

**IN THE HIGH COURT OF MADHYA PRADESH AT INDORE****BEFORE****HON'BLE SHRI JUSTICE RAVI MALIMATH,****CHIEF JUSTICE****&****HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA****ON THE 8<sup>th</sup> OF MARCH, 2022****CRIMINAL REVISION No. 1592 of 2021****Between:-****DEEPALI JADHAV W/O RANJEET KARNAL,  
AGED ABOUT 40 YEARS, OCCUPATION:  
TEHSILDAR R-602, SHALIMAR PALMS  
PIPLIHANA (MADHYA PRADESH)****.....APPLICANT****(BY SHRI PIYUSH MATHUR - SENIOR ADVOCATE WITH SHRI  
YASH TIWARI - ADVOCATE)****AND**

- 1. THE STATE OF MADHYA PRADESH THR.  
SPECIAL POLICE ESTABLISHMENT THR. P.S.  
LOKAYUKTA (MADHYA PRADESH)**
- 2. STATE OF M.P. THROUGH, UNDER SECRETARY  
REVENUE DEPARTMENT BHOPAL (MADHYA  
PRADESH)**

**.....NON-APPLICANTS****(SHRI VAIBHAV JAIN, ADVOCATE FOR NON-APPLICANT NO.1)**

.....  
*This revision coming on for admission this day, Hon'ble Shri Justice  
Vijay Kumar Shukla, Judge passed the following:*

**ORDER**

The present criminal revision has been filed under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 being aggrieved by the order dated 10.03.2021 passed by learned Special Judge, Prevention of Corruption Act, 1988, whereby he has denied the protection to the present applicant under Judges Protection Act, 1884 (hereinafter referred

to as the 'Act of 1884').

By the impugned order, the charges for offences under Section 13(1) (d) and 13(2) of Prevention of Corruption Act, 1988 and Section 120-B and 169 of Indian Penal Code, 1860 have been framed against the present applicant and further the applicant has also challenged the sanction order dated 26.12.2018 passed by the State Government.

As per prosecution story, one Nathulal S/o Rugga Ji Balai (hereinafter, the borrower) had taken a loan of Rs.4.95 lakhs for purchasing a tractor against his agricultural land at Village-Bhamora, District - Ujjain (MP) bearing survey no.216 admeasuring 5.92 hectare from Punjab National Bank, Branch Kanthal, Ujjain (hereinafter, the lending bank) in the year 2004. The said borrower was unable to repay the loan amount and hence the lending bank on account of non-payment initiated proceeding under the Madhya Pradesh Lok Dhan (Shodhya Rashiyon Ki Vasuli) Adhiniyam, 1987. Since the borrower was not able to comply with the demands of the lending bank, the lending bank initiated RRC proceeding and the same was forwarded to Collector, Ujjain on 11.07.2012.

The Collector, Ujjain, further delegated the RRC to the present applicant who was working as 'Tehsildar' ordered for public auction of the said property. Thereafter the results of the auction were declared and one Prem Kumar Dangi was declared the highest bidder for Rs.12,11,000/-. The lending bank agreed to the bidding amount on 12.09.2013. Thereafter, letters were issued to the borrower and served the borrower regarding the said bid and upon non-appearance of the borrower, the said auction land

was given to the highest bidder on 03.10.2013 and the loan amount was accordingly set off by the lending bank. A cheque was accordingly issued by the lending bank in the name of borrower of the amount left after settling the dues which was accordingly received by the borrower.

Being aggrieved by the said auction, a complaint was filed by one Basant Shrivastav, Inspector, Special Police Establishment, wherein it was alleged that the applicant by misusing her post had auctioned the subject property at a price much lower than the guideline value and has declared Prem Kumar Dangi as the highest bidder. Thereafter, based on the complaint filed by Basant Shrivastav, Special Police Establishment, Bhopal vide order dated 27.03.2014 allotted the case to Special Police Establishment, Ujjain for preliminary inquiry. The said case was registered for the preliminary inquiry by the Special Police Establishment on the ground that the present applicant while conducting the RRC had auctioned the land of the borrower bearing survey no.216 admeasuring 3.21 hectare in an arbitrary manner and colluding with one Prem Kumar Dangi, the land was sold at Rs.12.11 lakhs a price lower than the guideline value due to which the borrower had to bear loss of Rs.33 lakhs. The applicant has been made accused of misusing her post and auctioning the subject property at a price lower than the guideline value.

On the basis of above mentioned complaint, a case was registered against the present applicant bearing Crime No.177/2014 by the Special Police Establishment, Ujjain, under Sections 169 and 120 of the Indian Penal Code, 1860 and Sections 13(1)(d) and 13(2) of the Prevention of

Corruption Act, 1988. After committal of the case to Special Judge, Prevention of Corruption Act, Ujjain, Special Case Lokayukt No.01/2020 was registered under the PC Act. Vide impugned order, the learned Special Judge has framed the charges against the present applicant and has also rejected the plea of the present applicant that she is entitled for the protection under Judges Protection Act.

Senior Advocate for the applicant while assailing the impugned order submits that the applicant was working as Tehsildar in the Revenue Court and therefore the applicant was entitled for protection under the Judges Protection Act. In support of his contention, he relied upon certain provisions of the Act whose relevant excerpts are as under:

**2. Definition** - In this act, "Judge" means not only every person who is officially designated as Judge, but also every person,-

(a) who is empowered by law to give in any legal proceeding, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive; or

(b) who is one of a body of persons which body of persons is empowered by law to give such a judgment as is referred to in clause(a).

**3. Additional protection to Judges.-(1)** Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of sub-section (2), no court shall entertain or continue any civil or criminal proceeding against any person who is or was a Judge for any act, thing or word committed, done or spoken by him when, or in the course of, acting or purporting to act in the discharge of his official or judicial duty or function.

(2) Nothing in sub-section (1) shall debar or affect in any manner the power of the Central Government or the State Government or the Supreme Court of India or any High Court or any other authority under any law for the time being in force to take such action (whether by way of civil, criminal, or departmental proceedings or otherwise) against any person who is or was a Judge.~çÂ€Â

The aforesaid provisions of the Act, 1985, makes it clear that what is provided under the Act is an additional protection afforded to a Judge apart from that in other institutions. Judicial Officers Protection Act, 1850 was intended to provide greater protection to the Magistrates and the others acting judicially. The Act also provides protection only in the matter of civil actions.

Counsel for the applicant submitted that the applicant being a Revenue Officer holds status of Judge as defined in Section 2 of the Act by virtue of Section 31 of MPLR Code. While making reference to Section 2 of the Act he submitted that the definition of Judge as given in section 2 thereof is wide enough to include Revenue Officer upon him status of the court has been conferred by Section 31 of the MPLR Code. He has further contended that the applicant being empowered by law to give in any legal proceeding a definitive judgment and, therefore, he was entitled to additional protection under Section 3(1) of the Act.

The provisions of the Act goes to show that for the purpose to seek protection of Judges Protection Act, the person concerned has to show that the cause of action for filing prosecution against him relates to something done by him while exercising adjudicatory jurisdiction i.e. to show that he

is deciding the lis as Judicial Officer.

Senior counsel for the applicant did not argue in respect of the challenge to framing of charge and order of sanction. The only submission was made that the application filed by the applicant seeking protection under the Judges Protection Act being a Judge has been erroneously rejected. ]

No other point was argued before us.

Counsel for the State supported the order impugned passed by the trial Court and submitted that there is no illegality in the order passed by the Court below.

The question of protection has to be examined from two different angles. Provisions of section 3(1) not only protects Judges as defined in Section 2 from civil or criminal proceedings for any act, thing or word committed, done or spoken by him when, or in the course of, acting in the discharge of his official duty or function but also extends the protection to them for any act, thing or word committed, done or spoken by him while purporting to act in the discharge of his official or judicial duty or function.

Obviously, the protection does not extend to acts purely administrative/ministerial/extra-judicial/alien to the judicial duty. Any act, which is not done in the discharge of his judicial duty, is therefore, not covered by the sub-Section.

In the present case, the allegation against the applicant is that she had misused her post or position by auctioning the subject property in a much lower price than the guideline value. Further, it has been found that the

property in question has been sold on a very lower price to one Prem Kumar Dangi who was her servant and the witness was her husband namely Ranjit Karnal. Thus, the allegation against the present applicant pertains to misuse of her post.

The Supreme Court in the case of *Union of India vs. K.K. Dhawan* reported in (1993) 2 SCC 56 has enumerated following guidelines in regard to initiation of proceedings against an officer who had performed quasi judicial functions:

- (i) Whether the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty.
- (ii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty.
- (iii) If he has acted in a manner which is unbecoming of a Government servant.
- (iv) If he had acted negligently or that he omitted the prescribed conditions which are essential for the service of the statutory powers.

A coordinate Bench of this Court in the case of *Meena Mehra (Smt.) vs. The Lokayukt Organization and Another* reported in *ILR [2011] MP 3019* has held that the petitioner who was working as Tehsildar entertained application under Section 113 of MP Land Revenue Code, 1959, although she has no jurisdiction to entertain the same, the protection does not extend to acts purely administrative/ministerial/extra judicial/alien to judicial duty. Any act, which is not done in the discharge of official duty, is not covered by Section 3(1) of the Act.

In the present case, the allegation against the present applicant is for misusing of her post and office by extending undue benefit to her husband

as well as to her servant, we are of the considered opinion that Trial Court rightly held that the present applicant was not entitled for protection under the Judges Protection Act, 1985.

In view of the aforesaid, we do not find any illegality in the order impugned passed by the Trial Court warranting any interference in the revisional jurisdiction. Accordingly the present criminal revision stands dismissed. No order as to costs.

**(RAVI MALIMATH)**  
**CHIEF JUSTICE**

**(VIJAY KUMAR SHUKLA)**  
**JUDGE**

Arun/-

