IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK KUMAR SINGH

&

HON'BLE SHRI JUSTICE AJAY KUMAR NIRANKARI

ON THE 28th OF JANUARY, 2026

WRIT PETITION NO.33484 of 2025

MEENAKSHI KHARE AND ANOTHER

Versus

THE STATE OF MADHYA PRADESH, THROUGH PRINCIPAL SECRETARY, DEPARTMENT OF COMMERCIAL TAX AND OTHERS

Appearance *:*

Shri Prakash Upadhyay – Senior Advocate with Shri Siddharth Sharma, Shri Shubham Manchani, Shri Devendra Prajapati, Shri Mayank Upadhyay, Shri Satyam Shukla and Shri Lavkush Rathore - Advocates for the petitioners.

Shri Abhinav Shrivastava – Advocate for the respondent No.3/S.P.E. Lokayukt.

Shri Yash Soni – Deputy Advocate General for the respondent-State.

Reserved on : 12/01/2026
Pronounced on : 28/01/2026

O R D E R

Per : Justice Vivek Kumar Singh

By way of this petition, under Article 226 of the Constitution of India the petitioners take exception to the order dated 04.04.2005 passed by respondent No.2 granting sanction under Sections 19(1)(b) and (c) of

the Prevention of Corruption Act, 1988 (for brevity 'PC Act, 1988') to prosecute the petitioner No.2 in connection with Crime No.238/2019 for the offence registered under Sections 13(1)(b) and 13(2) of the PC Act read with Section 120-B of the IPC on the ground that the impugned order is arbitrary, unreasonable and has been passed without due application of mind and without consideration of the material facts, particularly the substantiated income of the petitioner No.1.

2. Shorn of unnecessary details, the facts germane to the institution of the present petition, are as under :-

(i) The petitioner No.2 was serving in the capacity of Assistant Commissioner, Excise, Indore when the impugned sanction was granted and at present, he is posted as Deputy Commissioner, State Excise, Rewa. The genesis of the case stems from a complaint dated 20.06.2018 lodged by one Kamta Prasad, pursuant to which search operation was conducted by respondent-Lokayukt at the petitioner's known residential and official premises on 15.10.2019.

(ii) The petitioner No.1, who is the spouse of petitioner No.2 hails from a distinguished legal background and has carried forward the legacy of her family by taking up the noble profession of advocacy and commenced her practice prior to her marriage and was independently earning and duly filing regular Income Tax Returns (in short, 'ITR') before her marriage.

(iii) During the course of enquiry, the Lokayukt compiled data pertaining to the assets and expenditure of the petitioners *vis-a-vis* from 04.09.1998 to 15.10.2019 (check period) and arrived at

a conclusion that petitioners income exceeded their known sources of income by approximately 88.20%. Thereafter, on the recommendation of Lokayukt, respondent No.2 granted sanction to prosecute petitioner No.2 under Section 13(1)(b) and 13(2) of the PC Act, 1988 read with 120-B of the IPC.

3. Learned counsel for the petitioner succinctly submits that petitioner No.1 is a highly qualified law graduate and is from a distinguished legal background and derive substantial income from her legal practice and from other sources, which enable her to sustain herself and contribute to the financial well being of her family and also consistently filing her Income Tax Returns reflecting her professional earnings. He further submits that the petitioner No.1 has purchased an agricultural land in the district Raisen for farming and horticulture activity by utilizing the registered gifts received from her parents, savings which she had made from income of legal profession and bank loan and thereafter started the agricultural activity from which she earned profits. The production, transportation and sale of the agricultural produce was duly verified by the Investigating Agency and no discrepancy was ever found in the balance sheet for the agricultural produce. The true copies of Income Tax Returns have been annexed herewith as Annexure P/2. It is also submitted that the prosecution also admits that all the assets recovered during raid (movable and immovable) were duly accounted in ITR of respective petitioners and petitioner No.2 in compliance of Rule 19 of M.P. Civil Service (Conduct) Rules, 1965 have made declaration to the department. However, proceedings against the petitioners were initiated by arbitrarily rejecting the total income of petitioner No.1 and including the assets and expenditure of her in the account of petitioner No.2 and thereby treating

the income of petitioner No.2 to be nearly 88% more than his known source of income. Therefore, the petitioners have challenged the said approach on the ground that the agricultural income of petitioner No.1 has wrongly been deducted as it is a legal income and it is duly disclosed under the law both to the Income Tax authorities and the employer/department of petitioner No.2.

4. Learned counsel for the petitioners has invited attention towards the calculation of assets and expenditure of petitioners, which is as under :-

(a) Total net worth of petitioner nos.1 and 2 including expenditure is Rs.10,71,71,106/-.

(b) Legal Income of petitioners as accepted by Investigation Agency is Rs.5,69,05,492/-.

If agricultural income of petitioner No.1 (though accepted and duly verified but not included in calculation) Rs.04,81,56,140/- is included in the total income of petitioner Nos.1 and 2, it would be Rs.10,50,61,632/-. The difference between Rs.10,71,71,106/- and Rs.04,81,56,140/- would be Rs.05,90,14,966/-. Now, the difference between legally accepted income i.e. Rs.5,69,05,492 and the amount after deducting Rs.05,90,14,966/- which is the agricultural income of petitioner No.1, it would come to Rs.21,09,474/- which is approx. 1.94% and cannot be treated to be disproportionate, as is less than 10%.

5. Learned counsel for the petitioners is heavily relying upon the report of Excise Commissioner (Annexure P/5) in which he while examining the case putforth by Investigating Agency has dealt with this aspect in detail and has opined that all the income and assets covered under investigation are under due intimation of department and has found that Rs.37,97,522/-

has wrongly been deducted from income of petitioner No.1 from legal profession and Rs.4,60,59,780/- has wrongly been deducted from the income towards agriculture. Thus, the total income of petitioner No.1 and 2 is Rs.10,67,62,790/- against expenditure of Rs.10,03,76,664, therefore, it was not a fit case for sanction. Learned counsel further submits that the respondent No.2 ignored the recommendation made by the Commissioner of Excise and overlooked the representation made by petitioner No. 2 and granted sanction to prosecute the petitioner for the aforesaid charges vide impugned order dated 04.04.2025 as the petitioner No.1 was not able to give the details of her clients to whom she has rendered legal service to the satisfaction of I.O., the income from legal practice which was around 37,00,000/- in check period has been negated and treated to be zero and expenditure claimed to have made out of this income is included in the expenditure of petitioner No.2.

6. Learned counsel for the petitioners has also drawn attention of this Court to Rule 6F of the Income Tax Rules, i.e. the *lex speciali* on the subject of retaining receipt towards professional income for scrutiny. Rule 6F(5) recommends the retention period of books of accounts to six years and the said books of account would in-fact, contain the details of services rendered by petitioner No.1 to her clients in the form of invoices. However, the Investigating Agencies as well as the sanctioning department failed to take into account that the retention period of six years has elapsed and the ITRs of petitioner No.1 are the only conclusive proof of her earning from her professional job as an Advocate. The respondent in the process of investigation have denied to recognize petitioner No.1's independent professional identity and treated her merely as a spouse of a

government servant. Therefore, the sanction order has been passed mechanically without proper application of mind as it entirely fails to specify which documents were forwarded along with the report of Superintendent of Police, Lokayukt. Such lack of disclosure, reinforces the petitioners' contention that the impugned sanction order has been passed in complete disregard to the statutory requirement of reasoned and independent decision. Furthermore, it is evident from the impugned order that although the sanctioning authority purports to disagree with the detailed and reasoned recommendation of Excise Commissioner, no reason whatsoever have been recorded for such disagreement. Therefore, the impugned order is liable to be set aside.

7. To bolster his submission, learned counsel for the petitioners has relied upon a recent landmark judgment of the Apex Court rendered in the case of **Robert Lalchungnunga Chongthu vs. State of Bihar 2025 SCC OnLine SC 2511** on the subject of grant of sanction by the sanctioning authority, wherein it has been held as under :-

> "**12.** The avowed object of sanctions being granted before cognizance is to ensure that the threat of criminal prosecution does not hang over the heads of the officials in discharge of their public duty. At the same time, it is not intended to protect officers who have transgressed the boundaries of their duty for some act/benefit which otherwise would not be termed acceptable. An aspect connected with this object, is that the authority granting sanction does not do so mechanically. This is a layer of protection envisioned by this Section. In other words, when allegations are made, it is not for the authorities

to grant sanction simply on the basis of the allegations but it is also that they should examine the materials placed by the investigating agency and come to a prima facie satisfaction thereon, about the officer having some or the other involvement in the alleged offence/crime. In Mansukhlal Vitthaldas Chauhan v. State of Gujarat11, this Court held that the order of granting or refusing sanction must show application of mind. The relevant paragraphs thereof are extracted hereunder:

> "17. Sanction lifts the bar for prosecution. The grant of sanction is not an idle formality or an acrimonious exercise but a solemn and sacrosanct act which affords protection to government servants against frivolous prosecutions. (See Mohd. Iqbal Ahmed v. State of A.P. [(1979) 4 SCC 172 : 1979 SCC (Cri) 926 : AIR 1979 SC 677]) Sanction is a weapon to ensure discouragement of frivolous and vexatious prosecution and is a safeguard for the innocent but not a shield for the guilty.
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> **18.** The validity of the sanction would, therefore, depend upon the material placed before the sanctioning authority and the fact that all the relevant facts, material and evidence have been considered by the sanctioning authority. Consideration implies application of mind. The order of sanction must ex facie disclose that the sanctioning authority had considered the evidence and other material placed before it…"
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> **19.** Since the validity of "sanction" depends on the applicability of mind by the

> sanctioning authority to the facts of the case as also the material and evidence collected during investigation, it necessarily follows that the sanctioning authority has to apply its own independent mind for the generation of genuine satisfaction whether prosecution has to be sanctioned or not. The mind of the sanctioning authority should not be under pressure from any quarter nor should any external force be acting upon it to take a decision one way or the other. Since the discretion to grant or not to grant sanction vests absolutely in the sanctioning authority, its discretion should be shown to have not been affected by any extraneous consideration. If it is shown that the sanctioning authority was unable to apply its independent mind for any reason whatsoever or was under an obligation or compulsion or constraint to grant the sanction, the order will be bad for the reason that the discretion of the authority "not to sanction" was taken away and it was compelled to act mechanically to sanction the prosecution."

8. *Per contra*, learned counsel for the respondent-State submits that a bare perusal of order of sanction indicates that the sanctioning authority has applied its mind and had taken into consideration all the documents and record which was seen during the course of investigation and has independently taken a decision after perusing the same that the petitioner No.2 is guilty of the offence which is alleged against him and the sanction for prosecution was granted for the aforesaid offence or any other offences

which may be proved during the course of trial by the competent Court of law. It is further submitted that it is trite that the order of sanction for prosecution cannot be challenged at this stage by filing a writ petition as observed by the Hon'ble Apex Court in the cases of **State of Madhya Pradesh vs. Virender Kumar Tripathi (2009) 15 SCC 533; Central Bureau of Investigation vs. Ashok Kumar Agrawal (2014) 14 SCC 295** and **Paul Verghese vs. State of Kerala (2007) 14 SCC 783**. Thus, the State Government is competent to grant sanction for prosecution against the accused in exercise of powers conferred under Article 166(2) and (3) of the Constitution of India and as per the instruction issued in circular 15-01/2014/1-10 dated 23.10.2024 by General Administration Department to dispose of the matters relating to sanction for prosecution of government servants, thus, the sanction has been granted in exercise of the same.

9. Learned counsel for the SPE-Lokayukt also opposed the arguments advanced by learned counsel for the petitioners and contended that the adequacy of material placed before sanctioning authority cannot be gone into at this stage and said position of law has been enunciated by this Hon'ble Court in *W.P. No.7818/2021* (***Sabit Khan vs. State of M.P. and others*****)** wherein it has been observed that challenge to sanction order on the ground that it suffers from non-consideration of relevant material is required to be raised during the trial and established by leading the evidence. In-fact, during investigation, petitioner No.1 was not able to produce proper documents and her defence cannot be considered at this stage. The sanction order is neither mechanical nor have been passed without application of mind as during the check period, the income taken into consideration includes, income from salary, agricultural income,

interest income and investment income. The total expenditure includes purchase of immovable properties, investments and savings in bank account. After due and proper investigation of all material aspect, it was concluded that the petitioners were in possession of disproportionate assets to the extent of 88.20%. In view of the aforesaid, the present petition filed by the petitioners is wholly misconceived and without any substance and the same is liable to be dismissed.

10. Heard learned counsel for the parties and perused the record.

11. No other point was pressed by both the parties.

12. In the conspectus of facts and circumstances of the case and considering the arguments advanced by the parties, it is apposite to refer Section 19 of the P.C. Act, 1988 which reads as under :-

> **"19. Previous sanction necessary for prosecution.**—(1) **No court shall take cognizance of an offence punishable under [Sections 7, 11, 13 and 15] alleged to have been committed by a public servant, except with the previous sanction** [save as otherwise provided in the Lokpal and Lokayuktas Act, 2013],—
> (a) in the case of a person [who is employed, or as the case may be, was at the time of commission of the alleged offence employed] in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;
> (b) in the case of a person [who is employed, or as the case may be, was at the time of commission of the alleged offence employed] in connection with the affairs of a State and is not

removable from his office save by or with the sanction of the State Government, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office.

[Provided that no request can be made, by a person other than a police officer or an officer of an investigation agency or other law enforcement authority, to the appropriate Government or competent authority, as the case may be, for the previous sanction of such Government or authority for taking cognizance by the court of any of the offences specified in this sub-section, unless—

(i) such person has filed a complaint in a competent court about the alleged offences for which the public servant is sought to be prosecuted; and

(ii) the court has not dismissed the complaint under Section 203 of the Code of Criminal Procedure, 1973 (2 of 1974) and directed the complainant to obtain the sanction for prosecution against the public servant for further proceeding:

Provided further that in the case of request from the person other than a police officer or an officer of an investigation agency or other law enforcement authority, the appropriate Government or competent authority shall not accord sanction to prosecute a public servant without providing an opportunity of being heard to the concerned public servant:

Provided also that the appropriate Government or any competent authority shall, after the receipt of

the proposal requiring sanction for prosecution of a public servant under this sub-section, endeavour to convey the decision on such proposal within a period of three months from the date of its receipt:

Provided also that in case where, for the purpose of grant of sanction for prosecution, legal consultation is required, such period may, for the reasons to be recorded in writing, be extended by a further period of one month:

Provided also that the Central Government may, for the purpose of sanction for prosecution of a public servant, prescribe such guidelines as it considers necessary.

Explanation.—For the purposes of sub-section (1), the expression "public servant" includes such person—

(a) who has ceased to hold the office during which the offence is alleged to have been committed; or

(b) who has ceased to hold the office during which the offence is alleged to have been committed and is holding an office other than the office during which the offence is alleged to have been committed.]

(2) Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section (1) should be given by the Central Government or the State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) no finding, sentence or order passed by a Special Judge shall be reversed or altered by a Court in appeal, confirmation or revision on the ground of the absence of, or any error, omission or irregularity in, the sanction required under sub-section (1), unless in the opinion of that court, a failure of justice has in fact been occasioned thereby;

(b) no court shall stay the proceedings under this Act on the ground of any error, omission or irregularity in the sanction granted by the authority, unless it is satisfied that such error, omission or irregularity has resulted in a failure of justice;

(c) no court shall stay the proceedings under this Act on any other ground and no court shall exercise the powers of revision in relation to any interlocutory order passed in any inquiry, trial, appeal or other proceedings.

(4) In determining under sub-section (3) whether the absence of, or any error, omission or irregularity in, such sanction has occasioned or resulted in a failure of justice the court shall have regard to the fact whether the objection could and should have been raised at any earlier stage in the proceedings.

Explanation.—For the purposes of this section,—

(a) error includes competency of the authority to grant sanction;

(b) a sanction required for prosecution includes reference to any requirement that the prosecution shall be at the instance of a specified authority or

> with the sanction of a specified person or any requirement of a similar nature."

13. Having regard to the aforesaid provision contained in Section 19 of the said Act, it is imperative to refer to the pronouncement of Apex Court on this point rendered in the case of **Nanjappa vs. State of Karnataka, (2015) 14 SCC 186** wherein the Court has very aptly dealt with the intricacies of Section 19(1) as also Section 19(3) and (4) of the said Act as to what stage, question of validity of sanction accorded under Section 19(1) could be raised and what are the powers of the Court in appeal, confirmation or revision under sub-section (3) of Section 19 of the said Act and observed as follows :-

> **22.** The legal position regarding the importance of sanction under Section 19 of the Prevention of Corruption Act is thus much too clear to admit equivocation. The statute forbids taking of cognizance by the court against a public servant except with the previous sanction of an authority competent to grant such sanction in terms of clauses (a), (b) and (c) to Section 19(1). The question regarding validity of such sanction can be raised at any stage of the proceedings. The competence of the court trying the accused so much depends upon the existence of a valid sanction. In case the sanction is found to be invalid the court can discharge the accused relegating the parties to a stage where the competent authority may grant a fresh sanction for the prosecution in accordance with law. If the trial court proceeds, despite the invalidity attached to the sanction order, the same shall be deemed to be non est in the eyes of law and shall

not forbid a second trial for the same offences, upon grant of a valid sanction for such prosecution.

23. Having said that there are two aspects which we must immediately advert to. The first relates to the effect of sub-section (3) to Section 19, which starts with a non obstante clause. Also relevant to the same aspect would be Section 465 CrPC which we have extracted earlier.

23.1. It was argued on behalf of the State with considerable tenacity worthy of a better cause, that in terms of Section 19(3), any error, omission or irregularity in the order sanctioning prosecution of an accused was of no consequence so long as there was no failure of justice resulting from such error, omission or irregularity. It was contended that in terms of Explanation to Section 4, "error includes competence of the authority to grant sanction". The argument is on the face of it attractive but does not, in our opinion, stand closer scrutiny.

23.2. A careful reading of sub-section (3) to Section 19 would show that the same interdicts reversal or alteration of any finding, sentence or order passed by a Special Judge, on the ground that the sanction order suffers from an error, omission or irregularity, unless of course the court before whom such finding, sentence or order is challenged in appeal or revision is of the opinion that a failure of justice has occurred by reason of such error, omission or irregularity. Sub-section (3), in other words, simply forbids interference with an order passed by the Special Judge in appeal, confirmation or revisional proceedings on the ground that the sanction is bad save and

except, in cases where the appellate or revisional court finds that failure of justice has occurred by such invalidity. What is noteworthy is that sub-section (3) has no application to proceedings before the Special Judge, who is free to pass an order discharging the accused, if he is of the opinion that a valid order sanctioning prosecution of the accused had not been produced as required under Section 19(1).

23.3. Sub-section (3), in our opinion, postulates a prohibition against a higher court reversing an order passed by the Special Judge on the ground of any defect, omission or irregularity in the order of sanction. It does not forbid a Special Judge from passing an order at whatever stage of the proceedings holding that the prosecution is not maintainable for want of a valid order sanctioning the same.

23.4. The language employed in sub-section (3) is, in our opinion, clear and unambiguous. This is, in our opinion, sufficiently evident even from the language employed in sub-section (4) according to which the appellate or the revisional court shall, while examining whether the error, omission or irregularity in the sanction had occasioned in any failure of justice, have regard to the fact whether the objection could and should have been raised at an early stage. Suffice it to say, that a conjoint reading of sub-sections 19(3) and (4) leaves no manner of doubt that the said provisions envisage a challenge to the validity of the order of sanction or the validity of the proceedings including finding, sentence or order passed by the Special Judge in appeal or revision

> before a higher court and not before the Special Judge trying the accused.
>
> **23.5.** The rationale underlying the provision obviously is that if the trial has proceeded to conclusion and resulted in a finding or sentence, the same should not be lightly interfered with by the appellate or the revisional court simply because there was some omission, error or irregularity in the order sanctioning the prosecution under Section 19(1). Failure of justice is, what the appellate or revisional court would in such cases look for. And while examining whether any such failure had indeed taken place, the Court concerned would also keep in mind whether the objection touching the error, omission or irregularity in the sanction could or should have been raised at an earlier stage of the proceedings meaning thereby whether the same could and should have been raised at the trial stage instead of being urged in appeal or revision."

14. Further, the Apex Court in one another decision rendered in the case of **State of Karnataka v. S. Subbegowda, (2023) 17 SCC 699** has manifestly dealt with this point and held as under :-

> "16. Having regard to the aforestated provisions contained in Section 19 of the said Act, there remains no shadow of doubt that the statute forbids taking of cognizance by the court against a public servant except with the previous sanction of the Government/authority competent to grant such sanction in terms of clauses (a), (b) and (c) to Section 19(1). 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 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."

15. In view of the aforesaid enunciation of law, this Court is of the considered view that validity of impugned sanction order can be challenged at any stage and more appropriately, it should be raised at an earlier stage of proceeding as has been done in the instant case.

16. An order granting or refusing sanction must be preceded by application of mind on the part of appropriate authority on material placed before it. While granting sanction, the authority can neither take into consideration an irrelevant fact nor can it pass an order on extraneous considerations not germane for passing a statutory order.

17. In the present case, it is quite discernible that since the petitioner No.1 has clearly justified the amount claimed as the income from her professional work, the Income Tax Returns as well as income from farm, receipt from respective Mandi justifying sales and the agricultural equipment unearthed during the raid, all of it points towards only one conclusion that if the professional and subsequent agricultural income of

petitioner No.1 is taken into account in that case, the sanctioning authority ought not to have granted sanction and nipped the matter in the bud itself.

18. The expression "known sources of income" refers to such income as is duly disclosed in accordance with Rule 19 of the Madhya Pradesh Civil Service (Conduct) Rules, 1965, *vis-a-vis* Income Tax Returns have already been filed. Income that has been formally intimated to the department under the applicable service rules and substantiated through statutory tax filings constitutes "known" and legitimate income in the eyes of law.

19. This Court derives strength from yet another recent decision of the Hon'ble Supreme Court rendered in the case of **Nirankar Nath Pandey vs. State of U.P. and ors. (Criminal Appeal No.5009 of 2024)** wherein the Apex Court observed as under :-

> **9.** We are of the view that the Appellant's wife's income must be considered as well while calculating the total income and assets. Both the Appellant and his wife have filed the relevant income tax returns in order to show their respective incomes and assets. The Respondents in their Counter-Affidavit have not denied these income tax returns or alleged them to be forged or fabricated. Therefore, when a public servant is submitting his income tax returns, they should be presumed to be true and correct. If you duly consider the income tax returns of the Appellant and his wife for the check period of the year 1996-2020, the total income is coming up to be Rs.1,21,06,268/-(Rupees One Crore Twenty One Lakh Six Thousand Two Hundred Sixty Eight only) which is in fact more than the assets amounting to Rs.1,16,02,669/- (Rupees One

Crore Sixteen Lakh Two Thousand Six Hundred Sixty Nine only) which is said to be the disproportionate assets in question under the present FIR.

10. Further, we have considered that the check period is from the year 1996 to 2020, which is almost twenty five years. It must be taken into account that over such a long period of time, there is inflation and a natural progression in the changing economy that affects the value of assets such as property. This can understandably lead to discrepancies in declaring the value of assets over the years. Therefore, there should be a more dynamic approach while considering an individual's income and assets over the span of two decades, such as in the present case. The notion that the declared value of an asset such as property or gold will remain static is flawed. This has to be considered while examining an individual's assets and income while making a determination regarding disproportionate assets. Such an examination needs to reflect such adjustments and changes as is natural with the progression of time.

11. We find it pertinent to note that in cases such as these where disproportionate assets are being dealt with, the amounts under scrutiny cannot be looked at in the same manner as one would do a Bank statement or daily ledger of income and expenditure. The scrutiny process cannot be as mechanical as that when you are examining declared assets and the income of an individual over such a long period of time. There has to be a certain margin that is given while making such an assessment as there are

> invariably economical fluctuations that would have taken place, especially over the course of nearly twenty-five years. It is crucial to have a nuanced appreciation of how time and economic conditions affect asset value in such cases.
>
> **12.** This Court has held in **State of Haryana vs. Bhajan Lal, 1992 SCC (Cri) 426** that when allegations made in the first information report or the complaint, even if they are taken at their face value do not prima facie constitute any offence or make out a case against the accused, powers under Article 226 of the Constitution of India could be exercised to prevent abuse of the process of any court. We find that the present FIR in question and the case against the Appellant is covered under these findings in Bhajan Lal (supra).

20. Taking note of the *ratio decidendi* of the aforesaid decision of Apex Court, this Court is of the view that the Investigating Agency and the sanctioning authority had wrongly denied to recognize petitioner No.1's independent professional identity and treated her merely a spouse of government servant and inclusion of her income in the income of petitioner No.2 is unreasonable and not a correct assessment of income of petitioner No.2, as the sanctioning authority was required to apply its mind to the entire material placed before him and on examination thereof, was required to reach a conclusion fairly, objectively and consistent with public interest as to whether or not in the facts and circumstances, sanction could be accorded to prosecute the government servant.

21. As a fallout and consequence of aforesaid discussion, the writ petition deserves to be and is hereby **allowed.** The impugned sanction

order dated 04.04.2025 is set aside and the consequent proceedings emanating from the sanction order are quashed.

22. *Petition allowed.*

23. No order as to costs.

(VIVEK KUMAR SINGH)
JUDGE

(AJAY KUMAR NIRANKARI)
JUDGE

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PARITOSH
KUMAR

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