

## D.K. Tyagi Vs State

**Court:** Delhi High Court

**Date of Decision:** July 15, 2010

**Acts Referred:** Criminal Procedure Code, 1973 (CrPC) â€” Section 197, 482

Penal Code, 1860 (IPC) â€” Section 120B, 420, 468, 471

Prevention of Corruption Act, 1988 â€” Section 13(1), 13(2)

**Citation:** (2010) 6 ILR Delhi 592

**Hon'ble Judges:** S.N. Dhingra, J

**Bench:** Single Bench

**Advocate:** Anup Kr. Sinha and A.K. Pandey, for the Appellant; Harish Gulati and Anindya Malhotra, for the Respondent

**Final Decision:** Dismissed

### Judgement

Shiv Narayan Dhingra, J.

The present petition has been filed by the petitioner u/s 482 Cr.P.C. for quashing of FIR No. RC.AC.3/2004-

A0002 dated 24.05.2004, lodged u/s 13(2) r/w Section 13(1)(d) of Prevention of Corruption Act and Section 120B IPC r/w Section

420/468/471 IPC, P.S. ACU-III, CBI.

2. The main ground taken by the petitioner is that the respondent had not obtained sanction against the petitioner u/s 197 Cr.P.C. It is contended

that since the petitioner was charged with the offence under IPC along with offences under the provisions of corruption act and the offence under

IPC could not be separated from the offences of prevention of corruption act and even if no sanction was necessary under Prevention of

Corruption Act, sanction u/s 197 Cr.P.C. was necessary for offence under IPC since the petitioner was a public servant.

3. It is not disputed that the petitioner was terminated from the service after holding an inquiry. The Supreme Court in State of Kerala Vs. K.

Karunakaran, , observed as under:

In this case, as stated earlier, the respondent was the Chief Minister of the State of Kerala when the offences were alleged to have been committed

by him. He demitted the office of the Chief Minister and when the charge-sheet was filed, he was a Member of the Parliament. There is no

allegation that he has misused or abused his office as a Member of Parliament. Therefore, no permission of the Speaker of Lok Sabha would be

necessary to prosecute him despite the fact that he was a Member of Parliament when the charge-sheet was filed.

For the reasons stated above, I hold that permission of the Speaker of Lok Sabha is not necessary to prosecute the respondent for the offences

alleged to have committed by him under the P.C. Act. I set aside the impugned order and allow this revision-petition filed by the State.

4. In view of above decision, I consider that no sanction was necessary for prosecution of the petitioner under Prevention of Corruption Act. So

far as sanction u/s 197 Cr.P.C. for prosecution of the accused under IPC offences is concerned, even if it is considered that sanction was

necessary and no cognizance could be taken under IPC offences against the accused, in my opinion the FIR against the accused cannot be

quashed and accused will have to face trial for the offences under Prevention of Corruption Act. The plea taken by the accused that the offences

cannot be segregated is not tenable. A criminal act may attract several penal provisions of different statutes. A person, for want of relevant sanction

may be acquitted under one statute where obtaining of sanction was mandatory, but he can be convicted under other statutes where obtaining of

sanction is not necessary. I therefore consider that the FIR cannot be quashed on the ground of not obtaining sanction u/s 197 Cr.P.C. since FIR

also mentions of offences under IPC. As the FIR is under various provisions of P.C. Act, the accused is liable to face trial before the Trial Court

and raise the issue of non accordance of sanction for IPC offences. The petition is hereby dismissed.