

Sanction for Prosecution of Public Servants

By- Ravi Ranjan*, Shama Parveen#, Abhay Singh^ψ

“Be you ever so high, the law is above you. Investigation into every accusation made against each and every person on a reasonable basis, irrespective of the position and status of that person, must be conducted and completed expeditiously”.

- Vineet Narain Vs. Union of India¹

1. Sanction for prosecution

Section 197 of Code of Criminal Procedure, 1973 and Section 19 of Prevention of Corruption Act, 1988 bars the Court from taking cognizance of the offence alleged to have been committed by the public servant except with the previous sanction of the Government. A Constitution Bench of the Supreme Court upheld the Constitutional validity of S.197 Cr.P.C in *Matajog Dobeys vs. H.C.Bhari*² and a Two Judge Bench cleared the vires of S.19 of PC Act in *Manzoor Ali Khan vs. Union of India*.³

The relevant extract of Section 197(1) of Criminal Procedure Code (Cr.P.C.) is reproduced below:

“**197. Prosecution of Judges and public servants.** (1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction save as otherwise provided in the Lokpal and Lokayuktas Act, 2013

- (a) in the case of 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, of the Central Government;
- (b) in the case of a person who is employed or, as the case may be,

* Civil Judge (J.D.), Didihat, Pithoragarh, # 2nd Additional Civil Judge (J.D.), Kashipur, Udham Singh Nagar, ^ψ Judicial Magistrate, Vikas Nagar, Dehradun.

1. AIR 1998 SC 889

2. AIR 1956 SC 44

3. (2014)7 SCC 321