

**(2003) 05 P&H CK 0193**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Criminal Miscellaneous No. 6812-M of 1998

Bram Dev

APPELLANT

Vs

State of Punjab

RESPONDENT

**Date of Decision:** May 14, 2003

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 482

**Citation:** (2003) 6 CriminalCC 9 : (2003) 3 RCR(Criminal) 517

**Hon'ble Judges:** Ashutosh Mohunta, J

**Bench:** Single Bench

**Advocate:** Dinesh Goyal, for the Appellant; J.S. Bedi, DAG, Punjab, for the Respondent

**Judgement**

@JUDGMENTTAG-ORDER

Ashutosh Mohunta, J.

This is a petition u/s 482 of the Code of Criminal Procedure for quashing the proceedings pending against the petitioner in pursuance of F.I.R. No. 143 dated October 26, 1989 u/s 7-13(2) of the Prevention of Corruption Act, 1998 registered at Police Station Longowal.

2. Briefly the facts of the case are that the petitioner was working as an Assistant Executive Engineer with the Punjab State Electricity Board at Longowal. The petitioner is alleged to have accepted Rs. 1,000/- as illegal gratification from Gurcharan Singh for showing him favour in matter of transfer of connection of electric tubewell from the name of Piara Singh to that of Gurcharan Singh. Gurcharan Singh informed the Vigilance Department who laid a trap and the petitioner was apprehended while accepting Rs. 1,000/- as illegal gratification.

3. As the petitioner was a Government servant, therefore, sanction was sought for his prosecution. The Director (Personnel), Punjab State Electricity Board, Patiala, however refused to grant sanction as according to him no case was made out

against the petitioner. The sanction was refused vide order dated 24.8.1992 (Annexure P-2/T). Thereafter, the respondent again applied for the grant of sanction for prosecution of the petitioner. This also was refused by the Deputy Secretary (Technical-2), Patiala, vide his order dated 4.10.1994. As no sanction was granted to prosecute the petitioner, therefore, the State kept silent. In the meantime, the petitioner retired on July 31, 1994. After his retirement the respondent has presented the present challan, as according to the (sic) after retirement no sanction was required to be obtained from the concerned authorities.

4. Learned counsel for the petitioner contends that the incident in the present case relates to October 26, 1989. It is contended that throughout the period during which the petitioner was a Government servant the respondent could not obtain sanction for his prosecution. It is only after he retired that the present challan has been presented. It is further contended by the learned counsel for the petitioner that sanction would be required even if a public servant ceases to hold office on the date of taking cognizance of the offence. He relies on the decision in R. Balakrishna Pillai Vs. State of Kerala, . It was held that sanction would be sine qua non so that needless or false prosecutions do not take place against public servants.

5. In the present case the petitioner being a Government servant on the date of the alleged offence i.e. 26.10.1989, it was necessary for the State to have obtained sanction before prosecuting him. The State sought the sanction of the department while he was in service. On both the occasions the request for sanction was declined. Even after the retirement of the petitioner it was essential for the respondent to have obtained sanction before filing its challan against the petitioner.

6. In this view of the matter, I quash F.I.R. No. 143 dated 26.10.1989 u/s 7-13(2) of the Prevention of Corruption Act registered at Police Station Longowal as well as all further proceedings in pursuance to the holding of the F.I.R.