2025 INSC 1504

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2025
(Arising out of SLP (Crl.) No (s). 1087 of 2025)

BINOD KUMAR PANDEY @
VINOD KUMAR PANDEY ....APPELLANT(S)

VERSUS

THE STATE OF JHARKHAND
AND OTHERS ....RESPONDENT(S)

WITH

CRIMINAL APPEAL NO(S). OF 2025
(Arising out of SLP (Crl.) No (s). 3674 of 2025)

CRIMINAL APPEAL NO(S). OF 2025
(Arising out of SLP (Crl.) No (s). 3543 of 2025)

J U D G M E N T

Mehta, J.

1. Heard.

2. Leave granted.

3. These three appeals arise from the common impugned judgment and final order dated 18th

Signature Not Verified
Digitally signed by SONIA BHASIN
Date: 2025.01.24 11:57:41 IST
Reason:

December, 2024 passed by the High Court of Jharkhand at Ranchi[1] in Writ Petition (Crl) No. 283 of 2024, Writ Petition (Crl) No. 279 of 2024 and Writ Petition (Crl) No. 419 of 2024 whereby the writ petitions filed by the appellants challenging the legality and validity of sanction order dated 3rd October, 2023 came to be rejected.

Brief Facts

4. The appellants herein were arraigned as accused in connection with First Information Report[2] No. 1/2022 lodged at Police Station A.T.S. Ranchi on 17th January, 2022. It was *inter alia*, alleged in the FIR that the appellants were members of a gang being operated by gangster Aman Shrivastava and were involved in extortion of illegal money from businessmen and such illegally acquired monies were, thereafter, transferred through illicit *hawala* channels. In this manner, the appellants were spreading terror in and around Jharkhand. Currency notes, amounting to Rs. 28,55,000/-, were recovered from the possession of Siddarth Sahu (accused No. 12) and Rs. 5,42,000/-

1 Hereinafter, being referred to as the "High Court".
2 For short "FIR".

from possession of Vinod Kumar Pandey (accused No. 6). It was also alleged that these hoards of cash had been received from Aman Shrivastava's associates.

5. The FIR came to be registered for the offences punishable under Sections 386/387/109/34/120-B of the Indian Penal Code, 1860[3] and Sections 20 and 21 of the Unlawful Activities (Prevention) Act, 1967[4].

6. During the course of investigation, Deputy Commissioner-cum-Magistrate acting in furtherance of the recommendations made by the Superintendent of Police, ATS, Jharkhand, forwarded a letter dated 5th July, 2022 to the Under Secretary, Department of Home, Jail and Disaster Management, Jharkhand, seeking sanction mandatorily required under Section 45 of the UAP Act to prosecute the accused arraigned in connection with A.T.S. (Ranchi) Case No. 1/2022 for the offences punishable under Sections 20/21 of the UAP Act.

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3 For short, 'IPC'.
4 For short, 'UAP Act'.

7. The contents of the afore-stated letter would be relevant and germane for deciding the controversy raised in these appeals and hence, the same are reproduced hereinbelow.

> "From,
> The Deputy Commissioner-cum-Magistrate, Ranchi.
> To,
> Under Secretary, Department of Home, Jail and Disaster Management, Jharkhand, Ranchi.
>
> Sub: Regarding prosecution sanction under Sections 20/21 of U.A.P. against First Information Report-named accused persons of Police Station A.T.S. (Ranchi) Case No. 01/2022 dated 17.01.2022.
>
> Ref. Letter No.57/Anu & Abhi Cell, dated 16.06.2022 of Superintendent of Police, Anti-Terrorist Squad, Jharkhand, Ranchi.
>
> Sir,
> It is stated on the above-said subject & reference that vide Letter No.57/Anu. & Abhi Cell, dated 16.06.2022, Superintendent of Police, Anti-Terrorist Squad, Jharkhand, Ranchi has made available proposal alongwith his recommendations for issuing prosecution sanction under Sections 20/21 of U.A.P. against First Information Report-named accused persons of Police Station A.T.S. (Ranchi) Case No. 01/2022 dated 16.06.2022 namely 1. Aman Srivastava son of late Sushil Srivastava, resident of Kuwa, Police Station

-Hunterganj, District-Chatra, presently at 02A/002/Akme Incore Apartment, Brookfield, Near Preseting I.T. Park Bangalore, 2. Vinod Kumar Pandey son of late Kamta Pandey, resident of -Sildada, Police Station -Jori, District-Chatra, 3. Abhik Srivastava son of late Sushil Srivastava, resident of Kuwa, Police Station - Hunterganj, District-Chatra, presently at 02A/002/Akme Incore Apartment, Brookfield, Near Presenting I.T. Park Bangalore, 4. Chandra Prakash Ranu son of Vijay Kumar Das, resident 02A/002/Akme Incore Apartment, Brookfield, Near Presenting I.T. Park Bangalore, 5. Aslam Ansari son of late Haider Ali, Resident of –Jahiltand, Kekardih, Chama, Police Station Khalari, District Ranchi, 6. Sunil Kumar Sharma son of Brijlal Sharma, resident of Hemasar, Police Station Sridungarh, District Bikaner, Rajasthan, 7. Feroz Khan son of Hakeem Khan, resident of Azad Nagar, Police Station Khalari, District Ranchi, 8. Zaheer Ansari son of Ismile Ansari, Muslim Mohalla, Mahavir Nagar, Khalari, District Ranchi, 9. Siddharth Sahu son of Manoj Kumar Sahu, resident of Ambika Apartment, Third Floor, Kali Mandir Road, Vardhman Compound, Lalpur, Ranchi, 10. Manjri Srivastava son of Sushil Srivastava, resident of Kuba, Police Station Hunterganj, District Chatra at present residing at 02A/002/Acme Incore Apartment, Brookfield, Near Presenting I.T. Park Bengaluru, 11. Ashley Lakra son of Alok Lakra, Kadru Ranchi, 12. Prince Raj Srivastava son of Satish Srivastava, Kilburn Colony, Ranchi, 13. Amjad Khan son of Gulam Mahmood Khan, resident of Hutaf Bazartand, Khalari, District Ranchi, 14. Mahmood alias Nepali son of

Mohammed Siddiqui, resident of Rai Khalari, Police Station Khalarik District Ranchi and non-fuir named accused 15. Anand Pareek son of Asasram Pareek, resident of Kalubas, Ward No.14, Police Station Sridungargarh, , Rajasthan, 16. Anil Sharma son of Trilok Ram Sharma, resident of Mudnar, Police Station Nokha, district Bikaner, Rajasthan, 17. Anil Kumar Sharma son of Brijlal Sharma, resident of Hemasar, Police Station Sridungargarh, District Bikaner, Rajasthan, 18. Sandeep Prasad son oflate Sitaram Prasad, resident of Bara, Police Station Kurdha, District Arwal, Bihar, 19. Neeraj Kumar alias Neeraj Srivastava son of Rambharat Sharma, resident of Kuba, Police Station - Hunterganj, District Chatra. Photocopies of 1. First Information Report, 2. Seizure list, 3. Confessional statement, 4. Supervisory remarks, 5. Case Diary have been annexed with the proposal so received. Therefore, while forwarding proposal received from Superintendent of Police, Anti-Terrorist Squad, Jharkhand, Ranchi alongwith annexure, in original, having annexed with this letter, it is requested that please initiate further proceedings on the directions of issuing prosecution sanction order under sections 20/21 U.A.P. Act against First Information Report named accused persons of the case.

Encl: As above

Yours faithfully,

Sd/-

Deputy Commissioner-cum-District Magistrate,

Ranchi"

8. The State of Jharkhand, upon detailed consideration, turned the proposal down holding that the Authorization Committee did not find sufficient evidence for issuing sanction sought by the ATS for prosecution of the accused persons under Sections 20/21 of the UAP Act. The proposal was formally rejected vide letter dated 20th December, 2022.

9. The Deputy Commissioner, forwarded yet another letter dated 19th January, 2023, praying for grant of sanction to prosecute the accused persons nominated in the chargesheet for offences punishable under Sections 16/17/18/20/21 of the UAP Act. As is evident, this proposal contained additional offences under the UAP Act.

10. It may be mentioned that no new material was placed for consideration of the Government of Jharkhand in this second proposal. Resultantly, the said proposal seeking sanction was again rejected by the Government of Jharkhand vide communication dated 21st March, 2023.

11. In the meantime, the trial of the case proceeded. As there was no sanction to prosecute

the accused under the provisions of the UAP Act, the trial Court framed charges against the accused persons only for the offences punishable under Section 120B read with Sections 386/387/201/34 of the IPC.

12. The Investigating Agency, did not rest satisfied and persuaded the Deputy Commissioner to forward yet another proposal dated 09th June, 2023 to the Principal Secretary, Department of Home, Prison and Disaster Management, Jharkhand, again seeking sanction to prosecute the accused persons for the offences under the UAP Act. The language/contents of the said letter is considered relevant and hence, the same is reproduced hereinbelow: -

> "From,
> The Deputy Commissioner-cum-Magistrate, Ranchi.
> Dated 09.06.2023
> To
> Principal Secretary, Department of Home, Prison and Disaster Management, Jharkhand, Ranchi.
>
> Sub: Regarding prosecution sanction under Sections 16/17/18/20/21 of U.A.P. against First Information Report named accused persons of

Police Station A.T.S. (Ranchi) Case No. 01/2022 dated 17.01.2022.

Ref. Letter No.79/Anu & Abhi Cell, dated 05.06.2023 of Superintendent of Police, Anti-Terrorist Squad, Jharkhand, Ranchi.

Sir,

It is stated on the above-said subject & reference that this Office had sent proposal vide letter No.11(i) dated 19.01.203 for issuing prosecution sanction under Sections 16/17/18/20/21 of U.A.P. Act against First Information Report-named accused persons of Police Station A.T.S. (Ranchi) Case No. 01/2022 dated 17.01.2022. In the absence of evidence, while rejecting proposal of Police Station sanction, proposal was returned. Vide letter No.79/Anu. & Abhi. Cell dated 05.06.2023 of Superintendent of police, Anti-terrorist Squad, Jharkhand, proposal with recommendations is sent for prosecution sanction order against First Information Report-named accused persons of the said case again. Therefore, while forwarding proposal received from Superintendent of Police, Anti-Terrorist Squad, Jharkhand, Ranchi, in original, it is requested that please initiate further proceedings on the directions of issuing prosecution sanction order in the case mentioned in the subject matter.

Yours faithfully,

Sd/-

Deputy Commissioner-cum-District Magistrate,

Ranchi"

13. Upon receipt of the aforesaid letter, the Government of Jharkhand, vide order dated 3rd October, 2023 proceeded to grant sanction to prosecute the accused persons in the following terms:

> "Whereas after perusing/examining the File No. 06/Abhi 01/23/2023 of the Department of Home, Jail and Disaster Management addressed to the Principal Secretary, Law Department and the documents available therein, namely, FIR, case diary, Observer's note and other records, the State Government is satisfied that a prima facie case for prosecution under Sections 16, 17, 18, 20, 21 of the Unlawful Activities (Prevention) Act, 1967 is made out against accused (1) Aman Shrivastava s/o late Sushil Srhrivastava r/o Kucha, Police Station Hunterganj, District Chatra – present address: 02A/002/Akme Incore Apartment Brookfield Near Presting, IT Park, Bangalore, (2) Vinod Kumar Pandey s/o late Kamta Pandey r/o Sildaha, Police Station Jori, District Chtgra, (3) Avik Shrivastava s/o Sushil Shrivastava r/o Kucha, Police Station Hunterganj, District Chatra – Present Address: 02A/00/Akme Incore Apartment Brookfield Near Presting, IT Park, Bangalore. (4) Chandra Prakash Ranu s/o Vijay Kumar Das r/o 02A/002/Akme Incore Apartment Brookfield Near Presting, IT Park, Bangalore, (5) Aslam Ansari s/o late Haider Ali r/o 139 Jahiltand Kerkadeeh Chama, Police Station Khalari, (6) Sunil Kumar Sharma s/o Brijlal Sharma r/o Hemsag Police Station Sridugraj, District Bikaner, Rajasthan, (7) Firoz Khan s/o

Hakeem Khan r/o Azad Nagar, Police Station Khalari, District Ranchi, (8) Zaheer Ansari s/o Ismail Ansari, r/o Muslim Mohalla, Mahavir Nagar Khalari, District Ranchi, (9) Siddharth Sahu s/o Manoj Sahu r/o Ambika Apartment, third floor, Kali Mandir Road, Vardhman Campus, Lalpur, Ranchi, (10) Manjari Shrivastava w/o Sri Chandra Prakash Ranu r/o Kucha, Police Station Hunterganj, District Chatra – present address: 02A/002/Akme Incore Apartment Brookfield Near Presting, IT Park, Bangalore,, (11) Eshley Lakda s/o Alok Kakda Kadru Ranchi, (12) Prince Raj Shrivastava s/o Satish Shrivastava, Kilburn Colony, Ranchi, (13) Amzad Khan s/o Gulam Mehmood Khan, r/o Huba Bazartad Khalari, (14) Mehmood alias Nepali so Mohammed Siddiqui r/o Rai Khalari, police station Nawal, District Ranchi and accused not-named in the FIR, namely (15) Anand Parikh s/o Asaram Parik, r/o Kalugara No. 14, Police Station Shridungargarh, Bikaner, (16) Anil Sharma s/o Trilok Sharma r/o Mundra, Police Station Bikaner, Rajasthan, (17) Anil Kumar Sharma s/o Brijlal Sharma r/o Hemsar, Police Station Shri, District Bikaner, Rajasthan, (18) 140 Sandeep Prasad s/o Sita Ram Prasad r/o Bara, Police Station Kurtha, District Arwal, Bihar - Present Address: Village Chatakpur, Police Station Ratu, District Ranchi, (19) Neeraj Kumar alias Karaj Shrivastava s/o Ram Bharat Sharma r/o Kuba, Police Station Hunterganj, (20) Shiv Sharma alias Kumar Shivendra s/o Aman Kumar Ishwar r/o Siuri, Manjeel OP Police Station Cheria Bariyapur, District Begu Sarai in Case No. 01/2022 dated 17 January 2022 registered at A.T.S. Ranchi Police Station at Ranchi. And

whereas under the provisions of Section 45 of the Prevention of Unlawful Activities Act, 1967, no court can take cognizance without prosecution sanction under the above mentioned section. And whereas, in exercise of powers conferred by section 45 of the Unlawful Activities (Prevention) Act, 1967, the provisions of sections 16, 17, 18, 20 and 21 of the new Act are made available to the lower court, the prosecution sanction is hereby granted against the accused persons.

Under the order of Governor of Jharkhand
3.10.2023
Nalin Kumar
Principal Secretary and Legal Remembrancer"

14. Being aggrieved by the aforesaid sanction order, the appellants preferred separate criminal writ petitions before the High Court as per the following details:

i. Writ Petition (Crl) No. 283 of 2024, preferred by Binod Kumar Pandey [appellant in SLP (Crl.) 1087 of 2025]
ii. Writ Petition (Crl) No. 279 of 2024 preferred by Siddarth Sahu [appellant in SLP (Crl.) 3543 of 2025]
iii. Writ Petition (Crl) No. 419 of 2024 preferred by Anand Parekh, Sunil Kumar Sharma, Anil Sharma and Anil Kumar

Sharma [appellants in SLP (Crl.) 3674 of 2025]

15. Learned Single Judge of the High Court proceeded to dismiss the aforesaid writ petitions by observing that the issue regarding defect in sanction could only be examined once the trial commences and evidence is led. Accordingly, the writ petitions were dismissed vide common judgment dated 18th December, 2024, which is the subject matter of challenge in these appeals by special leave.

Submissions on behalf of the appellants

16. Learned counsel representing the appellants strenuously contended that in the main chargesheet as well as the supplementary chargesheet, there is no evidence whatsoever which could be considered sufficient to justify prosecution of the appellants for the offences punishable under the UAP Act.

17. It was further submitted that, considering the entirety of facts and circumstances of the case and the material available on record, the State Government twice turned down the proposals forwarded by the Investigating Agency for grant of sanction. In the third round, without there being

any additional material, the State Government has mechanically issued the sanction order. It was contended that the order granting sanction suffers from manifest arbitrariness, total non-application of mind to the material available on record and seems to have been issued under the pressure of the Investigating Agency.

18. Learned counsel emphasised that a specific plea regarding the absence of any fresh material to justify the third proposal for grant of sanction was explicitly raised in the writ petitions filed on behalf of the appellants before the High Court. However, the respondent–State Government did not address or controvert this specific plea in the reply filed before the High Court. The same ground has also been pertinently taken by the appellants in the present appeals.

19. It was pointed out that even in the counter affidavit filed by the respondents in this Court, there is no rebuttal to the aforesaid legal plea questioning the validity of the sanction order. Reference was made to the counter affidavit filed on behalf of the

respondents, wherein, following recitals have been made: -

> "It is pertinent to mention that the first charge sheet was filed on 12.07.2022 for offences under Section 386, 387, 109, 120-B, 34, 201 IPC and under Section 20 and 21 of the Unlawful Activities Prevention Act 1967 awaiting prosecution sanction. The first two proposals were rejected and it was then obtained at the time of third supplementary charge-sheet, which was filed against co-accused persons for the similar offences under the IPC provisions. Further, it was due to procedural reasons and administrative hurdles, the process for the grant of prosecution sanction took longer time. Thus, the same cannot be the reason to extend any consideration in favour of the Petitioner/ accused as it will lead to failure of justice. It is worth mentioning that the Petitioner throughout has solely focused on the procedural errors and has been trying to divert the attention of the Ld. Courts below from the merit and gravity of the case. It is further submitted that mere irregularity in obtaining sanction cannot be a ground for quashing since the sanction has already been received and submitted before the Ld. Special Court. It is important to emphasise that the investigation was pending in the matter and when concrete material/ evidence for the offence under UAP Act against the Petitioner and other accused persons was placed satisfactorily, the sanction for prosecution was accorded after due consideration by the competent authority."

20. Learned counsel further drew the Court's attention to the sanction order dated 3rd October, 2023 to urge that in this order as well, there is no reference to any fresh or additional material forming the basis for the grant of sanction.

21. It was therefore, submitted that the sanction order dated 3rd October, 2023 was passed without any basis, without due application of mind and in a totally mechanical manner. The same is unsustainable in law and hence needs to be quashed and set aside.

Submissions on behalf of the respondents

22. *Per contra,* learned counsel representing the respondents vehemently and fervently opposed the submissions passed by the counsel for the appellants.

23. It was submitted that the contention regarding absence of fresh material is misconceived. It was urged that in the subsequent proposal placed before the sanctioning authority, additional offences under Sections 16, 17 and 18 UAP Act, were incorporated, which by itself constituted fresh and credible material warranting reconsideration of the proposal

for grant of sanction. It was strenuously contended that the sanction order dated 3rd October, 2023 was not issued on the same material forming the basis of earlier proposals. It was rather issued upon consideration of the additional evidence and legal matrix arising from the further investigation.

24. It was further submitted that, over and above the material already on record with the main chargesheet, the entire case diary and supplementary material were placed before the sanctioning authority for consideration. Learned counsel therefore urged that the view taken by the High Court, namely that any defect, if at all, in the sanction could be examined only after evidence is led before the trial Court, is just, proper and the only permissible view. On this basis, it was contended that no interference is warranted in the impugned judgment and the appeals deserve to be dismissed.

Findings

25. We have given our anxious consideration to the submissions advanced by learned counsel for the

parties. We have also carefully gone through the impugned judgment and the other material placed on record.

26. Law is well settled that grant of sanction to prosecute is not an empty formality but a sacrosanct act[5]. When the discretion exercised by the sanctioning authority is questioned in a Court of law, the Government would have to satisfy the Court regarding the existence of credible material sanctifying the legality and validity of the sanction to prosecute.

27. The sanction to prosecute is a mandatory step, in the absence whereof the accused would not be liable to face prosecution for the aggravated offences provided under the UAP Act. Hence, whenever the sanction is questioned in a Court of law, the authorities are under an obligation to satisfy the Court that the impugned action was preceded by due application of mind to the material warranting grant of sanction, and that such material was sufficient to proceed against the accused under the provisions of the UAP Act. If the order granting sanction lacks in any of these mandatory aspects,

5 See, CBI v. Ashok Kumar Aggarwal (2014) 14 SCC 295

the Courts would not be powerless to strike the same down.

28. The procedural framework underlying the impugned action assumes particular significance, since the State Government itself had, on two earlier occasions, declined to grant sanction after recording a clear opinion that the material collected by the Investigating Agency was found insufficient to prosecute the accused persons for the offences punishable under the UAP Act.

29. Learned counsel appearing for the respondents sought to persuade the Court that the earlier proposals for grant of sanction were confined only to the offences punishable under Sections 20 and 21 of the UAP Act, whereas the third proposal had a wider and distinct amplitude, inasmuch as additional provisions of the UAP Act had been invoked. However, this argument need not detain us even for a moment. In our view, mere invocation of additional offences without there being additional or fresh material to support the allegations would not validate the sanction order unless the Court is satisfied that the same was issued with due

application of mind and on the basis of reliable and admissible evidence.

30. We are of the considered view that where a proposal seeking sanction to prosecute has earlier been rejected by the sanctioning authority, any subsequent proposal moved by the Government must expressly disclose the fact of such earlier rejection and clearly specify the fresh or additional material on the basis whereof, reconsideration is sought. The sanctioning authority, while dealing with such a subsequent proposal, is required to take due note of the earlier rejection, independently examine the additional material placed before it, and apply its mind thereto. If sanction is ultimately granted, the order must reflect, in clear terms, what persuaded the authority to depart from the earlier view and to arrive at a different conclusion.

31. Recently, this Court in ***State of Telangana v. C. Shobha Rani***,[6] while dealing with a similar issue, namely the grant of sanction on the same set of materials after an earlier refusal, held that where the subsequent sanction was accorded on the very

6 Criminal Appeal No. 4954 of 2024.

same material, and in the absence of any other contra or additional material having weighed with the sanctioning authority, such sanction cannot be sustained in the eyes of law.

32. The above principles and facets, when applied to the facts of the present case, leave no room for doubt that as the State Government had earlier declined two proposals for sanction, by detailed reasoned orders, for it to take a fresh call on the third proposal, existence of tangible additional material was necessary, which alone could have justified a departure from the earlier view consistently taken by the State Government. In the absence of any such additional material having been placed on record or shown to have weighed with the sanctioning authority, the decision to accord sanction in the third round cannot be sustained merely on the basis of reiteration or expansion of the pre-existing material.

33. Keeping all these facts in mind, we have minutely and carefully perused all the three proposal letters; so also the two orders refusing sanction and the third order dated 3rd October,

2023, granting sanction to prosecute. We find that the proposal seeking sanction to prosecute was twice refused by detailed orders and passed after due application of mind to material placed on record.

34. It is an admitted position as emanating from record that the first and second proposals dated 5th July, 2022 and 19th January, 2023 respectively proved abortive, inasmuch as the State Government itself rejected the same vide orders dated 20th December, 2022 and 21st March, 2023. In both these orders, a specific finding was recorded that, upon detailed consideration of the material on record, the State Government was of the view that there did not exist sufficient grounds to prosecute the charge-sheeted accused persons under the provisions of the UAP Act.

35. In order to test the sanctity of the order dated 3rd October, 2023, granting sanction to prosecute, we called upon the learned Standing Counsel for the State of Jharkhand to satisfy the Court that there indeed existed additional material in the hands of the Investigating Agency which could have tilted the

discretion of the State Government in favour of grant of prosecution sanction in face of the two earlier rejections. However, the learned Standing Counsel was unable to point out the existence of any such additional material accompanying the third proposal dated 9th June, 2023.

36. In the first two rejections, the competent officers of the State Government, recorded categoric findings that the material collected during investigation did not disclose sufficient evidence warranting prosecution of the accused persons for the offences punishable under the UAP Act. As noted hereinabove, neither the third proposal nor the counter affidavits filed by the State Government in the High Court or before this Court refer to the existence of any additional material in support of the proposal for grant of sanction. Rather, the specific averment of the appellants that the sanction order dated 3rd October, 2023, was passed without existence of any additional material has not been disputed by the State.

37. Despite these glaring infirmities in the sanction order dated 3rd October, 2023, the High

Court dismissed the writ petitions primarily on the premise that the objection regarding the invalidity of the sanction could only be examined after the trial had commenced and evidence had been led. We find this approach to be totally unsustainable. When the admitted material on record indicated fundamental flaw in the sanction order, relegating the accused persons to raise this issue before the trial Court after recording of evidence was nothing short of an exercise in futility.

38. Law is well settled by a plethora of decisions rendered by this Court that validity or otherwise of a sanction order has to be challenged at the earliest stage of the proceedings. There is no such provision or precedent mandating that such validity must be questioned only after evidence has been led by the parties.

39. Reference in this regard may be made to ***State of Karnataka v. S. Subbegowda***[7] wherein the Court observed as follows:

> "**10.** It is also well settled proposition of law that the **question with regard to the validity of such sanction should be raised at the earliest stage of the proceedings,** however could be raised at

7 2023 SCC OnLine SC 911.

the subsequent stage of the trial also. In our opinion, the stages of proceedings at which an accused could raise the issue with regard to the validity of the sanction would be the stage when the Court takes cognizance of the offence, the stage when the charge is to be framed by the Court or at the stage when the trial is complete i.e., at the stage of final arguments in the trial. Such issue of course, could be raised before the Court in appeal, revision or confirmation, however the powers of such court would be subject to sub-section (3) and sub-section (4) of Section 19 of the said Act**. It is also significant to note that the competence of the court trying the accused also would be dependent upon the existence of the validity of sanction, and therefore it is always desirable to raise the issue of validity of sanction at the earliest point of time**. It cannot be gainsaid that in case the sanction is found to be invalid, the trial court can discharge the accused and relegate the parties to a stage where the competent authority may grant a fresh sanction for the prosecution in accordance with the law."

(Emphasis supplied)

40. In this background, we are of the firm view that the High Court fell in fundamental error while observing that the validity or otherwise the sanction order could only be examined after evidence was led at the trial. Such an approach is absolutely

unjustified as it compels an accused to undergo the rigours of a trial even when the foundational sanction to prosecute is defective beyond the scope of retrieval.

41. Furthermore, we are of the view that if at all the State Government was desirous of substantiating the sanction order, then, appropriate material ought to have been placed on record in the writ proceedings itself. The State Government cannot be allowed to supplement or augment the material placed before the sanctioning authority at the appellate stage in this Court in an attempt to validate an otherwise illegal & flawed sanction order. That apart, as we have noted above, the learned standing counsel for the State of Jharkhand candidly conceded before us that no additional material was placed on record with the third proposal. The only perceivable difference was invocation of additional offences under the UAP Act in the third proposal, which by itself cannot constitute fresh or substantive material so as to justify a departure from the earlier decisions refusing sanction.

42. As a result of the above discussion, we are unable to subscribe to the view taken by the High Court in the impugned judgment rejecting the writ petitions preferred by the appellants questioning the illegality and validity of the sanction order dated 3rd October, 2023.

43. The impugned judgment dated 18th December, 2024 does not stand to scrutiny and is hereby set aside. Resultantly, the sanction order dated 3rd October, 2023 and the consequential prosecution of the appellants for the offences under Sections 16, 17, 18, 20 and 21 of the UAP Act, is hereby quashed. However, prosecution of the appellants shall continue for the offences punishable under the IPC.

44. The appeals are allowed accordingly.

45. Pending application(s), if any, shall stand disposed of.

.....J.
(VIKRAM NATH)

.....J.
(SANDEEP MEHTA)

NEW DELHI;

DECEMBER 16, 2025.