

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (CrI.) No(s). 2576/2019

(Arising out of impugned final judgment and order dated 18-12-2018 in CRLMA No. 250/2015 passed by the High Court of Uttarakhand at Nainital)

MAJOR M. C. ASHISH CHINAPPA

Petitioner(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION

Respondent(s)

(IA No. 45149/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 22-09-2021 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE KRISHNA MURARI

For Petitioner(s) Ms. Neela Gokhale, Adv.
Mr. Ilam Paridi, Adv.
Ms. Shradha Agrawal, Adv.
Mr. Kushal Choudhary, Adv.
Ms. Anannya Ghosh, AOR
Mr. Brian Henry Moses, Adv.

For Respondent(s) Mr. K.M.Nataraj, ASG
Ms. Swati Ghildiyal, Adv.
Mr. Varun Chugh, Adv.
Mr. Navanjay Mahapatra, Adv.
Mr. Akshay Amritanshu, Adv.
Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

We have heard Ms. Neela Gokhale, learned counsel for the petitioner and Mr. K.M. Nataraj, learned Additional Solicitor General for the respondent-CBI.

The contention urged on behalf of the petitioner is that the Trial Court has taken cognizance of the offence without there being

valid sanction as per the provision of Section 19 of the Prevention of Corruption Act, 1988.

It is undisputed that cognizance has already been taken and trial is in progress. This Court in Dinesh Kumar v. Chairman, Airport Authority of India and Another (2012) 1 SCC 532 has held that the validity of sanction order can also be raised in the course of trial which reads as under :

“13. In our view, having regard to the facts of the present case, now since cognizance has already been taken against the appellant by the trial Judge, the High Court cannot be said to be have erred in leaving the question of validity of sanction open for consideration by the trial court and giving liberty to the appellant to raise the issue concerning validity of sanction order in the course of trial. Such course is in accord with the decision of this Court in Parkash Singh Badal vs. State of Punjab (2007) 1 SCC 1 and not unjustified.”

Since the cognizance has already been taken against the petitioner and the trial is in progress, it is open for the petitioner to raise the question of validity of sanction during the course of trial and the Trial Court is bound to consider the said question at an appropriate stage.

With these clarifications/observations, the Special Leave Petition is disposed of.

The trial court is directed to expedite the trial.

Pending application also stands disposed of.

(ANITA MALHOTRA)
COURT MASTER

(KAMLESH RAWAT)
COURT MASTER