

Hariraman Vs. State Thro Vigilance and Anti Corruption, Madras

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Court : Chennai

Decided On : Oct-18-1994

Reported in : 1995CriLJ3527

Judge : Rengasamy, J.

Acts : [Constitution of India](#) - Article 21; [Indian Penal Code \(IPC\), 1860](#) - Sections 120B, 408, 409, 419, 420, 467, 468, 470, 471 and 487; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 164, 196 and 239; Prevention of Corruption Act - Sections 5(2) and 6

Appeal No. : Civil R.C. No. 473 of 1989 and Cri. R.P. No. 470 of 1989

Appellant : Hariraman

Respondent : State Thro Vigilance and Anti Corruption, Madras

Advocate for Def. : O.P. Govindarajan, Govt. Adv

Advocate for Pet/Ap. : G. Krishnan, Sr. Adv. for B. Jayaraman

Judgement :

ORDER

1. This revision is against the Order of the 1 Addl. Special Judge, Madras, in C.M.P. No. 4451 of 1987 dated 29-2-1988 in C.C. No. 36/86 dismissing the petition of the revision petitioner filed under Section 239, Code of Criminal

Procedure to discharge him due to the delay of the trial.

2. The revision petitioner was working as Assistant Divisional Engineer in the Electricity Board. He was entrusted with the responsibility of arranging the electricity pavilion at various exhibitions conducted in Tamilnadu. In 1982, a complaint was filed against him alleging misappropriation of funds and he was arrested and chargesheeted for the offences under Sections 409, 487, 471 and 470 Indian Penal Code and Section 5(1) read with Section 5(2) of Prevention of Corruption Act for the alleged misappropriation of funds to the tune of Rs. 21,000 under forged bills in the year 1979 while he was incharge of the exhibition. The trial commenced in 1988 and at that time, he filed the petition under Section 239. Code of Criminal Procedure to discharge him on the ground that even though the alleged misappropriation was in the year 1979, he was asked to face that trial after 8 years, which is a very long time, to meet the allegations and on account of this delay, he is facing difficulties in his defence and there fore, the trial is prejudiced. He has also alleged that the sanction order itself is defective and the authority. who granted sanction, had not applied his mind on account of which the sanction itself is illegal and therefore, he should be discharged on the above ground. The learned I Additional Special Judge, after hearing both sides, has dismissed the petition holding that the delay was unavoidable and the petitioner has to face the trial. Challenging this order of the learned I Additional Special Judge, the accused has come forward with this revision.

3. The learned Senior Counsel appearing for the revision petitioner Mr. G. Krishnan has urged two points in this revision to discharge the petitioner and they are inordinate delay in the trial and the invalidity of the sanction order to prosecute him.

4. The revision petitioner, an Assistant Divisional Engineer of the Electricity Board, was incharge of the pavilions arranged by the Electricity Board in the exhibitions conducted in Tamilnadu. It appears that he was authorised to spend a minimum of Rs. 1,000/- at a time and therefore he was entitled to withdraw and spend only Rs. 1,000/- at a time. It is alleged that in March 1982, it came to surface that under the forged bills, this revision petitioner had withdrawn funds for expenditure and

according to the learned Government Advocate (Criminal Side), the investigation was taken up only for the period between May 1979 to July 1979 as the Government felt that there would be an undue delay if the probe continued for the prior period also and in this short span of 3 months period, Rs. 2,20,977.30 was found to have been misappropriated by the petitioner under forged bills and therefore, complaint was filed in March 1982. The Complaint dated 24-3-1982 given by the Superintendent Engineer against this petitioner, to the Deputy Inspector General of Police, Mylapore, was taken on file and after investigation, the charge-sheet was filed in 1986. It is true that there is a delay of nearly 4 years in the investigation. Thereafter, the case came up for trial in the end of 1987 and at that time this petitioner filed the petition under Section 239 Code of Criminal Procedure to discharge him on the grounds mentioned above. The learned I Additional Special Judge dismissing the petition commenced the trial by examining the witnesses in March 1989 and the revision petitioner, thereafter, filed this revision and obtained stay of the proceedings and therefore, now for the last more than 5 years, the proceedings could not be continued though two witnesses have been examined on the prosecution side.

5. The learned senior Counsel has cited series of decisions referring to Article 21 of the [Constitution of India](#), for the expeditious trial and the inordinate delay in the prosecution will be infringing the fundamental right of speedy trial. The learned senior counsel Mr. Krishnan contended that the First Information Report was filed only in the year 1986 though the misappropriation was said to have been committed in the year 1979 and as the trial commenced in 1988 beginning, i.e. nearly 8 years after the alleged misappropriation, the accused petitioner will not be in a position to gather the evidence for his defence, because due to this lapse of time, the records might have been destroyed and the witnesses also might have forgotten about the important instances relating to the alleged misappropriation and therefore now the petitioner accused is handicapped in gathering evidence for his side and therefore the long delay will be prejudicial to the interests of the accused and the accused ought to have been discharged by the learned I Addl. Special Judge. He has quoted several decisions of this Court, Supreme Court and other Courts, all emphasizing the speedy trial. The following decisions are relied upon by him to support his argument that the inordinate delay is prejudicial to the

interests of the accused person. The decisions are, 1) Hussainara Khatoon v. State of Bihar : 1979 CriLJ1036 Kothandapillai v. State By Dy. Superintendent of Police 1982 Mad LW (Cri) 1123 Devarajan v. State State v. Maksudan Singh : AIR1986 Pat38 (FB), 5) Madheshwardhari Singh v. State of Bihar : AIR1986 Pat324 (FB), 6) Ramnath Rai v. State of Bihar 1983 Cri LJ 324 Herald Stephen Benson v. State of Madhya Pradesh Sait Mohamed v. State 1989 Mad LW (Cri) 175 Kannappan O. M. v. Basheer Ahmed 1989 MLW (Cri) 267 Arumugam v. State (1994 1 LW(Cri) 240 Sounderrajan D. v. Food Inspector of Corporation of Madras (1993) MLW (Cri) 585 and (12) Santosh De v. Archana Guha : 1994 CriLJ1975 . All these decisions refer to Article 21 of the Constitution, which guarantees the life and personal liberty of a citizen and as the liberty is involved in the criminal proceedings, the Courts have held in these decisions that speedy trial is also guaranteed under the Constitution. In the first decision cited above (Hussainara Khatoon v. State of Bihar : 1979 CriLJ1036 , the Supreme Court has stated that speedy trial is part of fundamental right to life and liberty and such a speedy trial is an integral and essential part of the criminal proceedings. In the second decision, which is a decision of this Court, no elaborate discussion is given as to the facts of the case but the learned Judge has observed.

'I do not think that the interest of Justice require the proceedings to be continued against the petitioner especially taking into consideration the inaptitude of the prosecution.'

It appears that originally the Sub-Inspector of Police, filed the charge-sheet against the accused therein and thereafter the D.S.P. reinvestigated and filed amended charge-sheet before the Special Judge under Section 5(1) of the Prevention of Corruption Act. As the police did not bring the witness, the Special Judge had made remark in the notes paper order that the police was not evincing any interest in the case. Taking into consideration of this remark, the learned Judge has made the above observation to quash the proceedings. Therefore, it is not clear whether there was any delay in the proceedings. In the third decision (Devarajan v. State (Madras), the accused therein was prosecuted for offences under Sections 120B, 419, 420, 467, 468 and 471 Indian Penal Code alleging that loans and advances were granted by him on false declaration and false certificate and cheated the

Government to the extent of Rs. 1 lakh. Though the first Information Report was laid on 6-4-1994, the charge-sheet was filed on 4-6-1983. Therefore, there was a delay of 9 years and 1 month in filing the charge-sheet itself and thereafter the trial commenced. The charges relate to the period between 1968 and 1972. As the learned Judge found that no proper explanation was given for the inordinate delay of 9 years and 2 months for the pendency of the proceedings before the Magistrate, it was considered to be an unexceptional delay the proceedings, was quashed. In the fourth decision (State v. Maksudan Singh. the Full Bench of the Patna High Court has held that violation of Article 21 of the Constitution will entail the unconditional release of the accused person. In that case, there was delay of 10 years in the trial and therefore, it was considered therein that it was *pur se* prejudicial to the interest of the accused. In the 5th decision (Madheswardhari Singh v. State of Bihar, the Full Bench of the Patna High Court has held that under Article 21 of the Constitution, Speedy trial is an inalienable fundamental right of the citizen and Article 21 covers not only the proceedings before the Court has also the police investigation proceeding it. In the 6th decision (Ramanath Rai v. State of Bihar, the genesis of crime lies more than 26 years before the First Information Report was recorded in 1978. The Patna High Court has observed :

'12 Herein instead of 7 many cases, nearly twice or more than that period has elapsed and one can only guess how many more years will pass before the alleged trial comes to a conclusion. With great regret, it has to be held unreservedly that the Constitutional right to speedy public trial by fair, just and reasonable procedure now recognised under Article 21 of the constitution stands patently violated herein.'

In the 7th decision (Herald Stephen Benson v. State of Madhya Pradesh (Madh. Pra), the case was pending for 12 years and in spite of 36 hearings, the prosecution did not complete the trial and therefore, it was observed in that case it had deprived the right of the accused person, violating the Article 21 of the Constitution. In the 8th decision (Sait Mohamed v. State) 1989 Mad LW (Cri) 175 relating to prohibition offence under Sections 4(1) (a) and 4(1)(g), the case was adjourned to 101 times and was pending for 7 years from 1982 to 1989. No explanation was given for the pendency of that case for such a long time.

Therefore, this Court had quashed the proceedings in that case. In the 9th decision (Kanappan O. M. v. Basheer Ahmed (1989) Mad LW (Cri) 267, the cheating was alleged to have happened 14 years prior to 1975 and even after the lapse of 14 years. i.e. in 1989, the trial could not be completed. Therefore, the accused, who was called upon to face the trial in the year 1989, had to prepare his defence in respect of the alleged offence that took place in the year 1961. Hence, this Court had quashed that proceeding also. In the 10th decision (Arumugam v. State (1994) 1 MLW (Cri) 240, the learned Judge of this Court has observed :

'4. Since the burden of proving the guilt of the accused lies upon the prosecution, delay ordinarily prejudices the prosecution, Non-availability of witnesses and disappearance of evidence by lapse of time really works against the interest of prosecution. Therefore, in every case, where the right to speedy trial is alleged to have been infringed, the first question to be put and answered is who is responsible for the delay while determining whether undue delay has occurred, one must have regard to all the attendant circumstances, including nature of offence, number of accused and witnesses, the work load of the Court concerned, prevailing local conditions and so on what is called, the systematic delays. Each and every delay does not necessarily prejudice the accused. 'Some delays may indeed work to his advantage. Whether delay in completing a prosecution amounts to an unconstitutional deprivation of rights depends upon all the circumstances. However, inordinately long delay may be taken as presumptive proof of prejudice. The prosecution should not be allowed to become a prosecution. But when does the persecution become persecution, again depends upon the facts of the case. Ultimately, the Court has to balance in weight the several relevant factors and determine in each case whether the right to speedy trial has been denied in a case.'

In that case, the trial was not taken up for 6 years and the prosecution also failed to produce records summoned by the accused. Therefore, taking into consideration of all the facts, this Court has quashed the criminal proceedings in that case. In the 11th decision (Soundar Rajan D. v. Food Inspector of Corporation of Madras (1993) MLW (Cri) 585, the offence under Food Adulteration Act was taken on file on 7-11-1985 and thereafter, either the complainant or the counsel

would be absent and thus the case was made to be adjourned from time to time for more than 4 years and 3 months. Therefore, the absence of the complainant and the disinterest of the prosecution to proceed with the trial for more than 4 years was considered to be the violation of the mandate of the Article 21 and therefore in that case also, this Court had quashed the proceedings. In the last decision cited above (*Santosh De v. Archana Guha*), : 1994 CriLJ1975 , the prosecution was pending for 14 years. Though the First information Report in that case was filed in 1978, chargesheet was filed only in the year 1986 i.e. nearly after 8 years and thereafter even in the year 1992 not even a single witness was examined and no progress was made. As the tendency of the proceedings before the trial Court was more than 14 years and that delay was not attributable to the conduct of the accused, the Supreme Court had observed that the delay of 14 years had infringed the fundamental right of the accused under Article 21 of the Constitution when especially no explanation was offered by the prosecution for the delay and therefore the Supreme Court had interfered in the proceedings by quashing it. From the catena of decisions referred to above, it is an undeniable fact that unexceptional and inordinate delay in the criminal proceedings will be prejudicial to the interest of the accused and therefore, the delays have been the grounds for quashing the proceedings against the accused. But in *Arumugam v. State* (1994) 1 Mad LW (Cri) 240 (referred supra), Thangamani, J. has observed that before counting the period of delay, the Courts have to take into consideration of all the attendant circumstances, viz., the nature of the offence, number of the accused and the witnesses, the work load of the Court concerned and the prevailing local conditions etc., The learned Government Advocate (Criminal Side) represents that as the accused had withdrawn funds by producing the forged bills in the Year 1979, it did not come to light till 1982 and only later on when the persons mentioned in those bills had denied the supply of materials and the issue of the bills, the misappropriation committed by the petitioner came to light and as 76 witnesses were examined and 156 vouchers and the connected records were to be compared and verified through the witnesses, and therefore, the prosecution had filed the chargesheet in the year 1986. The learned senior counsel for the petitioner argues that as the alleged misappropriation is said to have taken place in the year 1979, the accused will be prejudiced to defend the case in the year

1988 after the lapse of 8 years and the decisions cited above, have to be allowed to quash this proceedings. 76 witnesses cited in this case, cannot be said to be in small numbers. Therefore, it might have taken considerable time to examine these witnesses and it appears that their signatures and the disputed signature in the bill produced by the accused, were sent to Forensic Department for their opinion and therefore, the delay seems to have occurred in filing the charge-sheet. Added to that the proceedings were initiated under Section 164, Code of Criminal Procedure in this case to record the confession statement of this revision petitioner and admittedly the confession statement of this petitioner also has been recorded by a Magistrate though it is argued now before me that the said confession is not valid. Soon after the filing of the charge-sheet in the year 1986, it appears that the prosecution was prepared to proceed with the trial in the end of 1987 and at that stage, the revision petitioner herein filed the petition under Section 239 Code of Criminal Procedure to quash the proceedings. As soon as the order was passed in that petition dismissing it, the prosecution examined the witnesses P.W.s 1 and 2 but this revision was filed in this Court, obtaining stay of the proceedings. Therefore, from 1988 onwards for the last 5 years, the blocking of the proceedings is at the instance of the revision petitioner.

6. The learned Government Advocate (Criminal Side) refers to two decisions to support his argument that the mere delay itself cannot be a ground to quash the proceedings. They are Sanjib Chatterjee v. State of West Bengal 1986 Cri LJ 992 wherein the Calcutta High Court has held that as there was delay in submitting the final report, the proceedings cannot be interfered with by quashing the same when specially the final report discloses cognizable offence alleged to have been committed by the accused person. It has further observed that if the Court interferes with the proper investigation in a case where an offence has been disclosed the offence will go unpunished to the serious detriment of the welfare of the society and the cause of justice suffice. In that case, the First information Report was lodged on 4-5-1982 and the Police also was given direction to complete the investigation within 4 months. However, even in 1985 as the investigation was not completed, the petition was filed to quash the proceedings and in such circumstances, the Calcutta High Court has observed as above stating that when the investigation has disclosed the offence it could not be quashed as it

would be detrimental to the welfare of the society in allowing the alleged offender to walk off without facing the trial. In the next decision relied upon by the learned Government Advocate (Criminal Side) in *Mangilal Vyas v. State of Rajasthan* JT (1990) 1 74. The Supreme Court has observed in that case that even though the cases against the accused under Sections 408 and 409. Indian Penal Code were pending for 25 years. In view of the nature of the allegations and the availability of evidence against the accused person, it was not expedient to terminate the proceedings. However, the Supreme Court had given direction for disposal of the cases within one year. So, in that case, even though the accused had 11 criminal cases, which were pending for over 25 years, taking into consideration of the nature of the charges and the availability of evidence, the Supreme Court directed the accused to face the trial. Therefore, the mere delay alone will not be a sufficient ground to quash the proceedings against an accused person and the factors leading to the delay are also of much significance to find out whether the delay was deliberate and un-cooperative as was found in some of the above cases wherein the complainant and his advocate did not attend the Court for several hearings. In this case, the reason has been offered for the delay of 4 years in filing the charge sheet because of the examination of 76 witnesses and the comparison of their signatures through the Forensic Laboratory. Soon after filing of the charge-sheet in the year 1986, the enquiry seems to have commenced in the end of 1987 and at that stage, the petitioner moved for the discharge on the ground of delay. After the filing of the charge-sheet, the case seems to have been pending for over an year and in December 1987 itself, the petitioner accused filed the petition to discharge him and thereafter though the witnesses were examined, he obtained of the stay in 1989 stopping the proceedings. Therefore, taking into consideration of all these circumstances, I do not find any material to hold that there is deliberate inaction on the part of the prosecution causing the delay and therefore, the accused person cannot be discharged.

7. The learned Senior Counsel for the revision petitioner Mr. G. Krishnan contended that the accused has filed petition to summon certain records but the prosecution has not arranged for the production of those records but tries to proceed with the trial without those records and this conduct of the prosecution also is only to deprive the accused from availing the records, to support his

defence and therefore, the prosecution shall not be permitted to proceed with the trial without those records. But the learned Government Advocate (Criminal Side) replies that all the documents that were relied upon by the prosecution have been already placed before the Court and copies also have been furnished to the accused and certain documents mentioned in the petition filed by the accused are not in the custody of the prosecution as they are documents of other departments, which are not under the control of the prosecution and the documents referred to by the petitioner accused relate to Tourist Fair Madras-79, Madurai Exhibition - 1979 and Salem Exhibition - 1979, in the custody of the Public Relations Officer (ADE/Exhibition MES, Mount Road, Madras, and therefore those documents could be summoned only through Court, and initially when these documents were asked to be produced before the Court, the concerned officer wanted time to search and produce those documents as they relate to the year 1979 and now all the records are ready for production and therefore, there is no fault on the part of the prosecution for not getting the records from the concerned offices. Any how, the learned Government Advocate represents that the records are available and there will not be any difficulty for the perusal of those records by the petitioner accused. As the alleged offence took place in the year 1979 between May and July and the First Information Report was filed in 1982, the accused could have gathered all the reliable evidence in his favour in 1982 itself to face the trial. Therefore, he cannot now contend that the material evidence in his favour cannot be gathered now after the lapse of several years. As mentioned above, as the delay from 1987 onwards has been contributed by the petitioner, he cannot contend that for the alleged offence that took place in the year 1979, he is not in a position to gather evidence for the cross-examination of the witnesses, now therefore, the contention of the petitioner for his discharge, on the ground of delay in the Trial is not appreciable when especially the cause of delay also has been already weighed. Hence the request of the petitioner on this ground also cannot be conceded to.

8. Another ground taken by the learned senior counsel for the petitioner is that the sanction for his prosecution is not proper as he was not given the opportunity to place his explanation and defence before the sanctioning authority and therefore the sanction itself is not valid in law and the entire prosecution becomes unsustainable. The learned counsel relies upon certain decisions in support of this

argument and he refers to *Mithanial v. State of Rajasthan* which deals with the validity of the sanction. It was held in that case that the sanction should not be granted merely on the basis of the factual reports placed by the investigating agency but only on analysis of the evidence collected and its satisfaction. The validity of the sanction in that case was considered on the basis that the satisfaction of the sanctioning authority was essential and not the mere report of the investigating officer. In this case, the contention of the learned senior counsel Mr. Krishnan is that had an opportunity been given to the petitioner to explain the allegations made against him, the petitioner could have explained the entire circumstances which led to the controversy and such explanation could have averted the sanctioning itself by the sanctioning authority and therefore as such opportunity was not given, the sanction is not valid. But in the above decision that aspect has not been considered and the application of mind for the subjective satisfaction of the sanctioning authority was considered to be the criteria, for the sanction. Therefore, this decision is not applicable to the petitioner. Another decision relied on by the learned senior counsel is *Mohd. Iqbal Ahmed v. State of Andhra Pradesh* : 1979 CriLJ633 . In that decision also, the point relied upon by the learned Senior counsel considered in that case, the sanctioning authority did not mention anything to show that there was evidence satisfying himself for sanction and therefore the Supreme Court, finding that the sanctioning authority had granted the sanction without applying its mind, held the sanction as invalid as the materials for the subjective satisfaction of the sanctioning authority was not referred to in the order of the Sanctioning authority. Therefore, that case also was on a different subject. The third case relied upon by the petitioner is *R. S. Nayak v. A. R. Antulay* : 1984 CriLJ613 which deals only with the object of Section 6, of the Prevention of Corruption Act. The Supreme Court observes, 'this approach is in accordance with the policy underlying Section 6, is that a public servant is not to be exposed to harassment of frivolous or speculative if he is counsel to be a public servant, in the meantime, the vital consideration ceased to exist'. Therefore the object and purpose of Section 6 alone has been considered in the above decision. Another decision referred to by the learned Senior Counsel is *V. Alphons v. Tamilnadu State Government* 1993 Mad LW Cri. 299. In that case, the complainant Alphons filed a petition under Section 196 Code of Criminal

Procedure to prosecute the respondent therein for certain scurrilous remarks in a magazine and when sanction was refused, he contended in this Court that the order of refusal of sanction was invalid for the reason that he was not heard before passing the order by the sanctioning authority. But this Court has found that the petition sent by the complainant for sanction was considered and therefore that would amount to the consideration of the representation of the complainant. But that decision is not applicable to this case because the accused contends that he was not given opportunity to be heard before passing the order for sanction to prosecute him. Therefore, that case also has no relevancy for this case. No doubt the last decision viz. *T. Balan v. Collector B. A. District* 1993 Mad LW (Cri) 322 deals with the point raised by the learned Senior counsel. The learned Judge, Swamidurai, J has accepted the contention of the petitioner in that case that the accused was not furnished with the copy of the enquiry records, in order to facilitate him to offer his explanation which might have stopped the grant of sanction leading to the prosecution and harassment unnecessarily and added to that fact, the sanctioning authority also had not disclosed any ground for such satisfaction and therefore, he quashed the proceedings. Whether the accused was given the copy of the enquiry records or not or whether he had no opportunity to explain his case before the sanctioning authority, is a matter of evidence to be considered at the time of the trial. For the reason that he says that opportunity was not given to him, to offer his explanation before the sanctioning authority, it cannot be taken at this stage that what he says is true. It is for the sanctioning authority to say whether the petitioner herein represented before him anything in support of his stand before the sanction was granted, and it is a matter of evidence. As a matter of fact, this Court in *Mohanraj v. State* 1986 Mad LW (Cri) 412, has held that no opportunity need be given to the accused to represent his case before the sanctioning authority. In *Indu Bhusan v. State of West Bengal* : 1958 CriLJ279 the Supreme Court has observed that the statement of the sanctioning authority did not prove that he merely put his signature on the readymade sanction presented by the Police without applying his mind to the facts of the case and it was not for him to judge the truth of the allegations made against the accused by calling for the records of the connected claim cases or other records in connection with the matter from his office but as the papers, which were placed before him apparently

gave him the necessary material upon which he decided that it was necessary to meet the ends of justice to accord his sanction, it is valid. Therefore, in the opinion of the Supreme Court, if the sanctioning authority as satisfied from the materials placed before him for sanctioning the prosecution, that is a valid sanction and in addition, to the materials placed before him, there was no necessity for the sanctioning authority to call for the explanation from the accused person. The subjective satisfaction is the ingredient for Section 6, of the Prevention of Corruption Act and this satisfaction need not be only from the explanation and representation of the accused person but from the materials placed before him. Whether the materials placed before him were sufficient to satisfy the mind of the sanctioning authority and what were the materials placed before him are all matters of evidence. Therefore, at this stage, the petitioner cannot question the validity of the sanction granted against him. In *Public Prosecutor v. Sadagopan* : (1953)IMLJ636 also this Court has held there is no type design found or particular forms of words for the prior sanction of the prosecution. It observes that (at p. 786 of AIR)

'Therefore, in accordance with common sense and the requirements of Justice all that the order of sanction must show is that all relevant materials were placed before the authority sanctioning the prosecution and that the authority considered those materials and that the order sanctioning prosecution resulted therefrom. The sanction need not set out the reasons for the sanction because if the Legislature had intended it, it would have added the appropriate form of words. The object of this section is nothing more than to insure the discouragement of frivolous, doubtful and impolitic prosecutions.'

In the view expressed in the above cases, it is for the sanctioning authority to satisfy itself that the prosecution was necessary from the materials produced before it. In this case, the sanctioning authority has expressed that having been satisfied with the materials placed before him, he granted sanction of prosecution of this petitioner. There is nothing in Section 6, of the Prevention of Corruption Act that the accused person should be heard before granting the sanction, therefore, it is not incumbent upon the sanctioning authority to question or examine the accused person against whom all gations had been made. The entire truth of the

allegation cannot be decided by the sanctioning authority. However, he should be satisfied that the allegations are unsustatinable and proposed prosecution was vexatious. If he was satisfied otherwise from the materials placed before him, he is entitled to order sanctioning of the prosecution. Therefore, this ground raised by the learned Senior Counsel, also has no force resulting in the dismissal of the revision. This is without prejudice to the right of the revision petitioner to agitate the validity of the sanction before the trial Court.

9. In the result, the revision is dismissed. No orders are necessary Nil Nos. 10146/89 & 4930/91.

10. Revision dismissed.

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