



2026:AHC-LKO:73840

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 528 BNSS No. - 6813 of 2026

Hemant Kumar Prasad

.....Applicant(s)

Versus

Prosecution Sanctioning Auth. Thru. The General
Manager Sbi Lko. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Desh Mitra Anand, Abhishek Bharti,
Rajendra Kumar, Utkarsh Anand
Counsel for Opposite Party(s) : Anurag Srivastava, Anuuj Taandon

[A.F.R.]

Court No. - 13

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Desh Mitra Anand, the learned counsel for the petitioner, Sri Sharad Dwivedi, the learned counsel for the opposite party no.1-State Bank of India, Sri Anuuj Taandon, the learned counsel for the Central Bureau of Investigation and perused the records.

2. By means of this instant petition filed under Section 482 Cr.P.C./528 BNSS, the petitioner has challenged the validity of an order dated 29.09.2021, passed by the General Manager (NW-3) and Appointing Authority, State Bank of India, granting sanction for prosecution of the petitioner, an order dated 12.12.2022, passed by the learned Special Judge CBI, Court No. 2, Lucknow whereby the Court has taken cognizance of the offences under Sections 120-B read with Sections 420, 467, 468, 471 IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 and the substantive offences under the aforesaid sections and has summoned the accused persons to face the trial.

3. The petitioner had filed an application before the trial court seeking his discharge, which application has been rejected by means of an order dated 23.01.2026, passed by the learned Special Judge, Prevention of Corruption CBI Court No. 2, Lucknow in Criminal Case No. 898 of 2022 and validity of that order has also been assailed through this petition. The trial court has framed charges by means of an order dated 20.02.2026 and the petitioner has sought quashing of the order framing charges as well. The petitioner filed an application dated 10.07.2026 before the trial court, requesting that the prosecution sanction order dated 29.09.2021 be declared illegal. The trial

Court rejected this application by means of an order dated 02.09.2026, holding that validity of the prosecution sanction order and the prejudice caused by it to the petitioner will be decided at the time of final decision in light of the evidence led during the trial. The petitioner has challenged the validity of this order dated 02.09.2026 also.

4. The aforesaid case was instituted on the basis of a written complaint dated 12.02.2018 submitted by Shri Prakash Chaudhary, Regional Manager, State Bank of India, Varanasi against (i) Shri Ranjit Singh, (ii) Shri Abhishek Singh and (iii) M/s Shivang Carpet Private Limited, through its directors alleging that the accused persons acted in fraudulent manner with intention to cheat the bank and misappropriated the funds to the tune of Rs.7,40,07,994/- against fifteen export bills.

5. After investigation the C.B.I. submitted a charge-sheet dated 30.09.2021 against six persons, including the petitioner Hemant Kumar Prasad, for offences under Sections 120-B read with Sections 420, 467, 468, 471 IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 and the substantive offences. The charge-sheet states that the FIR alleged that M/s Shivang Carpet Private Limited is a hundred percent export-oriented unit engaged in manufacturing carpets. During the years 2015-16 and 2016-17 the company obtained bill purchase limit for Rs.6,56,38,093/- from erstwhile State Bank of Bikaner and Jaipur (which has since been merged in the State Bank of India) against 19 export bills, without tendering the related documents along with bill of lading of 12 bills, with the assurance that the documents shall be sent directly by them to the buyers. Remaining 7 bills were sent by the branch, out of which 4 bills were returned with the remark 'unfilled demands'. Two bills were returned with remark 'order not placed' and one bill was neither returned nor paid. When the bank inquired from the major buyer M/s Teppiche Lalee OHG, Germany, they informed by the letter dated 03.04.2017 that the bills and the related documents had not been received by them. During internal investigation carried out by the bank, the shipping company informed the bank officials that the 12 bills of lading had not been issued by them. Hence M/s Shivang Carpet Private Limited had used forged bills of lading to obtain advances from the bank and the goods had been diverted to some other buyer. The proceeds of the bills had not been deposited in the company's accounts, which established fraudulent intention of the directors of the company. They did not take any prior approval from the bank for diverting the goods to some alternate buyer and they did not provide any particulars of the alternate buyers afterwards. The internal investigation of the bank established that 15 bills were fraudulent regarding which the total sanctioned amount was Rs.6,12,82,000/- and the outstanding amount was Rs.7,40,07,994/-. The account was declared NPA

on 15.04.2017.

6. Regarding the petitioner, the charge-sheet states that the investigation revealed that the petitioner was posted as the branch manager in State Bank of Bikaner and Jaipur during the period 01.02.2013 to 19.07.2016. Being the branch head, it was his duty to monitor overall operations and supervision of the branch. He had processed and negotiated the above-mentioned 12 export bills on the basis of mere photocopies of the bill and he failed to ensure delivery of export documents to overseas buyers through the banking channel. Photocopy of 12 export bills were negotiated during the petitioner's tenure as the branch manager of the bank. The petitioner and the then deputy manager co-accused Rajiv Kumar had not followed the prescribed procedure while purchasing the 12 export bills of the borrower company.

7. The charge-sheet dated 30.09.2021 states that sanction for prosecution of the petitioner has been accorded by means of an order dated 29.09.2021 passed by the General Manager (NW-III) and appointing authority and sanction for prosecution of the then deputy manager has also been granted.

8. The certified copy of the prosecution sanction order dated 29.09.2021 annexed as Annexure No. 1 to the petition, is the order granting sanction for prosecution of co-accused Rajiv Kumar, the then Deputy Manager, State Bank of Bikaner and Jaipur. The learned counsel for the petitioner stated that he has erroneously annexed the certified copy of the prosecution sanction order of co-accused. However, a photocopy of the prosecution sanction order of the petitioner is available on record.

9. The learned Counsel for the opposite parties have raised a preliminary objection that the petitioner had challenged the validity of the prosecution sanction order by filing Criminal Misc. Writ Petition No. 5368 of 2026, which was dismissed by means of an order passed on 16.06.2026 passed by a Division Bench of this Court. The second petition filed challenging validity of the prosecution order and seeking consequential reliefs, is not maintainable.

10. In reply to the aforesaid objection, the learned counsel for the petitioner has submitted that the copies of documents relied upon by the prosecution were provided to the petitioner under Section 207 Cr.P.C. on 03.06.2023, but a copy of the prosecution sanction order was not provided to him till framing of charges. After the charges were framed, the petitioner filed Criminal Misc. Writ Petition No. 5368 of 2026, challenging validity of the prosecution sanction order only. After dismissal of the writ petition, he filed an application before the trial court requesting that the prosecution sanction order be declared illegal, which prayer was rejected by the trial court by

means of an order dated 29.09.2026. Now he has filed the present petition under Section 482 Cr.P.C./528 BNSS challenging validity of the order dated 29.09.2026 also.

11. Criminal Misc. Writ Petition No. 5368 of 2026, filed by the petitioner challenging validity of the prosecution sanction order was dismissed by following order passed by a Division Bench of this court on 16.06.2026:

"1. Heard Sri Desh Mitra Anand, Advocate, who appeared for the petitioner, and Sri Aakash Prasad, Advocate, who appeared through video conferencing alongwith Sri Yash Joshi, Advocate & Sri Anshul Verma, Advocate, for side opposite/Central Bureau of Investigation (C.B.I.).

2. The instant petition has been preferred seeking following main relief(s):-

"(a) a writ, order or direction in the nature of CERTIORARI quashing the impugned order dated 29.09.2021-contained in Annexure No. 1 to the writ petition."

3. It is to be noted that by means of the instant petition, the petitioner has challenged the Sanction Order dated 29.09.2021.

4. This Court is not inclined to entertain this petition for the main relief sought, quoted above, in view of the observations made in the following judgments:-

(i) The judgment passed by the Hon'ble Apex Court in the case of Prakash Singh Badal and others vs. State of Punjab and others, MANU/SC/5415/2006.

(ii) The judgment passed by the Hon'ble Apex Court in the case of Dinesh Kumar vs. Chairman, Airport Authority of India and others, MANU/SC/1407/2011.

(iii) The judgment passed by the Hon'ble Apex Court in the case of C.B.I. vs. Ashok Kumar Aggrawal, MANU/SC/1220/2013.

(iv) The judgment passed by this Court in the case of Surendar Singh v. CBI, 2026 SCC OnLine All 2049.

5. Taking note of the aforesaid, the instant petition is dismissed."

12. The petitioner had challenged the validity of the prosecution sanction order and that writ petition was dismissed by a Division Bench of this Court and the Division Bench declined to interfere in the prosecution sanction order in light of the law laid down by the Hon'ble Supreme Court in the aforesaid cases, the trial court was bound by the decision of the Division Bench of this Court and it rightly followed the view of the Division Bench and rejected the prayer for declaration of the prosecution sanction order as illegal, and providing that the question of validity of the prosecution sanction order and the prejudice caused by it to the accused, if any, shall be decided at the time of conclusion of trial in light of the entire evidence. The trial Court has not committed any error or illegality in passing an order in consonance with the order dated 16.06.2026, passed by the Division Bench of this Court.

13. In case the petitioner was not satisfied with the outcome of Writ Petition No. 5368 of 2026, the only course open to him was to challenge the order dated 16.06.2026 before the Hon'ble Supreme Court and not to raise the same plea before the trial court. It was not open for the petitioner to raise the same point again before the trial court and doing so amounts to an abuse of the process of law.

14. Raising the question of validity of the prosecution sanction order before the trial court after dismissal of the writ petition filed raising the same question does not give rise to a ground to the petitioner to file a fresh petition under Section 482 Cr.P.C. raising the same question before the present Single Judge Bench, after dismissal of the same pleas by a Division Bench, amounts to a gross abuse of the process of law.

15. The trial court has not rejected the challenge made by the petitioner to the validity of the prosecution sanction order and has merely left the question open to be decided in light of the evidence to be led by the parties.

16. The learned counsel for the petitioner insisted that the prosecution sanction order is illegal and it has caused a serious prejudice to the petitioner and, therefore, this Court should examine the validity of the order. He submitted that the prosecution sanction order has to be passed within a time limit of three months, which can be extended by one month for reasons to be recorded in writing. In the present case, the prosecution sanction order has been passed after an inordinate and unexplained delay of approximately 27 months and the sanction order is liable to be quashed on this ground. In this regard, the Hon'ble Supreme Court has held in **Vijay Rajmohan v. CBI**: (2023) 1 SCC 329, that: -

"39. ...the period of three months, extended by one more month for legal consultation, is mandatory. The consequence of non-compliance with this mandatory requirement shall not be quashing of the criminal proceeding for that very reason. The competent authority shall be accountable for the delay and be subject to judicial review and administrative action by CVC under Section 8(1)(f) of the CVC Act."

17. Therefore, the submission of the learned Counsel for the petitioner that the prosecution sanction order is liable to be quashed on the ground that it was passed beyond the permissible period of 4 months, has no force and the same is turned down.

18. The learned Counsel for the petitioner next submitted that the petitioner had requested the trial court to summon the original record in respect of the prosecution sanction order and the CBI had not opposed this request, yet the trial Court has ignored the request. He has submitted that the trial court ought to have called for the records relating to the prosecution sanction order

and it would have been established that CBI did not submit any documents or the charge-sheet for obtaining sanction for prosecution.

19. The learned counsel for the petitioner has laid special emphasis on grounds (b), (e), (g), and (j) taken in the petition, which are as follows: -

"(b) Because, it is true that, with regard to the examination of an order granting prosecution sanction, the Hon'ble Supreme Court, in its judicial pronouncements, has considered the Trial Court to be the appropriate forum for examining the same not the Sessions' Court. While it is a fact, that the Trial Court must always bear in mind that an order granting prosecution sanction is an administrative order. The Trial Court has jurisdiction to adjudicate both civil and criminal matters. There is also provisions to treat the application challenging the validity & legality of the Order of Prosecution Sanction by way of treating the same as complaint but learned trial court left it open to decide the same after examination of witness and evidence placed by the prosecution agency before him instead of deciding the same in summary trial.(e) Because, once the Sanctioning Authority was produced by the Prosecution as a witness and the prosecution sanction order was brought on record and exhibited as evidence, any semblance of impartiality or independence that may otherwise have existed on their part stood compromised.

(e) Because, once the Sanctioning Authority was produced by the Prosecution as a witness and the prosecution sanction order was brought on record and exhibited as evidence, any semblance of impartiality or independence that may otherwise have existed on their part stood compromised.

(g) Because, it is apparent on face of record that learned trial court had ignored the prayer of applicant seeking call for record in respect of Prosecution sanction order which was never opposed by the prosecution, fact remains that, prosecution itself placed reliance on judgment passed by the Hon'ble Supreme Court.

(j) Because, if the investigation is not fair while sanction order based on such investigation contains the recordings of the charge-sheet as it is."

20. The learned counsel for the CBI has relied upon the judgment of the Hon'ble Supreme Court in the case of **State represented by Deputy Superintendent of Police, Vigilance and Anti-Corruption, Chennai City-1 Department Vs. G. Easwaran:** (2025 INSC 397).

21. In **Parkash Singh Badal v. State of Punjab:** (2007) 1 SCC 1, the Hon'ble Supreme Court held that: -

"47. The sanctioning authority is not required to separately specify each of the offences against the accused public servant. This is required to be done at the stage of framing of charge. Law requires that before the sanctioning authority materials must be placed so that the sanctioning authority can apply his mind and take a decision. Whether there is an application of mind or not would depend on the facts and circumstances of each case and there cannot be any generalised guidelines in that regard.

*48. The sanction in the instant case related to the offences relatable to the Act. **There is a distinction between the absence of sanction and the***

alleged invalidity on account of non-application of mind. The former question can be agitated at the threshold but the latter is a question which has to be raised during trial."

(emphasis added)

22. In **Dinesh Kumar Vs. Chairman, Airport Authority of India**: (2012) 1 SCC 532, the Hon'ble Supreme Court followed the law laid down in **Parkash Singh Badal** (supra) and held that: -

*"10. In our view, invalidity of sanction where sanction order exists, can be raised on diverse grounds like **non- availability of material before the sanctioning authority** or bias of the sanctioning authority or the order of sanction having been passed by an authority not authorised or competent to grant such sanction. The above grounds are only illustrative and not exhaustive. All such grounds of invalidity or illegality of sanction would fall in the same category like the ground of invalidity of sanction on account of non-application of mind—a category carved out by this Court in **Parkash Singh Badal**, (2007) 1 SCC 1 the challenge to which can always be raised in the course of trial."*

(emphasis added)

23. In **Director, Central Bureau of Investigation Vs. Ashok Kumar Aswal**: (2015) 16 SCC 163, the Hon'ble Supreme Court reiterated that: -

*"15. ... this Court has laid down that **the validity of a sanction order, if one exists, has to be tested on the touchstone of the prejudice to the accused which is essentially a question of fact and, therefore, should be left to be determined in the course of the trial and not in the exercise of jurisdiction either under Section 482 of the Code of Criminal Procedure, 1973 or in a proceeding under Articles 226/227 of the Constitution.**"*

(emphasis added)

24. The learned counsel for the petitioner has relied upon a judgment dated 18.06.2020 rendered by a Division Bench of this Court in **Ajay Kumar and Another Vs. State of U.P.**: Writ Petition No. 792 (MB) of 2020, wherein this Court relied upon the law laid down in **C.B.I. vs. Ashok Kumar Agarwal**: (2014) 14 SCC 295, **Inspector of Police and another vs. Battenapatla Venkata Ratnam and another**: (2015) 13 SCC 87, **Surinderjit Singh Mand and another vs. State of Punjab and another**: (2016) 8 SCC 722, **Devinder Singh and others vs. State of Punjab through CBI**: (2016) 12 SCC 87 and passed the following order: -

"Thus, taking into consideration the facts and circumstances of the case as well as law as stated herein above, we dispose of the writ petition with a direction that the Investigating Agency shall conduct the investigation in pursuance to the order dated 31.08.2019 by which sanction has been granted for prosecution against the petitioners as per procedure prescribed for the said purpose under law and thereafter shall file a police report before the competent Court/Court of Magistrate.

In case of filing of the police report by the Investigating Agency in the

competent Court/Court of Magistrate against the petitioners, they shall have liberty to take all pleas in their defence including the plea that the prosecutions have wrongly been sanctioned against them.

Further, the competent Court/Court of Magistrate, before whom charge sheet has been filed and the plea regarding the sanction for the prosecution against the petitioners shall be taken by them as a preliminary issue and thereafter the same shall be decided finally as per law by the Court concerned."

25. The learned counsel for the petitioner has invited attention of the court to the statement made by the prosecution sanctioning authority during his cross-examination, from which the learned counsel for the petitioner tries to deduce that the order suffers from the vice of non-application of mind.

26. When the prosecution evidence is going on, the prosecution sanctioning authority has been examined and cross-examined and examination of PW-2 is going on and the trial court has expressly provided that the plea regarding validity of the sanction order will be decided in light of the evidence led during the trial, the repetitive efforts being made by the petitioner to stall the proceedings of trial by filing petitions one after the other, raising the same pleas, cannot be appreciated by the court. However, the learned counsel for the petitioner insisted and took this Court through the testimony of the prosecution sanctioning authority who has been examined by the trial court as PW-1. During his examination in chief, PW-1 stated that he was working as General Manager (Network-III) Local Head Office, SBI, Lucknow during the period May 2020 to July 2022 and he has retired from the same post on 30.06.2024 from Corporate Centre, Mumbai. He proved the prosecution sanction order dated 29.09.2021 issued under his signatures.

27. PW-1 further stated that he had carefully examined the first information report, the statements of witnesses, and the documents sent by the CBI and thereafter he had granted sanction for prosecution of the petitioner after applying his independent mind. He stated that he was the authority competent to remove the petitioner from his post and, therefore, being the competent authority, he had granted sanction for the petitioner's prosecution.

28. During cross-examination, PW1 stated that the CBI did not produce the file seeking sanction for the petitioner's prosecution directly before him. This matter was placed before him by the vigilance department. He stated that the prosecution sanction order was passed on the letterhead of the vigilance department which works independently and PW-1 had no authority to interfere in the working of the vigilance department. PW-1 stated that he did not know as to who had typed the prosecution sanction order, but he had not typed it and it had not been typed on his personal computer. He did not remember whether he had got it typed in the vigilance cell or in the legal

cell, but he remembered that he had got it typed by sitting with the typist.

29. The learned counsel for the petitioner submitted that the aforesaid statement made by the prosecution sanctioning authority during his cross-examination clearly proves that he had passed the impugned prosecution sanction order without application of his own mind and he has merely put his signatures on a pre-prepared order sent to him by the vigilance department.

30. Sri Sharad Dwivedi, the learned counsel for the State Bank of India has placed before the Court the relevant extracts of the Vigilance Manual issued by the Vigilance Department of the State Bank of India, which inter alia provide that all requests for sanction for prosecution received from CBI directly by the LHOs/Verticals should be immediately reported to the CC Vigilance Department, incorporating the following details: -

*"Branch and file No.,
Case No.,
Date of SP's Report,
Date of Receipt by Bank,
Name & Grade of official (s) and Remarks."*

31. Clause 7.1 of the manual provides that *"in case of difference of opinion between CBI and the DA/AA the matter should be referred to the CVC for its advice, irrespective of the level of the official involved"*. From the aforesaid provisions contained in the Vigilance Manual of the State Bank of India, it appears that a request for grant of prosecution sanction has to be routed to the disciplinary authority through CVC only. The disciplinary authority has to take into consideration the advice of CVC. It is open to the disciplinary authority to accept the advice of CVC and act upon it. However, in case the disciplinary authority is not in agreement with the advice of CVC, it has no authority to reject the request for grant of sanction for prosecution of an employee/public servant. In case of disagreement with the advice of CVC, the disciplinary authority has to refer the matter to DoPT.

32. In this regard, a reference to Office Memoranda dated 01.03.2019 and 02.12.2020 issued by the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Government of India, containing guidelines regarding grant of sanction for prosecution, are relevant.

33. The Office Memorandum dated 01.03.2019 issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Government of India, laying down guidelines for dealing with the disagreements between the disciplinary authority and CVC in cases for granting sanction for prosecution provides that: -

"2.1 The CBI recommends prosecution of persons only in those cases in

which they find sufficient justification for the same as a result of the investigation conducted by them. There are adequate internal controls within CBI to ensure that a recommendation to prosecute is taken only after a very careful examination of all the facts and circumstances of the case. Hence, any decision not to accord sanction for prosecution in such cases should, therefore, be for very valid reasons.

2.2 The following guidelines may be kept in view while dealing with cases of sanction of prosecution:

(i).

(ii) In cases in which an authority other than the President is competent to sanction prosecution, and that authority does not propose to accord such sanction, it is required to report the case to the CVC and take further action after considering the CVC's advice, in terms of the Section 8(1) (g) of CVC Act, 2003; (ref: Corrigendum dated 18.07.2019)

(iii)...

(iv)...

(v) In a case falling under (ii) above, if the CBI has sought sanction for prosecution and the CVC has recommended grant of sanction, and yet the competent authority proposes not to grant sanction, the case should be referred to this department for final decision.?"

34. The provisions of the aforesaid O.M. have been reiterated by the O.M. dated 02.12.2020. A bare perusal of the Office Memorandum dated 01.03.2019 issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Government of India, laying down guidelines for dealing with the disagreements between the disciplinary authority and CVC makes it manifest that in cases like the present one, where an authority other than the President is competent to sanction prosecution, and that authority does not propose to accord such sanction, it cannot refuse to grant sanction and it is required to report the case to the CVC and take further action after considering the CVC's advice. If the CBI has sought sanction for prosecution and the CVC has recommended grant of sanction, and yet the competent authority proposes not to grant sanction, the case should be referred to the Department of Personnel and Training, Government of India for final decision and the disciplinary authority does not have the authority to take a final decision declining to grant sanction for prosecution of an employee. Therefore, disciplinary authority / appointing authority of the State Bank of India does not have the authority to decline sanction for prosecution of any accused employee.

35. The judgment dated 18.06.2020 rendered by a Division Bench of this Court in **Ajay Kumar and Another Vs. State of U.P.**: Writ Petition No. 792 (MB) of 2020, which has been relied upon by the petitioner, or any other judgment, does not take into consideration the Office Memoranda dated

01.03.2019 and 02.12.2020 issued by the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Government of India, containing guidelines regarding grant of sanction for prosecution, which is applicable to the public servants employed in State Bank of India also.

36. Therefore, the disciplinary authority has rightly acted upon the advice of CVC as per the provisions contained in the Vigilance Manual issued by the Vigilance Department of the State Bank of India and Office Memorandums dated 01.03.2019 and 02.12.2020 issued by the Department of Personnel and Training, Government of India, it cannot be said that the disciplinary authority has granted the order dated 29.09.2021, sanctioning prosecution of the petitioner without application of its own independent mind.

37. In these circumstances, I am of the view that keeping in view the repetitive and persistent efforts made by the petitioner for raising the same point first before the Division Bench and after having remained unsuccessful before the trial court and thereafter before the present single judge bench amounts to forum shopping, besides being a gross abuse of process of law.

38. Therefore, the petition is **dismissed** with a cost of Rs.50,000/- which shall be deposited by the petitioner with the Registry of this Court within a period of 30 days from today, failing which the Senior Registrar shall initiate proceedings for recovery of the amount by sending a recovery certificate to the Collector concerned, who shall recover the amount as arrears of land revenue and shall remit the same to this Court within a period of three months from the date of issuance of the recovery certificate. The Senior Registrar of this Court is directed to transmit the amount of cost to Children's' Home (Girls), Lucknow, which is being run and maintained under the Department of Women and Child Development, Government of U.P.

October 13, 2026
Ram.

(Subhash Vidyarthi,J.)

Whether the order is speaking :- Yes
Whether the order is reportable :- Yes

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(Subhash Vidyarthi,J.)