

6. In the present case, one FIR No.159 dated 12.09.2011, under Sections 15/61/85 of NDPS Act, Police Station City Jagraon was ordered to be registered against respondent and thereafter, the criminal justice system was set in motion against him. Ultimately, after holding a trial, against respondent, the Trial Court extended the benefit of doubt to respondent as the prosecution had failed to prove the link evidence in the present case. Apart from that, there were certain discrepancies in the statements of various prosecution witnesses and by extending the benefit of doubt, respondent was ordered to be acquitted on 11.07.2013. However, on perusal of judgement dated 11.07.2013 (Annexure P-4), it is established that no adverse comments were made by the Trial Court regarding the conduct of any of the appellants, who had appeared as witnesses in the said case. Moreover, there was no finding in the judgement of acquittal (Annexure P-4) that the police officials had falsely involved the respondent in

case under Section 15 of NDPS Act. However, the application (Annexure P-5) in question was moved by respondent on 28.01.2014, i.e, nearly six months after the disposal of the main trial by the Trial Court. At this stage, learned counsel for the appellant had raised the argument that since the main case had already been decided by the Trial Court, the trial Court had become *functus officio* and had no powers to pass orders any further.

7. While examining the powers of Criminal Courts after the disposal of the main case, the Hon'ble Supreme Court has held in the matter of " ***Hari Singh Mann Vs. Harbhajan Singh Bajwa, 2000(4) Crimes 189 as follows:-***

> *"8. We have noted with disgust that the impugned orders were passed completely ignoring the basic principles of criminal law. No review of an order is contemplated under the Code of Criminal Procedure. After the disposal of the main petition on 7.1.1999, there was no lis pending in the High Court wherein the respondent could have filed any miscellaneous petition. The filing of a miscellaneous petition not referable to any provision of Code of Criminal Procedure or the rules of the Court, cannot be resorted to as a substitute of fresh litigation. The record of the proceedings produced before us shows that directions in the case filed by the respondents were issued apparently without notice to any of the respondents in the petition. Merely because the respondent No. 1 was an Advocate, did not justify the issuance of directions at his request without notice to the other side. The impugned orders dated 30th April, 1999 and 21st July, 1999 could not have been passed by the High Court under its inherent power under Section 482 of the Code of Criminal Procedure. The practice of filing miscellaneous petitions after the disposal of the main case and issuance of fresh directions in such miscellaneous petitions by the High Court are unwarranted, not referable to any statutory provision and in substance the abuse of the process of the Court".*

*“8A. There is no provision in the Code of Criminal Procedure authorising the High Court to review its judgment passed either in exercise of its appellate or revisional or original criminal jurisdiction. Such a power cannot be exercised with the aid or under the cloak of section 482 of the Code. This Court in* ***State of Orissa v. Ram Chander Agarwala, AIR 1979 Supreme Court 87****, held :*

*"Before concluding we will very briefly refer to cases of this Court cited by counsel on both sides.* ***1958 SCR 1226 : 1958 SC 376****, relates to the power of the High Court to cancel bail. The High Court took the view that under Section 561A of the Code, it had the inherent power to cancel the bail, and finding that on the material produced before the Court, it would not be safe to permit the appellant to be at large cancelled the bail, distinguishing the decision in* ***72 Ind App 120 : AIR 1945 Privy Council 94 (supra)*** *and stated that the Privy Council was not called upon to consider the question about the inherent power of the High Court to cancel bail under Section 561A. In* ***Sankatha Singh v. State of U.P., 1962 Supp(2) SCR 871****, this Court held that Section 369 read with Section 424 of the Code of Criminal Procedure specifically prohibits the altering or reviewing of its order by a Court. The accused applied before a succeeding Sessions Judge for re-hearing of an appeal. The learned Judge was of the view that the appellate Court had no power to review or restore an appeal which has been disposed of. The Supreme Court agreed with the view that the appellate Court had no power to review or restore an appeal. This Court, expressing its opinion that the Sessions Court had no power to review or restore an appeal observed that a judgment, which does not comply with the requirements of Section 367 of the Code, may be liable to be set aside by a superior court but will not give the appellate court any power to set it aside itself and re-hear the appeal observing that "Section 369 read with Section 424 of the*

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*Code makes it clear that the appellate court is not to alter or review the judgment once signed, except for the purpose of correcting a clerical error." Reliance was placed on a decision of this Court in* ***Supdt. and Remembrancer of Legal Affairs W.B. v. Mohan Singh, AIR 1975 Supreme Court 1002****, by Mr. Patel, learned counsel for the respondent wherein it was held that rejection of a prior application for quashing is no bar for the High Court entertaining a subsequent application as quashing does not amount to review or revision. This decision instead of supporting the respondent clearly lays down, following* ***Chopra's case, AIR 1955 Supreme Court 633 (supra)*** *that once a judgment has been pronounced by a High Court either in exercise of its appellate or revisional jurisdiction, no review or revision can be entertained against that judgment as there is no provision in the Criminal Procedure Code which would enable the High Court to review the same or to exercise revisional jurisdiction. This Court entertained the application for quashing the proceedings on the ground that a subsequent application to quash would not amount to review or revise an order made by the Court. The decision clearly lays down that a judgment of the High Court on appeal or revision cannot be reviewed or revised except in accordance with the provisions of the Criminal Procedure Code. The provisions of Section 561A of the Code cannot be invoked for exercise of a power which is specifically prohibited by the Code."*

8. Thus, in view of the aforesaid judgment passed by the Hon’ble Supreme Court, the Trial Court had acquitted the respondent on 11.07.2013 and after that, the Trial Court had no authority to entertain the application (Annexure P-5) and to pass further orders for filing a criminal complaint against the present appellants.

9. Apart from that, learned counsel for the appellants has vehemently argued that Section 340 of Cr.P.C mandates that a Court has to formulate an opinion before filing of a complaint under Section 195(1) Cr.P.C. The Court is bound to hold a preliminary enquiry and to record a finding to the effect that it was expedient in the interest of justice that an enquiry should be made into any of the offences referred to in Section 195 (1) Cr.P.C and in the present case, no such enquiry was held and no evidence was allowed to be led by the appellants.

10. I have considered the said submission made by learned counsel for the appellants and found sufficient force in the said submissions made by learned counsel for the appellants. Section 340 Cr.P.C read as under:-

> *340. Procedure in cases mentioned in section 195.- (1)When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub- section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,-*
>
> *(a) record a finding to that effect;*
>
> *(b) make a complaint thereof in writing;*
>
> *(c) send it to a Magistrate of the first class having jurisdiction;*
>
> *(d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non- bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and*
>
> *(e) bind over any person to appear and give evidence before such Magistrate.*
>
> *(2) The power conferred on a Court by sub- section (1) in respect of an offence may, in any case where that Court has neither made*

*a complaint under sub- section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub- section (4) of section 195.*

*(3) A complaint made under this section shall be signed,-*

*(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;*

*(b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf*

*(4) In this section," Court" has the same meaning as in section 195.*

11. In view of the abovementioned unambiguous provisions envisaged under Section 340 Cr.P.C, the Trial Court was bound to record a satisfaction that the evidence on record was sufficient and complete so as to probably lead the conviction of the appellants. In the present case, there was nothing on record to show that the appellants had indulged in fabricating the false evidence and the record. Apart from that, it is also apparent from the judgement (Annexure P-4), that the case had failed on account of certain discrepancies in the statements of witnesses and not on account of fact that the witnesses had tried to help the prosecution. Still further, there was nothing on record to show that before proceeding any further, the trial Court had recorded its opinion that it was expedient in the interest of justice, to hold an enquiry, before ordering the prosecution of the appellants. Thus, the procedure prescribed by the statute was not followed by the Trial Court and the impugned order is liable to be set aside on this ground as well.

12. Apart from that, in the present case, all the appellants are public servants and Section 197 of Cr.P.C essentially provides that no Court shall take cognizance of an offence alleged to have been committed by the public servant, not removable from the office except with the sanction of the Government, while acting or purporting to act in discharge of official duties, unless prior sanction of the Government is obtained. The object of this provision was to afford reasonable protection to the public servants against frivolous, vexatious or ill motivated prosecution and such officers are able to discharge their duties independently and fearlessly.

13. While discussing the scope of the object of Section 197 Cr.P.C, the Hon'ble Supreme Court in the matter of "***G.C. Manjunath vs. Seetaram, (2025) 5 SCC 390 : 2025 SCC OnLine SC*** *held as under:-*

> *"34. A careful reading of Section 197 Cr.PC unequivocally delineates a statutory bar on the Court's jurisdiction to take cognizance of offences alleged against public servants, save without the prior sanction of the appropriate Government. The essential precondition for the applicability of this provision is that the alleged offence must have been committed by the public servant while acting in the discharge of, or purported discharge of, their official duties.*
>
> *35. Both the aforesaid provisions serve a similar protective function. While Section 170 of the Police Act mandates prior sanction for prosecuting a public official for "acts done under colour of, or in excess of, such duty or authority", Section 197CrPC requires prior sanction where a public official is accused of having committed "any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty". The underlying rationale of both these statutory provisions is to safeguard public functionaries from*

*frivolous or vexatious prosecution for actions undertaken in good faith in the discharge of, or purported discharge of, their official duties, thereby ensuring that the fear of litigation does not impede the efficient functioning of public administration.*

*xxx* *xxx* *xxx*

*37. This Court in* ***Amod Kumar Kanth v. Assn. of Victim of Uphaar Tragedy [Amod Kumar Kanth v. Assn. of Victim of Uphaar Tragedy, (2023) 16 SCC 239]*** *held that the State performs its obligations through its officers/public servants and every function performed by a public servant is ultimately aimed at achieving public welfare. Often, their roles involve a degree of discretion. But the exercise of such discretion cannot be separated from the circumstances and timing in which it is exercised or, in cases of omission, when the omission occurs. In such circumstances, the courts must address, whether the officer was acting in the discharge of official duties. It was observed that even when an officer acts under the purported exercise of official powers, they are entitled to protection under Section 197 CrPC. This protection exists for a valid reason so that the public servants can perform their duties fearlessly, without constant apprehension of legal action, as long as they act in good faith. While Section 197 Cr.PC. does not explicitly mention the requirement of good faith, such a condition is implied and is expressly included in several other statutes that offer protection to public servants from civil and criminal liability.*

*38. While dealing with the provisions of Section 197 Cr.PC, read with Section 170 of the Police Act, this Court in* ***D. Devaraja [D. Devaraja v. Owais Sabeer Hussain, (2020) 7 SCC 695 : (2020) 3 SCC (Cri) 442]*** *observed that not every offence committed by a police officer automatically gets this protection. The safeguard under Section 197 Cr.PC and Section 170 of the Police Act is limited. It applies only if the alleged act is reasonably connected to the officer's official duties. The law does not offer protection if the*

*official role is used as a mere excuse to commit wrongful acts. However, it was held that the protection of prior sanction will be available when there is a reasonable connection between the act and their duty. While enunciating when the protection of prior sanction will be applicable, this Court held that even if a police officer exceeds his official powers, as long as there is a reasonable connection between the act and his duty, they are still entitled to the protection requiring prior sanction. Excessiveness alone does not strip them of this safeguard. The language of both Section 197 Cr.PC and Section 170 of the Police Act is clear that sanction is required not only for acts done in the discharge of official duty as well as for the acts purported to be done in the discharge of official duty and/or acts done "under colour of or in excess of such duty or authority". Sanction becomes mandatory if there is a reasonable connection between the act and the officer's official duties, even if the officer acted improperly or exceeded his authority. Therefore, if a complaint against a police officer involves actions reasonably related to his official role, the Court cannot take cognizance unless sanction from the appropriate Government has been obtained under Section 197 Cr.PC and Section 170 of the Police Act.*

*39. The relevant portion from the abovementioned judgment is as follows :* ***(SCC pp. 719-20, paras 66-70)***

> *"66. Sanction of the Government, to prosecute a police officer, for any act related to the discharge of an official duty, is imperative to protect the police officer from facing harassive, retaliatory, revengeful and frivolous proceedings. The requirement of sanction from the Government, to prosecute would give an upright police officer the confidence to discharge his official duties efficiently, without fear of vindictive retaliation by initiation of criminal action, from which he would be protected under Section 197*

*of the Code of Criminal Procedure, read with Section 170 of the Karnataka Police Act. At the same time, if the policeman has committed a wrong, which constitutes a criminal offence and renders him liable for prosecution, he can be prosecuted with sanction from the appropriate Government.*

*xxx* *xxx* *xxx*

*68. If in doing an official duty, a policeman has acted in excess of duty, but there is a reasonable connection between the act and the performance of the official duty, the fact that the act alleged is in excess of duty will not be ground enough to deprive the policeman of the protection of the government sanction for initiation of criminal action against him.*

*69. The language and tenor of Section 197 of the Code of Criminal Procedure and Section 170 of the Karnataka Police Act makes it absolutely clear that sanction is required not only for acts done in discharge of official duty, it is also required for an act purported to be done in discharge of official duty and/or act done under colour of or in excess of such duty or authority.*

*70. To decide whether sanction is necessary, the test is whether the act is totally unconnected with official duty or whether there is a reasonable connection with the official duty. In the case of an act of a policeman or any other public servant unconnected with the official duty there can be no question of sanction. However, if the act alleged against a policeman is reasonably connected with discharge of his official duty, it does not matter if the policeman has exceeded the scope of his powers and/or acted beyond the four corners of the law."*

*40. Recently this Court in* ***Gurmeet Kaur v. Devender Gupta [Gurmeet Kaur v. Devender Gupta, (2025) 5 SCC 481 : 2024***

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***SCC OnLine SC 3761]*** *dealt with the object and purpose of Section 197 Cr.PC which reads as follows : (SCC paras 25-26)*

> *"25. … the object and purpose of the said provision is to protect officers and officials of the State from unjustified criminal prosecution while they discharge their duties within the scope and ambit of their powers entrusted to them. A reading of Section 197 CrPC would indicate that there is a bar for a Court to take cognizance of such offences which are mentioned in the said provision except with the previous sanction of the appropriate Government when the allegations are made against, inter alia, a public servant……""*

14. In view of the above discussion, the present appeal succeeds and the impugned order dated 09.09.2017 (Annexure P-1), passed by the Judge, Special Court/Additional Sessions Judge, Ludhiana as well as complaint (Annexure P-2) titled as ***"State through Dilbagh Singh Johal Vs. ASI Joga Singh and Others"*** and all consequential proceedings arising out therefrom are liable to be quashed by this Court qua the appellants.

15. Ordered accordingly.

**(N.S.SHEKHAWAT)**
**JUDGE**

08.06.2026
*hitesh*

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