IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-1011-2016 (O&M)
Reserved on :- 05.08.2026
Date of Pronouncement:-14.08.2026
Uploaded on:- 14.08.2026

Dr. Rajesh Kumar Verma

… Petitioner

Versus

Manish

... Respondent

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. P.S. Ahluwalia, Senior Advocate with
Mr. Keerat Dhillon, Advocate
for the petitioner.

Mr. A.P. Bhandari, Advocate with
Ms. Bhargavi, Advocate
for the respondent.

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VIRINDER AGGARWAL, J.

1. The present criminal revision petition has been preferred assailing the legality and correctness of the order dated 03.02.2016, whereby the learned Trial Court has directed the framing of charge against the petitioner for the offence punishable under Section 218 of the Indian Penal Code in Criminal Complaint No.487 dated 18.05.2004, instituted under Sections 161, 165-A, 166, 167, 218, 219, 323, 330, 342, 506, 464, 465, 468, 471 and 120-B of the Indian Penal Code, read with Sections 5(2) and 5(1)(d) of the Prevention of Corruption Act, at the instance of the complainant-respondent. The petitioner prays for setting aside the

impugned order on the ground that the same is contrary to law and the material available on record.

2. Briefly stated, the case of the complainant is that he is a resident of Village Baghola, Tehsil Palwal, and had completed his Bachelor of Arts in the year 2003. It is alleged that a long-standing dispute regarding ancestral property was pending between his father and his paternal uncle, Lachhi Ram, who allegedly harboured animosity towards the complainant's family and was determined to deprive them of their lawful share. According to the complainant, Lachhi Ram, in connivance with certain private persons, had earlier instituted false criminal cases against him and his family with a view to harass and pressurise them.

2.1. It is further alleged that, pursuant to the complainant having secured bail in those cases, Lachhi Ram conspired with the other accused persons and succeeded in getting registered FIR No.270 dated 17.05.2003 under Sections 342, 363, 366-A, 376 and 34 IPC and the relevant provisions of the SC/ST Act by falsely implicating the complainant in a fabricated criminal case. The complainant asserts that, at the relevant time, he was present before the Court of the learned SDM, Palwal, in separate proceedings, thereby establishing his false implication.

2.2. The complainant further alleges that on 17.05.2003, he was arrested from his residence during the early hours of the morning by the police officials and was thereafter subjected to illegal detention and severe custodial torture with the object of extracting a false confession in the aforesaid case. It is alleged that despite suffering multiple injuries, the concerned police officials, in connivance with the attending medical officer, manipulated the medical examination and procured a false medical report under coercion. Dissatisfied therewith, the complainant's father approached the competent Court, which directed that the complainant be medically examined by a Board of Doctors. Alleging that the entire sequence of events was the result of a criminal conspiracy involving the private accused, police officials and others, the complainant instituted the present complaint seeking appropriate legal action against all the accused persons. During trial proceedings vide impugned order charge under Section 218 IPC was framed against petitioner who conducted medical examination of accused in discharge of his official duties. That has has been assailed in revision.

3. Learned counsel for the petitioner submits that the principal question arising for consideration in the present revision petition is '*whether the petitioner, who was admittedly a public servant at the relevant point of time, could have been prosecuted for the offence punishable under Section 218 of the Indian Penal Code, 1860 without obtaining the mandatory previous sanction under Section 197 of the Code of Criminal Procedure, 1973*'?

3.1. Elaborating the aforesaid contention, learned counsel submits that the petitioner was serving as a Medical Officer and had medically examined the accused strictly in the discharge of his official duties. Upon such examination, the petitioner recorded that no fresh external injuries were found on the person of the accused. Since the accused disputed the said medical opinion, the competent Court subsequently directed constitution of a Board of Doctors, which, upon re-examination, noticed certain contusions and tenderness on the body of the accused. Merely because the opinion expressed by the Medical Board differed from that of the petitioner, criminal proceedings came to be initiated against him.

3.1. It is vehemently contended that the entire allegation against the petitioner emanates exclusively from an act performed by him in the lawful discharge of his official functions as a Government Medical Officer. The preparation of the medico-legal report was intrinsically connected with his official duties and is based upon his opinion and, therefore, the institution of criminal proceedings against him, in the absence of the mandatory previous sanction contemplated under Section 197 of the Code of Criminal Procedure, 1973, is legally impermissible and vitiates the very prosecution. Consequently, it is argued that the impugned order directing framing of charge cannot be sustained in law and deserves to be set aside.

3.2. In support of the aforesaid submissions, learned counsel has placed reliance upon the judgments rendered in **D. Devaraja vs. Owais Sabeer Hussain, 2020(7) SCC 695**; **Amal Kumar Jha vs. State of Chhattisgarh, 2016(2) R.C.R. (Criminal) 910**; **Mishri Chand vs. Satender, 2018(1) R.C.R. (Criminal) 147**; and **Dr. Manish Bansal vs. State of Haryana, 2019(1) R.C.R. (Criminal) 963**.

3.3. Learned counsel for the petitioner has further relied upon the recent judgment of the Hon'ble Supreme Court in **Directorate of Enforcement vs. Bibhu Prasad Acharya etc., 2024 INSC 843**, to contend that the protection envisaged under Section 197 of the Code of Criminal Procedure, 1973 has been construed broadly even in proceedings under the Prevention of Money Laundering Act, wherever the alleged acts bear a reasonable nexus with the discharge of official duties. It is submitted that the ratio of the aforesaid decision fortifies the petitioner's contention that, in the absence of a valid sanction under Section 197 Cr.P.C., the prosecution itself is rendered legally unsustainable. The Hon'ble Supreme Court has observed as under:-

> 14. A Bench of three Hon'ble Judges of this Court in the case of P.K. Pradhan v. State of Sikkim5, in paragraphs 5 and 15 held thus:
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> "5. The legislative mandate engrafted in sub-section (1) of Section 197 debarring court from taking cognizance of an offence except with the previous sanction of the Government concerned in a case where the acts complained of are alleged to have been committed by a public servant in discharge of his official duty or purporting to be in the discharge of his official duty and such public servant is not removable from office save by or with the sanction of the Government, touches the jurisdiction of the court itself. It is a prohibition imposed by the statute from taking cognizance. Different tests have been laid down in decided cases to ascertain the scope and meaning of the relevant words occurring in Section 197 of the Code: "any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty". The offence alleged to have been committed must have something to do, or must be related in some manner, with the discharge of official duty. No question of sanction can arise under Section 197, unless the act complained of is an offence; the only point for determination is whether it was committed in the discharge of official duty. There must be a reasonable connection between the act and the official duty. It does not matter even if the act exceeds what is strictly necessary for the discharge of the duty, as this question will arise only at a later stage when the trial

proceeds on the merits. What a court has to find out is whether the act and the official duty are so interrelated that one can postulate reasonably that it was done by the accused in the performance of official duty, though, possibly in excess of the needs and requirements of the situation"

"15. Thus, from a conspectus of the aforesaid decisions, it will be clear that for claiming protection under Section 197 of the Code, it has to be shown by the accused that there is reasonable connection between the act complained of and the discharge of official duty. An official act can be performed in the discharge of official duty as well as in dereliction of it. For invoking protection under Section 197 of the Code, the acts of the accused complained of must be such that the same cannot be separated from the discharge of official duty, but if there was no reasonable connection between them and the performance of those duties, the official status furnishes only the occasion or opportunity for the acts, then no sanction would be required. If the case as put forward by the prosecution fails or the defence establishes that the act purported to be done is in discharge of duty, the proceedings will have to be dropped. It is well settled that question of sanction under Section 197 of the Code can be raised any time after the cognizance; maybe immediately after cognizance or framing of charge or even at the time of conclusion of trial and after conviction as well. But there may be certain cases where it may not be possible to decide the question effectively without giving opportunity to the defence to establish that what he did was in discharge of official duty. In order to come to the conclusion whether claim of the accused that the act that he did was in course of the performance of his duty was a reasonable one and neither be to the of pretended nor fanciful, can examined during the course of trial by giving opportunity defence to establish it. In such an eventuality, the question sanction should be left open to be decided in the main judgment which may be delivered upon conclusion of the trial."

(emphasis added)

Thus, there is no embargo on considering the plea of absence of sanction, after cognizance is taken by the Special Court of the offences punishable under Section 4 of the PMLA. In this case, it is not necessary to postpone the consideration of the issue.

15. We have carefully perused the allegations against the respondents in the complaint. The allegation against the second respondent is of allocating an additional 10 lakh litres of water to India Cement Ltd. Taking the averments made in the complaint against him as it is, the act alleged against him has been committed by him while purporting to act in the discharge of his official duties. The allegation against the first respondent is of the allotment of land measuring 250 acres to M/s. Indu Tech Zone Private Ltd. Taking the averments made in the complaint as correct, the act alleged against him has been done by him purporting to act in the discharge of his official duties. In the case of both respondents, the acts alleged against them are related to the discharge of the duties entrusted to them. It is not even the allegation in the complaints that the two respondents were not empowered to do the acts they have done. There is a connection between their duties and the acts complained of. The second condition for the applicability of Section 197(1) also stands satisfied, and therefore, in this case, Section 197(1) of CrPC applies to the respondents, assuming that Section 197(1) of CrPC applies to the proceedings under the PMLA."

3.4. Learned counsel for the petitioner has further placed reliance upon the judgment of the Hon'ble Supreme Court in **Suneeti Toteja vs. State of U.P. and Others, 2025(2) R.C.R. (Criminal) 138**, to reinforce the contention that where the alleged acts of a public servant bear a reasonable nexus with the discharge of official duties, compliance with the mandate of Section 197 of the Code of Criminal Procedure, 1973 is a condition precedent to the institution and continuance of criminal proceedings. It is submitted that the ratio laid down in the aforesaid decision lends substantial support to the petitioner's case that, in the absence of a valid and prior sanction under Section 197 Cr.P.C., the impugned order framing charge is rendered legally unsustainable. The Hon'ble Supreme Court has held as under:-

> 29. As per the aforementioned proposition, it is only to be seen if the accused public servant was acting in the performance of his/her official duties, and if the answer is in the affirmative, then prior sanction for their prosecution is a condition precedent to the cognizance of the cases against them by the courts. It is therefore largely a disputed question of fact here and not a question of law. However, this fact of appellant herein acting in her official capacity is not seriously contested by the respondents herein. In the instant case, the appellant had filed the counter affidavit and interacted with the complainant in her capacity of a Presiding Officer, ICC. The correctness of the allegations with regard to the conduct of the appellant need not be ascertained herein by this Court but the fact that she was acting in her official duty is sufficient to hold that a prior sanction from the department was in fact necessary before the Magistrate taking cognizance against her.

> The Magistrate therefore erred in proceeding to take cognizance against the appellant without the sanction for prosecution being received from BIS, and since BIS has eventually refused to grant sanction for the prosecution of the appellant, the prosecution against the appellant could not have been sustained.

3.5. On the strength of the aforesaid submissions and the judicial precedents relied upon, learned counsel for the petitioner contends that the prosecution initiated against the petitioner, in the absence of the mandatory previous sanction under Section 197 of the Code of Criminal Procedure, 1973, is legally untenable. It is, therefore, prayed that the impugned order dated 03.02.2016 directing the framing of charge against the petitioner be set aside and the present criminal revision petition be allowed.

4. Per contra, learned counsel appearing for the respondent has vehemently opposed the present revision petition and contended that the protection envisaged under Section 197 of the Code of Criminal Procedure, 1973 is not available to the petitioner in the facts and circumstances of the present case. It is submitted that the allegation against the petitioner is not merely of an error in the discharge of official duties, but of having deliberately prepared a false medico-legal report with the intent to shield the accused and thereby facilitate the commission of an offence. According to the learned counsel, such acts cannot be regarded as having been committed in the bona fide discharge of official functions so as to attract the statutory protection under Section 197 Cr.P.C. Consequently, it is argued that no previous sanction was required before initiating the prosecution against the petitioner.

4.1. In support of the aforesaid submissions, learned counsel has placed reliance upon the judgments rendered in **Rajib Ranjan and Others vs. R. Vijay Kumar, 2014(4) R.C.R. (Criminal) 723**; **Inspector of Police and Another vs. Battenapatla Venkata Ratnam and Another, 2015(3) R.C.R. (Criminal) 86**; **S.B. Saha and Others vs. M.S. Kochar, 1979 AIR (SC) 1841**; **Sachin @ Sachinder @ Satendra vs. State of U.P. and Another, 2017(5) R.C.R. (Criminal) 305**; and **Bhawna Bai vs. Ghanshyam and Others, 2020(1) R.C.R. (Criminal) 370**.

4.2. Learned counsel for the respondent has further placed strong reliance upon the recent judgment of the Hon'ble Supreme Court in **Om Prakash Yadav vs. Niranjan Kumar Upadhyay and Others, 2024 INSC 979**, wherein the scope, ambit and applicability of Section 197 of the Code of Criminal Procedure, 1973 have been comprehensively examined. It is submitted that the Hon'ble Supreme Court, after an exhaustive survey of the precedents governing the field, has delineated the principles governing the requirement of prior sanction and has laid down the following guiding parameters:-

> (i) The object behind the enactment of Section 197 CrPC is to protect responsible public servants against institution of possibly false or vexatious criminal proceedings for offences alleged to have been committed by them while they are acting or purporting to act in their official capacity. It is to ensure that the public servants are not prosecuted for anything which is done by them in the discharge of their official duties, without any reasonable cause. The provision is in the form of an assurance to the honest and sincere officers so that they can

perform their public duties honestly, to the best of their ability and in furtherance of public interest, without being demoralized.

(ii) The expression “any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty" in Section 197 CrPC must neither be construed narrowly nor widely and the correct approach would be to strike a balance between the two extremes. The section should be construed strictly to the extent that its operation is limited only to those acts which are discharged in the "course of duty". However, once it has been ascertained that the act or omission has indeed been committed by the public servant in the discharge of his duty, then a liberal and wide construction must be given to a particular act or omission so far as its "official" nature is concerned.

(iii) It is essential that the Court while considering the question of applicability of Section 197 CrPC truly applies its mind to the factual situation before it. This must be done in such a manner that both the aspects are taken care of viz., on one hand, the public servant is protected under Section 197 CrPC if the act complained of falls within his official duty and on the other, appropriate action be allowed to be taken if the act complained of is not done or purported to be done by the public servant in the discharge of his official duty.

(iv) A public servant can only be said to act or purport to act in the discharge of his official duty, if his act is such that it lies within the scope and range of his official duties. The act complained of must be integrally connected or directly linked to his duties as a public servant for the purpose of affording protection under

Section 197 CrPC. Hence, it is not the duty which requires an examination so much as the "act" itself.

(v) One of the foremost tests which was laid down in this regard was whether the public servant, if challenged, can reasonably claim that, what he does, he does in virtue of his office.

(vi) Later, the test came to be re-modulated. It was laid down that there must be a reasonable connection between the act done and the discharge of the official duty and the act must bear such relation to the duty such that the accused could lay a reasonable, but not a pretended or fanciful claim, that his actions were in the course of performance of his duty. Therefore, the sine qua non for the applicability of this section is that the offence charged, be it one of commission or omission, must be committed by the public servant either in his official capacity or under the color of the office held by him such that there is a direct or reasonable connection between the act and the official duty.

(vii) If in performing his official duty, the public servant acts in excess of his duty, the excess by itself will not be a sufficient ground to deprive the public servant from protection under Section 197 CrPC if it is found that there existed a reasonable connection between the act done and the performance of his official duty.

(viii) It is the "quality" of the act that must be examined and the mere fact that an opportunity to commit an offence is furnished by the official position would not be enough to attract Section 197 CrPC.

(ix) The legislature has thought fit to use two distinct expressions "acting" or “purporting to act". The latter expression means that even if the alleged act was done under the color of office, the protection under Section 197 CrPC can be given. However, this protection must not be excessively stretched and construed as being limitless. It must be made available only when the alleged act is reasonably connected with the discharge of his official duty and not merely a cloak for doing the objectionable act.

(x) There cannot be any universal rule to determine whether there is a reasonable connection between the act done and the official duty, nor is it possible to lay down such a rule. However, a "safe and sure test" would be to consider if the omission or neglect on the part of the public servant to commit the act complained of would have made him answerable for a charge of dereliction of his official duty. If the answer to this question is in the affirmative, the protection under Section 197 CrPC can be granted since there was every connection with the act complained of and the official duty of the public servant.

(xi) The provision must not be abused by public servants to camouflage the commission of a crime under the supposed color of public office. The benefit of the provision must not be extended to public officials who try to take undue advantage of their position and misuse the authority vested in them for committing acts which are otherwise not permitted in law. In such circumstances, the acts committed must be considered dehors the duties which a public servant is required to discharge or perform.

(xii) On an application of the tests as aforesaid, if on facts, it is prima facie found that the act or omission for which the accused has been charged has a reasonable connection with the discharge of his official duty, the applicability of Section 197 CrPC cannot be denied.

4.3. Relying upon the aforesaid judicial precedents and the submissions advanced, learned counsel for the respondent contends that the acts attributed to the petitioner cannot be said to have been performed in the *bona fide* discharge of his official duties so as to attract the protective umbrella of Section 197 of the Code of Criminal Procedure, 1973. It is, therefore, submitted that the prosecution is not vitiated for want of prior sanction and that the impugned order does not suffer from any legal infirmity warranting interference in the exercise of revisional jurisdiction. Accordingly, it is prayed that the present criminal revision petition, being devoid of merit, be dismissed.

5. I have heard learned counsel for the parties at considerable length and have meticulously perused the record as well as the judicial precedents relied upon by the learned counsel appearing on either side, with their able assistance.

6. In **D. Devaraja's** case (supra), the Hon'ble Supreme Court has authoritatively enunciated the legal position to the effect *an offence committed entirely outside the scope of the duty of the police officer, would certainly not require sanction. To cite an example, a police man assaulting a domestic help or indulging in domestic violence would certainly not be entitled to protection. However if an act is connected to the discharge of official duty of investigation of a recorded criminal case, the act is certainly under colour of duty, no matter how illegal the act may be*.

6.1. The allegations against the petitioner are that, on 18.05.2003, one Munish was produced before him for medico-legal examination pursuant to the directions issued by the learned Court. Upon examining the said Munish, the petitioner recorded in the Medico-Legal Report that no fresh external injury was found on his person. The said opinion, however, was disputed by Munish, who, through his father, moved an application before the learned Judicial Magistrate First Class, Palwal, seeking his re-examination by a duly constituted Medical Board. The said application was allowed vide order dated 19.05.2003. In compliance thereof, the Medical Board conducted the medico-legal examination of Munish on 21.05.2003 and recorded the following injuries on his person:-

1. Tenderness present over the terminal PIP joint of Lt. middle finger. Movements full range but painful. No ext. mark of injury seen.

   Advised X-ray Lt. Hand.

2. Complaining of pain on the outer border of left foot. Blackish contusion over 5th metatarsal. Tenderness over base of 5th metatarsal.

   Advised X-ray.

3. Reddish black contusion 4" × ½" Lt. deltoid region.

4. Reddish black contusion 5 cm × 2 cm Lt. buttock region.

6.2. The Medical Board assessed the probable duration of the injuries to be between 24 and 96 hours. It is on the strength of the opinion rendered by the Medical Board that the present prosecution came to be instituted against the petitioner on the allegation that he had intentionally submitted a false Medico-Legal Report by omitting to record the external injuries found on the person of Munish, allegedly with the object of extending undue favour to the police officials concerned.

6.3. It is not in dispute that the medico-legal examination conducted by the petitioner preceded the examination undertaken by the

Board of Doctors. While the petitioner opined that no fresh external injury was noticed on the person of Munish, the Medical Board, upon its subsequent examination, noticed certain contusions, tenderness and complaint of pain, which were not reflected in the Medico-Legal Report prepared by the petitioner. Whether such omission was deliberate and actuated by mala fides, as alleged by the prosecution, or was merely an error of medical judgment or opinion, is undoubtedly a matter falling within the domain of evidence and is an issue to be adjudicated by the trial Court upon appreciation of the material brought on record.

7. However, the pivotal question arising in the present revision petition is not whether the petitioner had intentionally furnished an incorrect Medico-Legal Report, but whether the alleged act was committed by him while acting or purporting to act in the discharge of his official duties, thereby attracting the protective umbrella of Section 197 of the Code of Criminal Procedure, 1973.

7.1. In the present case the question is with regard to correctness by the opinion expressed by the petitioner with regard to the medical examination of the complainant and the same has been assailed in the trial on the grounds Board of Doctors in their examination subsequently on 19.05.2003 has found contusions and tenderness and concluded that fresh injuries were present. It is a matter of common knowledge that contusions sometime are not immediately visible and takes some time in manifestation and in some cases the same can take 24 hours or more as per medical jurisprudence, a contusion (bruise) is an injury caused by blunt force trauma that ruptures subcutaneous blood vessels without breaking the skin.

A late manifestation refers to when a bruise does not appear immediately on the skin surface; it can take 24 to 48 hours (and sometimes longer for deep tissue or visceral contusions) to become fully visible, distinct, and measurable for forensic evaluation. The medico-legal examination of Munish was conducted by the petitioner pursuant to the directions of the competent Court and in his capacity as a Medical Officer discharging his official functions. The preparation of the Medico-Legal Report constituted an integral and inseparable component of his official duties. Even assuming, for the sake of argument, that the allegations levelled by the prosecution are accepted at their face value, the omission to record certain injuries is inextricably linked with, and has a direct and reasonable nexus to, the discharge of the petitioner's official functions. The alleged act cannot be divorced from his official duties so as to deprive him of the statutory protection contemplated under Section 197 Cr.P.C.

7.2. It is well settled that where the act complained of bears a reasonable nexus with the discharge of official duties, the protection under Section 197 Cr.P.C. is attracted, notwithstanding the allegation that such act was performed improperly, negligently or even with an oblique motive. The correctness or otherwise of the Medico-Legal Report and the culpability, if any, of the petitioner are matters to be adjudicated during trial; however, the competence of the Court to take cognizance itself remains contingent upon the existence of a valid sanction where the statutory requirement is attracted.

7.3. Since the alleged acts attributed to the petitioner were committed while acting in the discharge of his official duties and are intrinsically connected therewith, previous sanction of the competent authority under Section 197 of the Code of Criminal Procedure, 1973, was a condition precedent for taking cognizance by Court. Admittedly, no such sanction was obtained before the institution of the criminal proceedings. Consequently, the cognizance by Court against the petitioner suffers from a fundamental legal infirmity and is rendered unsustainable in the eyes of law.

7.4. Accordingly, the present revision petition deserves to succeed and is hereby **allowed**. The impugned order dated 03.02.2016, whereby the petitioner was directed to face trial for the offence punishable under Section 218 of the Indian Penal Code, 1860, is hereby set aside.

8. In view of the final adjudication of the present revision petition, all pending miscellaneous applications, if any, arising out of or ancillary to the present proceedings shall also stand disposed of. Since the principal lis has attained finality by virtue of this judgment, no separate or further orders are called for in respect of the aforesaid applications, the same having been rendered infructuous.

(VIRINDER AGGARWAL)
JUDGE

14.08.2026
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No