



IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 4<sup>th</sup> OF FEBRUARY, 2026

MISC. CRIMINAL CASE No. 38623 of 2024

**SANJAY JAIN**

*Versus*

**THE STATE OF MADHYA PRADESH AND OTHERS**

.....  
Appearance:

*Shri Sankalp Kochar, Shri Greeshm Jain and Shri Vipul Vardhan Jain*  
- *Advocates for the applicant.*

*Shri H.S. Ruprah - Additional Advocate General alongwith Shri*  
*Ajeet Rawat - Govt. Advocate for respondent/State.*

*Shri Vivek Ranjan Pandey and Shri Rohit Raghuwanshi - Advocates*  
*for respondent no.2.*

.....  
WITH

MISC. CRIMINAL CASE No. 36900 of 2024

**SANJAY JAIN**

*Versus*

**THE STATE OF MADHYA PRADESH AND OTHERS**

.....  
Appearance:

*Shri Sankalp Kochar, Shri Greeshm Jain and Shri Vipul Vardhan Jain*  
- *Advocates for the applicant.*

*Shri H.S. Ruprah - Additional Advocate General alongwith Shri Ajeet*  
*Rawat - Govt. Advocate for respondent/State.*

*Shri Vivek Ranjan Pandey and Shri Rohit Raghuwanshi - Advocates*  
*for respondent no.2.*

.....  
RESERVED ON : 09.01.2026

PRONOUNCED ON : 04.02.2026  
.....

ORDER

This order shall govern the disposal of MCrC No.38623/2024 and MCrC No.36900/2024 as these petitions arise out of same case being Criminal Case No.440/2023.

2. These petitions have been instituted by the petitioners, who claim to be the original complainant, by invoking the inherent jurisdiction of this Court under Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023 read with Section 482 of the Code of Criminal Procedure, 1973, assailing the legality, correctness and propriety of the orders dated 03.08.2024 passed by the learned 3rd Upper Sessions Judge and Special Judge, Sagar in Criminal Revision No. 40/2024 and Criminal Revision No.41/2024, as also the consequential order dated 07.08.2024 passed by the Judicial Magistrate First Class, Sagar in RCT No. 440/2023, whereby the criminal proceedings stood terminated.

3. The genesis of the prosecution lies in a complaint preferred by the petitioner before Police Station Kotwali, District Sagar, alleging commission of offences by respondent No.2 and another accused, on the premise that they had circulated and disseminated written communications which were alleged to be derogatory and defamatory in nature, and which, according to the petitioners, were calculated to outrage religious feelings by targeting a revered religious personality.

4. Acting upon the said complaint, the police registered a First Information Report on 17.12.2022 for offences punishable under Sections 295-A, 500, 501 and 502 of the Indian Penal Code. During the course of



investigation, respondent No.2 was arrested on 18.12.2022, and the investigation proceeded in accordance with law.

5. Upon completion of investigation, the police submitted a charge-sheet/challan on 14.02.2023 before the Court of Judicial Magistrate First Class, Sagar. The challan was filed keeping in view the statutory mandate governing the period of custody, as one of the accused persons was stated to be absconding and the prescribed period for filing of the charge-sheet was nearing its expiry.

6. It is an admitted and undisputed position that on the date of submission of the challan, as also on the date when the trial Court took cognizance of the offences on 15.02.2023 under Section 190 of the Code of Criminal Procedure, no prior sanction as contemplated under Section 196 of the Code of Criminal Procedure had been granted by the competent authority for prosecution of the offence punishable under Section 295-A of the Indian Penal Code.

7. Subsequent thereto, the District Magistrate, Sagar, vide communication dated 09.02.2023, forwarded a proposal to the Home Department of the State of Madhya Pradesh seeking grant of requisite sanction under Section 196 of the Code of Criminal Procedure. The Home Department sought certain clarifications, and inter-departmental correspondence ensued between the District Magistrate, the Superintendent of Police and the Home Department over a period of time.

8. Upon completion of the aforesaid process, the Home Department of the State Government ultimately accorded sanction for prosecution on



17.08.2023, which was much subsequent to the date on which cognizance had already been taken by the trial Court.

9. Thereafter, on 14.03.2024, the accused persons preferred an application before the learned trial Court seeking their discharge, *inter alia*, on the ground that the cognizance taken by the Court was without jurisdiction, inasmuch as the mandatory statutory requirement of prior sanction under Section 196 of the Code of Criminal Procedure had not been satisfied on the date of cognizance.

10. The learned Judicial Magistrate First Class, Sagar, by order dated 14.03.2024, rejected the said application for discharge and proceeded to hear the parties on the question of framing of charges. On the same date, charges were framed against the accused persons for the offences alleged.

11. Being aggrieved by the order dated 14.03.2024, respondent No.2 invoked the revisional jurisdiction of the Sessions Court under Sections 397 and 399 of the Code of Criminal Procedure, by preferring Criminal Revision No. 40/2024 before the Court of 3rd Upper Sessions Judge and Special Judge, Sagar.

12. The learned Revisional Court, upon due consideration of the statutory scheme and the chronology of events, allowed the revision by order dated 03.08.2024, holding that the cognizance taken by the trial Court in absence of prior sanction under Section 196 of the Code of Criminal Procedure was legally unsustainable, and accordingly set aside the proceedings.

13. In compliance with and in consequence of the revisional order, the



Judicial Magistrate First Class, Sagar passed a consequential order dated 07.08.2024, whereby the bail bonds furnished by the accused persons were cancelled and the record of the case was directed to be consigned to the record room, thereby bringing the trial proceedings to an end.

14. The petitioner, asserting that he is an aggrieved person, has instituted the present petition challenging both the aforesaid orders, contending that the subsequent grant of sanction cured the defect and that the courts below erred in terminating the proceedings instead of directing revival or refiling of the case in accordance with law.

#### **SUBMISSIONS ON BEHALF OF THE PETITIONERS**

15. Learned counsel appearing for the petitioners assailed the impugned orders primarily on the ground that the courts below have adopted an unduly technical approach, resulting in miscarriage of justice. It was contended that though sanction under Section 196 of the Code of Criminal Procedure was not available on the date of taking cognizance, the said defect stood cured upon subsequent grant of sanction by the State Government on 17.08.2023.

16. It was further submitted that once the sanction had been accorded, the criminal proceedings ought not to have been terminated in entirety. According to the petitioner, at the highest, the trial Court could have been directed to take fresh cognizance or the prosecution could have been permitted to place the sanction order on record and proceed in accordance with law.

17. Learned counsel argued that the learned Revisional Court exceeded



the scope of its jurisdiction under Sections 397 and 399 of the Code of Criminal Procedure by setting aside the entire proceedings, despite the fact that charges had already been framed by the trial Court. It was urged that once cognizance had been taken and charges framed, the revisional jurisdiction could not have been exercised to annul the proceedings at that stage.

18. It was also contended that the petitioners, being the original complainant, was an aggrieved person and was entitled to be heard before the trial proceedings were brought to an end. The consequential order dated 07.08.2024 passed by the learned Judicial Magistrate First Class, Sagar was assailed on the ground that it was passed without affording any opportunity of hearing to the petitioner.

19. Learned counsel further submitted that the courts below failed to appreciate that even if prosecution under Section 295-A of the Indian Penal Code required prior sanction, the offences punishable under Sections 500, 501 and 502 IPC were independently maintainable, and the proceedings could not have been dropped in toto.

20. On the aforesaid grounds, learned counsel for the petitioner prayed that the impugned orders be set aside and appropriate directions be issued for revival of the criminal proceedings in accordance with law.

#### **SUBMISSIONS ON BEHALF OF THE STATE**

21. Per contra, learned Government Advocate appearing for the State supported the impugned orders and submitted that sanction under Section 196 of the Code of Criminal Procedure is a mandatory statutory pre-



condition for taking cognizance of an offence punishable under Section 295-A of the Indian Penal Code.

22. It was contended that the absence of sanction at the stage of cognizance is not a curable irregularity but goes to the very root of the jurisdiction of the criminal court. Any cognizance taken in violation of the statutory embargo is void ab initio and cannot be validated by subsequent grant of sanction.

23. Learned Government Advocate further submitted that the learned Revisional Court was fully justified in exercising its jurisdiction, as the illegality was apparent on the face of the record. It was urged that framing of charges would not confer jurisdiction upon the trial Court where none existed at the inception.

24. It was also submitted that once the cognizance itself was held to be illegal, the consequential proceedings, including framing of charges, were rendered unsustainable in law, and therefore the trial Court rightly passed the consequential order closing the proceedings in compliance with the revisional order.

25. Learned Government Advocate argued that the petitioner does not have an independent right to insist upon continuation of a criminal prosecution where the proceedings suffer from a foundational jurisdictional defect. It was submitted that no prejudice has been caused to the petitioner, as the impugned orders are strictly in conformity with settled principles of criminal jurisprudence.

26. On the aforesaid submissions, learned Government Advocate



prayed for dismissal of the petition.

### **SUBMISSIONS ON BEHALF OF RESPONDENT NO.2/ACCUSED**

27. Learned counsel appearing for respondent No.2 adopted the submissions advanced on behalf of the State and further submitted that the statutory bar contained in Section 196 of the Code of Criminal Procedure is absolute in nature.

28. It was contended that the trial Court lacked inherent jurisdiction to take cognizance on the date it purported to do so, and therefore the entire proceedings were void and non est in the eye of law. Subsequent sanction, according to learned counsel, cannot revive proceedings which were void from inception.

29. Learned counsel further submitted that the revisional order dated 03.08.2024 merely corrected a patent illegality committed by the trial Court and does not suffer from any infirmity warranting interference under the inherent jurisdiction of this Court.

30. It was also argued that the petitioner cannot seek continuation of a prosecution which is statutorily barred, and the inherent powers of this Court cannot be invoked to defeat an express mandate of law. On the aforesaid grounds, learned counsel for respondent No.2 prayed for dismissal of the petition.

31. This Court has bestowed its anxious consideration to the rival submissions advanced by learned counsel for the parties and has carefully examined the record of the case as well as the impugned orders.

32. The principal issue which arises for consideration is whether



cognizance taken by a criminal court in absence of prior sanction mandated under Section 196 of the Code of Criminal Procedure is sustainable in law, and if not, whether such defect stands cured by subsequent grant of sanction.

33. Section 196 of the Code of Criminal Procedure creates an express statutory bar on the power of the Court to take cognizance of offences punishable under Section 295-A of the Indian Penal Code except with the previous sanction of the Central Government or the State Government, as the case may be. The language employed by the legislature is clear, mandatory and prohibitory in nature.

34. The law on this aspect is no longer *res integra*. The Hon'ble Supreme Court has consistently held that sanction, where required as a condition precedent, goes to the very root of the jurisdiction of the Court. Absence of such sanction renders the act of taking cognizance void and without authority of law.

35. In **Kalp Nath Rai v. State (Through CBI)**, (1997) 8 SCC 732, the Supreme Court categorically held that where a statute bars cognizance without previous sanction, the Court assumes no jurisdiction unless such sanction exists on the date of cognizance. It was observed that subsequent compliance does not validate an inherently void act.

36. Similarly, in **State of Karnataka v. Pastor P. Raju**, (2006) 6 SCC 728, the Supreme Court, while interpreting Section 196 Cr.P.C. in the context of offences affecting religious sentiments, held that prior sanction is mandatory and not a mere procedural formality, and cognizance taken without such sanction is legally impermissible.



37. The distinction between an irregularity and a jurisdictional defect has also been authoritatively settled. In **Nanjappa v. State of Karnataka, (2015) 14 SCC 186**, the Supreme Court held that absence of sanction at the time of taking cognizance is not a curable defect, as it strikes at the competence of the Court to entertain the prosecution.

38. Tested on the aforesaid settled principles, the facts of the present case clearly demonstrate that on 15.02.2023, when the learned trial Court took cognizance of the offences, no sanction under Section 196 Cr.P.C. was in existence. The subsequent grant of sanction on 17.08.2023, therefore, cannot retrospectively validate the cognizance already taken.

39. The contention advanced on behalf of the petitioner that the defect stood cured by subsequent sanction is thus legally unsustainable. A jurisdictional defect cannot be cured by subsequent events unless the statute itself so permits, which is conspicuously absent in the present statutory framework.

40. As regards the submission that charges had already been framed and therefore the revisional Court ought not to have interfered, this Court finds no merit in the said contention. It is a settled principle of law that framing of charges does not confer jurisdiction where none exists.

41. In **Prakash Singh Badal v. State of Punjab, (2007) 1 SCC 1**, the Supreme Court held that absence of sanction affects the competence of the Court to proceed and such issue can be raised at any stage, even after framing of charges.

42. The exercise of revisional jurisdiction by the learned Revisional



Court cannot be faulted. The illegality in the present case was apparent on the face of the record and pertained to lack of jurisdiction. Correction of such illegality squarely falls within the scope of Sections 397 and 401 of the Code of Criminal Procedure.

43. The argument that offences under Sections 500, 501 and 502 IPC could have been independently proceeded with also does not advance the petitioner's case. The entire prosecution emanated from a single set of allegations forming one composite transaction, wherein the offence under Section 295-A IPC was the gravamen of the charge. Once the cognizance itself was vitiated, the consequential proceedings could not have been selectively sustained.

44. The contention regarding non-affording of opportunity of hearing to the petitioner before passing the consequential order dated 07.08.2024 is also devoid of substance. The said order was a ministerial and consequential act performed in obedience to the revisional order dated 03.08.2024, leaving no discretion with the trial Court.

45. It is trite law that the inherent powers of this Court under Section 482 Cr.P.C. or Section 528 of the Bhartiya Nagrik Suraksha Sanhita cannot be exercised to defeat an express statutory mandate. In **State of Haryana v. Bhajan Lal**, 1992 Supp (1) SCC 335, the Supreme Court cautioned that inherent jurisdiction must be exercised sparingly and cannot be invoked to perpetuate proceedings which are fundamentally without jurisdiction.

46. Viewed from any angle, this Court finds that the learned Revisional Court has correctly appreciated the statutory bar under Section



196 Cr.P.C. and has rightly set aside the proceedings which were void ab initio. The consequential order passed by the trial Court is merely a sequitur to the revisional order and suffers from no independent infirmity.

47. This Court, therefore, finds no perversity, illegality or jurisdictional error in the impugned orders warranting interference in exercise of inherent jurisdiction.

48. In view of the foregoing discussion and the law laid down by the Hon'ble Supreme Court, this Court finds no merit in the present petitions. Accordingly, the petitions are dismissed.

49. The order dated 03.08.2024 passed by the learned 3rd Upper Sessions Judge and Special Judge, Sagar in Criminal Revision No.40/2024 and Criminal Revision No.41/2024, as well as the consequential order dated 07.08.2024 passed by the Judicial Magistrate First Class, Sagar in RCT No. 440/2023, are hereby affirmed and sustained.

50. It is clarified that dismissal of the present petitions shall not preclude the competent authority from taking such steps as may be permissible in law, in accordance with the statutory framework, if so advised. No order as to costs.

**(HIMANSHU JOSHI)**  
**JUDGE**