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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
B.V. NAGARATHNA; J., SATISH CHANDRA SHARMA; J.
CRIMINAL APPEAL NO.1759 OF 2025; APRIL 03, 2025
(Arising out of Special Leave Petition (Criminal) No.6053 of 2021)
G.C. MANJUNATH & OTHERS *versus* **SEETARAM**

Code of Criminal Procedure, 1973; Section 197 - Police Act, 1963 (Karnataka); Section 170 - Prior sanction under Section 197 of the CrPC and Section 170 of the Karnataka Police Act is required to prosecute police officers even for acts exceeding their authority, as long as a reasonable nexus with their official duties existed. *(Relied: D. Devaraja v. Owais Sabeer Hussain, (2020) 7 SCC 695; Para 38 & 39)*

For Appellant(s): Mr. Rahul Kaushik, Sr. Adv. Mr. T. R. B. Sivakumar, AOR Mr. Anil C Nishani, Adv. Mr. Jayaramu H L, Adv. Mr. Meenesh Dubey, Adv. Mr. Krishna M Singh, Adv. Mr. Jyoti Mishra, Adv. Mr. Vishwesh Murnal, Adv. Mr. Gaurav Chavan, Adv. Mr. Jayaramu H.L., Adv.

For Respondent(s): Mr. Rohan Thwani, Adv. Mr. Karunakar Mahalik, AOR Mr. Aakriti, Adv. Mrs. Saloni Sharan, Adv. Mr. Sarbendra Kumar, Adv.

J U D G M E N T

NAGARATHNA, J.

Leave granted.

2. Being aggrieved by the order passed by the High Court of Karnataka dated 17.03.2021 in Criminal Petition No.4512 of 2020 in refusing to quash the order dated 11.06.2020 passed by the learned LXI City Civil and Sessions Judge, Bengaluru City affirming the summoning order dated 07.05.2016 passed by the learned VII Additional Chief Metropolitan Magistrate, Bengaluru against the accused persons under Sections 326, 358, 500, 501, 502, 506 (b) read with Section 34 of the Indian Penal Code, 1860 (for short "IPC"), the appellants/accused Nos.2, 3, and 5 have preferred this appeal.

3. Briefly stated facts of the case are that the complainant/respondent herein has been prosecuting certain police officers for their illegal activities. Due to this, the complainant alleged that some police officers had engaged accused Nos.1 to 5, who were also police officers, to take revenge against him. Accused Nos.1 to 5 were serving at the Mahalakshmi Layout Police Station, and accused No.6 is the daughter of the proprietor of Bruna Weekly Magazine.

4. The complainant stated that in order to seek revenge, accused Nos.1 to 5 lodged false complaints against the complainant and registered fabricated cases. They also threatened him with dire consequences. On 10.04.1999, at about 10:30 p.m., accused Nos.2, 3, and 5 trespassed into his house, dragged him out, and forcibly took him to the Mahalakshmi Layout Police Station. There, the accused Nos.1 to 5 allegedly assaulted him after stripping him of his clothes and continued to torture him throughout the night.

5. On 11.04.1999, accused Nos.2, 3, and 5 allegedly procured a slate, forced the complainant to hold it with his name written on it, and accused No. 6 took his photograph at that time. Subsequently, the complainant was produced before the Magistrate after registering false cases in Crime Nos.137 and 138 of 1999. The complainant showed his injuries to the learned Magistrate, who referred him to a hospital. He was later released and eventually acquitted in the above cases.

6. It was further averred that on 27.10.1999, at about 9:45 p.m., accused Nos.3 to 5 stopped the complainant while he was riding his scooter. They slapped him, engaged an autorickshaw, and took him to the Mahalakshmi Layout Police Station. Accused No.1 was present at the station and abused the complainant in filthy language, demanding that he should withdraw the case filed by him. It was further alleged that accused No.1 then instructed accused No.3 to take possession of the complainant's belongings. Accused No.3 removed his gold chain, wristwatch, purse, spectacles, and Rs.26,000/- in cash, wrapped them in a handkerchief, and handed over the same to accused No.1. Thereafter, they stripped the complainant of his clothes and assaulted him throughout the night using a lathi and an iron rod causing dislodgement of his tooth leading to profuse bleeding.

7. The complainant further stated that the accused persons continued to torture the complainant and later produced him before the Magistrate, registering a false case under Crime No.448 of 1999 for the offences under Section 392 of the IPC. The complainant reported the ill-treatment to the learned Magistrate, who directed the jail authorities to provide him with medical treatment. He was released from custody and sought treatment at Victoria Hospital on 04.11.1999.

8. Subsequently, accused No.6, with the intent to defame and ruin the complainant's life, published the illegally taken photographs along with defamatory slogans in the Bruna Weekly Magazine on 25.01.2001, 10.09.2001, and 15.09.2001. Accused No.6 also filed a case against the complainant in Crime No.146 of 2005. The complainant alleged that accused Nos.1 to 6 have continuously threatened him, causing him mental agony, and have even threatened to kill him if he does not withdraw the complaints filed against them.

9. Therefore, the complainant approached the Court of learned VII Additional Chief Metropolitan Magistrate, Bengaluru by filing a private complaint P.C.R. No.6754 of 2007 dated 21.04.2007 and prayed for taking cognisance of the offences punishable under Sections 196, 199, 200, 201, 211, 326, 327, 345, 338, 357, 368, 395, 397, 500, 501, 502, 506(b) read with Section 120B of the IPC against accused Nos. 1 to 6.

10. The learned VII Additional Chief Metropolitan Magistrate by order dated 26.12.2009, recorded the sworn statement of the complainant, took cognisance of the complaint dated 21.04.2007 and issued summons to accused No.1 to 6 in C.C No. 368 of 2010. Being aggrieved, accused No.6 approached the High Court by way of filing Criminal Petition No.4364 of 2010 challenging the order dated 26.12.2009. By order dated 30.03.2012, the High Court set aside the order dated 26.12.2009 insofar as accused No.6 is concerned and remanded the matter to the learned Magistrate for a fresh consideration.

11. Thereafter, by order dated 07.05.2016, the learned VII Additional Chief Metropolitan Magistrate, held that there was *prima facie* material to register the case against accused Nos.1 to 5 for the offences under Sections 326, 358, 500, 501, 502, 506 (b) read with Section 34 of the IPC and accordingly ordered to register a criminal case against accused Nos.1 to 5 as well as issued summons against accused Nos.1 to 5. However, in the said order, the learned VII Additional Chief Metropolitan Magistrate, found that the materials on record are insufficient to take cognisance of the offence punishable under Sections 196, 199, 200, 201, 211, 34, 338, 357, 367, 368, 395 and 397 of the IPC. Insofar as the aspect of delay in filling the private complaint is concerned, the learned VII Additional Chief Metropolitan Magistrate observed that sufficient material was produced to prove that the complainant was pursuing this case by way of writing letters/complaints to the Higher Officials. Further, the charges against accused No.6 were dropped.

12. Being aggrieved by the order dated 07.05.2016 passed by the learned VII Additional Chief Metropolitan Magistrate, accused Nos.1 to 3 and 5 approached the Court of LXI City Civil and Sessions Judge, Bengaluru City by way of filing Criminal Revision Petition No.720 of 2017. By order dated 11.06.2020, the learned LXI City Civil and Sessions Judge, Bengaluru City dismissed the Criminal Revision Petition No.720 of 2017 filed by the accused Nos.1 to 3 and 5.

13. Being aggrieved, the accused Nos.1 to 3 and 5 approached the High Court by way of filing Criminal Petition No.4512 of 2020 praying to set aside the order dated 07.05.2016 passed by the learned VII Additional Chief Metropolitan Magistrate, Bengaluru in taking cognisance of offences punishable under Sections 326, 358, 500, 501, 502 and 506(b) read with Section 34 of the IPC against them and in registering the case in C.C. No.368 of 2010 and issuing summons against them as well as the order dated 11.06.2020 passed by the learned LXI City Civil and Sessions Judge, Bengaluru City predominantly on the ground that a prior order of sanction under Section 197 of the Code of Criminal Procedure, 1973 (for short "CrPC") and Section 170 of the Karnataka Police Act, 1963 (for short "Police Act") was not obtained from the Government before prosecuting the accused persons.

14. During the pendency of the Criminal Petition No.4512 of 2020 before the High Court, accused No.1 passed away. By impugned order dated 17.03.2021, the High Court dismissed the Criminal Petition No.4512 of 2020 filed by accused No.2, 3 and 5. The High Court observed that sufficient material was placed on record against the accused persons for facing criminal trial. As regards the plea of limitation under Section 197 of the CrPC read with Section 170 of the Police Act, the High Court further observed that the learned VII Additional Chief Metropolitan Magistrate, Bengaluru and the learned LXI City Civil and Sessions Judge, Bengaluru City have not gone into the aspect of obtaining a prior order of sanction. However, the High Court held that it was evident that the complainant made sufficient efforts to get the order of sanction. Further, the High Court noted that the accused persons exceeded their limits and assaulted the complainant resulting in grave injuries. Ergo, the High Court held that the same cannot be termed as an act done in the discharge of the official duty and protection cannot be given under Section 197 of the CrPC. In other words, the High Court held that an order of sanction under Section 197 of the CrPC and Section 170 of the Police Act was not necessary in the instant case. The High Court noted that the judgment of this Court in ***D. Devaraja vs. Owais Sabeer Hussain, (2020) 7 SCC 695 ("D. Devaraja")*** relied upon by the accused persons cannot come to their rescue. The High Court observed that the Supreme Court in the said judgment has categorically held that the protection given under Section 197 of the CrPC and Section 170 of the Police Act has its own limitation and that the said protection would be available only for the acts done by the public servant in discharge of his official duty or if it is reasonably connected with the discharge of his official duties and not in instances such as the present case. Being aggrieved, accused Nos.2, 3, and 5 have preferred the present appeal before this Court.

15. During the pendency of the present proceedings, the learned senior counsel appearing for the accused persons submitted that accused Nos.1, 3, and 4 have passed away, resulting in abatement of the criminal proceedings against them. Consequently, the present appeal survives only insofar as accused Nos.2 and 5 are concerned. It was further submitted that accused Nos.2 and 5 have attained superannuation from their posts in the years 2015 and 2020, respectively.

16. We have heard the learned senior counsel for the appellants/accused No.2 and 5 and the learned counsel for the respondent/complainant. We have perused the material on record.

17. Learned senior counsel appearing for the appellants/ accused persons submitted that there has been an inordinate and unexplained delay in filing the present complaint. In this regard, it was contended that the complaint was lodged only on 21.04.2007, pertaining to an alleged incident that is stated to have occurred during the period 1999-2000, while the accused were in active police service. Learned senior counsel further argued that several criminal cases had been registered against the complainant, in which he was ultimately acquitted in the year 2006. It was pointed out that immediately following his acquittal, the present complaint came to be filed in 2007. In this backdrop, it was submitted that the present complaint is nothing but a retaliatory measure, filed vindictively against the accused persons solely for having discharged their official duties as police officials.

18. Learned senior counsel further contended that, admittedly, the complaint was filed without obtaining the requisite prior sanction as mandated under Section 197 of the CrPC and Section 170 of the Police Act. It was submitted that the High Court erroneously observed that the acts alleged against the accused persons bore no connection with their official duties. Accordingly, it was argued that the High Court committed an error in concluding that prior sanction was not necessary before initiating criminal proceedings against the accused persons.

19. Learned senior counsel further submitted that the expression "under colour or in excess of any such duty" employed in Section 170 of the Police Act is of particular significance. It was contended that the offences alleged against the accused persons would squarely fall within the ambit of the phrase "under colour or in excess of any such duty." Therefore, it was urged that obtaining prior sanction from the competent Government authority is an indispensable prerequisite before entertaining prosecution against the accused persons. In support of this contention, reliance was placed on the decision of this Court in ***Virupaxappa Veerappa Kadampur vs. State of Mysore, AIR 1963 SC 849 ("Virupaxappa").*** In the said case, while interpreting Section 161(1) of the Bombay Police Act, 1951, this Court held that the phrase "under colour of duty" encompasses acts done by police officers ostensibly in the discharge of their official functions, even if they exceeded the authority vested in them under the Act.

20. Learned senior counsel further contended that the High Court misinterpreted the ratio laid down by this Court in ***D. Devaraja***. In this regard, it was submitted that in the said judgment, this Court unequivocally held that even if a police officer acts in excess of the scope of his official duties, so long as there exists a reasonable nexus between the act complained of and the discharge of his official functions, the mere fact of exceeding authority would not, by itself, disentitle the officer from the statutory safeguard of obtaining prior government sanction before initiation of criminal proceedings. In view of the foregoing submissions, the learned senior counsel submitted that the impugned order passed by the High Court is liable to be set aside.

21. Per contra, learned counsel appearing for the respondent/complainant vehemently contended that, at the time of the complainant's arrest in connection with certain criminal cases, he was subjected to physical assault at the hands of the accused persons. It was further submitted that this fact was duly brought to the attention of the learned Magistrate, who, on each occasion, issued directions to both the Jailor and the Investigating Officer to ensure that the complainant was provided with necessary medical treatment for the injuries allegedly sustained during the said assault.

22. Learned counsel further submitted that he has placed relevant documents on record before this Court, including the wound certificate, which clearly reflects that the complainant sustained grievous injuries, including broken teeth. Additionally, it was pointed out that the X-ray report corroborates the medical findings, indicating the presence of a healing socket and confirming that Injury No. 2 is grievous in nature. In light of these materials, learned counsel for the complainant argued that a prima facie case was clearly made out against the accused persons. Consequently, learned VII Additional Chief Metropolitan Magistrate, Bengaluru took cognisance of the offences against them by order dated 07.05.2016, which was subsequently affirmed by the learned LXI City Civil and Sessions Judge, Bengaluru City, by order dated 11.06.2020, and further upheld by the High Court in the impugned order.

23. It was further submitted that, in the present case, learned VII Additional Chief Metropolitan Magistrate duly considered the materials placed on record, which demonstrate that the complainant had made consistent efforts from the year 2002 to 2006 to obtain sanction for prosecution. The learned Magistrate has also noted that the complainant had addressed multiple representations to the head of the department seeking the requisite sanction; however, no conclusive or effective response was forthcoming from the authorities. Learned counsel for the complainant further pointed out that the High Court, in the impugned order, similarly recorded that all necessary steps were taken by the complainant to secure the sanction, but despite his earnest efforts, the competent authority failed to grant the same.

24. Learned counsel for the complainant submitted that the accused persons "under the colour of official duty" removed his clothes and had abused and assaulted him. These acts neither have any bearing on official duties nor are they connected remotely to official duties. Instead, it was submitted that the accused persons exceeded the limits allowed by the law. The act of raid and seizure is part of official duties but the further acts of the accused persons cannot fall within the scope of official duty. It was argued that even the High Court noted that the brutal conduct of the accused persons, which included not only breaking the complainant's teeth but also causing grievous injuries, clearly demonstrates that they far exceeded the bounds of their official duties. Accordingly, learned counsel for the complainant submitted that the High Court was justified in holding that criminal proceedings could have been initiated without prior sanction.

25. It was argued that this Court in ***Bakhshish Singh Brar vs. Gurmej Kaur, (1987) 4 SCC 663 ("Bakhshish Singh")*** dealt with the issue of sanction under Sections 197 and 196 of the CrPC. It was submitted that the said case involved a police officer accused of causing grievous injuries and death during the course of a raid and search. It was submitted that in the said judgment, this Court noted that, in order to determine whether the officer, while ostensibly acting in the discharge of his official duties, had exceeded the limits of his official capacity, the court must first take cognisance of the offence. Accordingly, this Court observed that, in such circumstances, the trial need not be stayed merely due to the absence of sanction for prosecution at the initial stage. Hence, learned counsel for the complainant submitted that the High Court was justified in holding that a prior sanction was not necessary in this case thereby dismissing the criminal petition filed by the accused persons.

26. Upon hearing the learned counsel for the rival parties and after a thorough examination of the material available on record, the core issue that emerges for determination is, whether, the learned VII Additional Chief Metropolitan Magistrate was legally justified in taking cognisance of the offences alleged against the accused persons

in P.C.R. No.6754/2007, in the absence of the prior sanction contemplated under Section 197 of the CrPC read with Section 170 of the Police Act. The real question, therefore, is whether the acts complained of are reasonably connected to, or performed, in the purported discharge of the official duties of the accused persons, so as to attract the statutory protection afforded by the said provisions.

27. Section 170 of the Karnataka Police Act reads as follows:

"170. Suits or prosecutions in respect of acts done under colour of duty as aforesaid not to be entertained without sanction of Government.—(1) In any case of alleged offence by the Commissioner, a Magistrate, Police Officer or Reserve Police Officer or other person, or of a wrong alleged to have been done by such Commissioner, Magistrate, Police Officer or Reserve Police Officer or other person, by any act done under colour or in excess of any such duty or authority as aforesaid, or wherein it shall appear to the court that the offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained except with the previous sanction of the Government.

(2) In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrongdoer one month's notice at least of the intended suit with sufficient description of the wrong complained of, failing which such suit shall be dismissed.

(3) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service, and shall state whether any, and if so, what tender of amends has been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof."

28. Section 197 of the CrPC is set out hereinbelow for convenience:

"**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 cognisance of such offence except with the previous sanction—

(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, of the Central 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, of the State Government:"

29. A plain reading of Section 170 of the Police Act reveals that the legislature, in its wisdom, has sought to afford a statutory safeguard to certain public functionaries, including Commissioners, Magistrates, Police Officers, and Reserve Police Officers. The provision is categorical in its stipulation that where any offence is alleged to have been committed, or any wrong alleged to have been occasioned, by such officials in the discharge of their duties or in the exercise of their lawful authority, no court shall entertain any prosecution or suit against them without the prior sanction of the Government. Importantly, the protective umbrella of Section 170 is not confined solely to acts strictly within the bounds of authority but extends to acts done ostensibly in excess of such authority, so long as there exists a reasonable nexus between the act complained of and the discharge of official functions.

30. A careful reading of Section 197 of the CrPC unequivocally delineates a statutory bar on the Court's jurisdiction to take cognisance of offences alleged against public

servants, save without the prior sanction of the appropriate government. The essential precondition for the applicability of this provision is that the alleged offence must have been committed by the public servant while acting in the discharge of, or purported discharge of, their official duties. The protective mantle of Section 197 of the CrPC, however, is not absolute; it does not extend to acts that are manifestly beyond the scope of official duty or wholly unconnected thereto. Acts bereft of any reasonable nexus to official functions fall outside the ambit of this safeguard and do not attract the bar imposed under Section 197 of the CrPC.

31. Both the aforesaid provisions serve a similar protective function. While Section 170 of the Police Act mandates prior sanction for prosecuting a public official for "acts done under colour of, or in excess of, such duty or authority," Section 197 of the CrPC requires prior sanction where a public official is accused of having committed “any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty.” The underlying rationale of both these statutory provisions is to safeguard public functionaries from frivolous or vexatious prosecution for actions undertaken in good faith in the discharge of, or purported discharge of, their official duties, thereby ensuring that the fear of litigation does not impede the efficient functioning of public administration.

32. This Court in ***B. Saha vs. M.S. Kochar, (1979) 4 SCC 177 (“B. Saha”)*** observed that the words “any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty” employed in Section 197 of the CrPC, are capable of a narrow as well as a wide interpretation. This Court observed that if these words are construed too narrowly, the section will be rendered altogether sterile, for, “it is no part of an official duty to commit an offence, and never can be”. In the wider sense, these words will take under their umbrella every act constituting an offence, committed in the course of the same transaction in which the official duty is performed or purports to be performed. The right approach to the import of these words lies between these two extremes. While on the one hand, it is not every offence committed by a public servant while engaged in the performance of his official duty, that is entitled to the protection of Section 197 of the CrPC, an act constituting an offence, directly and reasonably connected with his official duty will require sanction for prosecution under the said provision. As pointed out by Ramaswami, J. in ***Baijnath vs. State of Madhya Pradesh, (AIR 1966 SC 220),*** *“it is the quality of the act that is important and if it falls within the scope and range of his official duties, the protection contemplated under Section 197 CrPC will be attracted”.*

33. This Court in ***Amod Kumar Kanth vs. Association of Victim of Uphaar Tragedy, (2023) 16 SCC 239*** held that the State performs its obligations through its officers/public servants and every function performed by a public servant is ultimately aimed at achieving public welfare. Often, their roles involve a degree of discretion. But the exercise of such discretion cannot be separated from the circumstances and timing in which it is exercised or, in cases of omission, when the omission occurs. In such circumstances, the courts must address, whether the officer was acting in the discharge of official duties. It was observed that even when an officer acts under the purported exercise of official powers, they are entitled to protection under Section 197 of the CrPC. This protection exists for a valid reason so that the public servants can perform their duties fearlessly, without constant apprehension of legal action, as long as they act in good faith. While Section 197 of the CrPC does not explicitly mention the requirement of good faith, such a condition is implied and is expressly included in several other statutes that offer protection to public servants from civil and criminal liability.

34. While dealing with the provisions of Section 197 of the CrPC, read with Section 170 of the Police Act, this Court in ***D. Devaraja*** observed that not every offence committed by a police officer automatically gets this protection. The safeguard under Section 197 of the CrPC and Section 170 of the Police Act is limited. It applies only if the alleged act is reasonably connected to the officer's official duties. The law does not offer protection if the official role is used as a mere excuse to commit wrongful acts. However, it was held that the protection of prior sanction will be available when there is a reasonable connection between the act and their duty. While enunciating when the protection of prior sanction will be applicable, this Court held that even if a police officer exceeds his official powers, as long as there is a reasonable connection between the act and his duty, they are still entitled to the protection requiring prior sanction. Excessiveness alone does not strip them of this safeguard. The language of both Section 197 of the CrPC and Section 170 of the Police Act is clear that sanction is required not only for acts done in the discharge of official duty as well as for the acts purported to be done in the discharge of official duty and/or acts done "under colour of or in excess of such duty or authority". Sanction becomes mandatory if there is a reasonable connection between the act and the officer's official duties, even if the officer acted improperly or exceeded his authority. Therefore, if a complaint against a police officer involves actions reasonably related to his official role, the Court cannot take cognisance unless sanction from the appropriate Government has been obtained under Section 197 of the CrPC and Section 170 of the Police Act. The relevant portion from the abovementioned judgment is as follows:

"66. Sanction of the Government, to prosecute a police officer, for any act related to the discharge of an official duty, is imperative to protect the police officer from facing harassive, retaliatory, revengeful and frivolous proceedings. The requirement of sanction from the Government, to prosecute would give an upright police officer the confidence to discharge his official duties efficiently, without fear of vindictive retaliation by initiation of criminal action, from which he would be protected under Section 197 of the Code of Criminal Procedure, read with Section 170 of the Karnataka Police Act. At the same time, if the policeman has committed a wrong, which constitutes a criminal offence and renders him liable for prosecution, he can be prosecuted with sanction from the appropriate Government.

67. Every offence committed by a police officer does not attract Section 197 of the Code of Criminal Procedure read with Section 170 of the Karnataka Police Act. The protection given under Section 197 of the Criminal Procedure Code read with Section 170 of the Karnataka Police Act has its limitations. The protection is available only when the alleged act done by the public servant is reasonably connected with the discharge of his official duty and official duty is not merely a cloak for the objectionable act. An offence committed entirely outside the scope of the duty of the police officer, would certainly not require sanction. To cite an example, a policeman assaulting a domestic help or indulging in domestic violence would certainly not be entitled to protection. However, if an act is connected to the discharge of official duty of investigation of a recorded criminal case, the act is certainly under colour of duty, no matter how illegal the act may be.

68. If in doing an official duty a policeman has acted in excess of duty, but there is a reasonable connection between the act and the performance of the official duty, the fact that the act alleged is in excess of duty will not be ground enough to deprive the policeman of the protection of the government sanction for initiation of criminal action against him.

69. The language and tenor of Section 197 of the Code of Criminal Procedure and Section 170 of the Karnataka Police Act makes it absolutely clear that sanction is required not only for acts done in discharge of official duty, it is also required for an act purported to be done in discharge of official duty and/or act done under colour of or in excess of such duty or authority.

70. To decide whether sanction is necessary, the test is whether the act is totally unconnected with official duty or whether there is a reasonable connection with the official duty. In the case of

an act of a policeman or any other public servant unconnected with the official duty there can be no question of sanction. However, if the act alleged against a policeman is reasonably connected with discharge of his official duty, it does not matter if the policeman has exceeded the scope of his powers and/or acted beyond the four corners of the law.

35. Recently, this Court in ***Gurmeet Kaur vs. Devender Gupta, 2024 SCC OnLine SC 3761*** dealt with the object and purpose of Section 197 of the CrPC which reads as follows:

"22. … the object and purpose of the said provision is to protect officers and officials of the State from unjustified criminal prosecution while they discharge their duties within the scope and ambit of their powers entrusted to them. A reading of Section 197 of the CrPC would indicate that there is a bar for a Court to take cognisance of such offences which are mentioned in the said provision except with the previous sanction of the appropriate government when the allegations are made against, inter alia, a public servant. There is no doubt that in the instant case the appellant herein was a public servant but the question is, whether, while discharging her duty as a public servant on the relevant date, there was any excess in the discharge of the said duty which did not require the first respondent herein to take a prior sanction for prosecuting the appellant herein. In this regard, the salient words which are relevant under subsection (1) of Section 197 are "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 cognisance of such offence except with the previous sanction". Therefore, for the purpose of application of Section 197, a sine qua non is that the public servant is accused of any offence which had been committed by him in "discharge of his official duty". The said expression would clearly indicate that Section 197 of the CrPC would not apply to a case if a public servant is accused of any offence which is de hors or not connected to the discharge of his or her official duty."

36. In light of the aforesaid judgments, the guiding principle governing the necessity of prior sanction stands well crystallised. The pivotal inquiry is whether the impugned act is reasonably connected to the discharge of official duty. If the act is wholly unconnected or manifestly devoid of any nexus to the official functions of the public servant, the requirement of sanction is obviated. Conversely, where there exists even a reasonable link between the act complained of and the official duties of the public servant, the protective umbrella of Section 197 of the CrPC and Section 170 of the Police Act is attracted. In such cases, prior sanction assumes the character of a sine qua non, regardless of whether the public servant exceeded the scope of authority or acted improperly while discharging his duty.

37. Turning to the case at hand, there is little doubt that the allegations levelled against the accused persons are grave in nature. Broadly classified, the accusations against the accused persons encompass the following: (1) abuse of official authority by the accused persons in allegedly implicating the complainant in fabricated criminal cases, purportedly driven by malice or vendetta; (2) physical assault and ill-treatment of the complainant by the accused persons, constituting acts of alleged police excess; (3) wrongful confinement of the complainant; and (4) criminal intimidation of the complainant.

38. In the circumstances at hand, we are of the considered opinion that the allegations levelled against the accused persons, though grave, squarely fall within the ambit of "acts done under colour of, or in excess of, such duty or authority," and "acting or purporting to act in the discharge of his official duty," as envisaged under Section 170 of the Police Act and Section 197 of the CrPC respectively. This Court, while adjudicating on instances of alleged police excess, has consistently held in ***Virupaxappa*** and ***D. Devaraja***, that where a police officer, in the course of performing official duties, exceeds the bounds of such duty, the protective shield under the relevant statutory provisions continues to apply, provided there exists a reasonable nexus between the impugned act and the discharge of

official functions. It has been categorically held that transgression or overstepping of authority does not, by itself, suffice to displace the statutory safeguard of requiring prior government sanction before prosecuting the public servant concerned.

39. In the present case, it is an admitted position that the complainant was declared a rowdy sheeter by the Deputy Commissioner of Police, Law and Order (West), Bengaluru City, pursuant to a request made by the Mahalakshmi Layout Police Station, Bengaluru, upon due consideration of the criminal cases registered against the complainant, vide order dated 23.08.1990. Subsequently, multiple criminal cases have been instituted against the complainant. It is in the course of the investigation of these cases that the instant allegations have been levelled against the accused persons. As noted above, any action undertaken by a public officer, even if in excess of the authority vested in them or overstepping the confines of their official duty, would nonetheless attract statutory protection, provided there exists a reasonable nexus between the act complained of and the officer's official functions.

40. In the present case, it is evident that the actions attributed to the accused persons emanate from the discharge of their official duties, specifically in connection with the investigation of criminal cases pending against the complainant. As previously observed, a mere excess or overreach in the performance of official duty does not, by itself, disentitle a public servant from the statutory protection mandated by law. The safeguard of obtaining prior sanction from the competent authority, as envisaged under Section 197 of the CrPC and Section 170 of the Police Act cannot be rendered nugatory merely because the acts alleged may have exceeded the strict bounds of official duty. In view of the foregoing, we are of the considered opinion that the learned VII Additional Chief Metropolitan Magistrate erred in taking cognisance of the alleged offences against the accused persons without the requisite sanction for prosecution in the instant case. The absence of the necessary sanction vitiates the very initiation of criminal proceedings against the accused persons.

41. Admittedly, the alleged incident pertains to the period of 1999-2000. Accused Nos.1, 3, and 4 have since passed away. The proceedings now survive solely against accused Nos.2 and 5. It is pertinent to note that both accused No.2 and accused No.5 retired from service long ago on attaining the age of superannuation; accused No.2 superannuated in the year 2015 and is presently 71 years of age, while accused No.5 retired in the year 2020 and is now 64 years old. In these circumstances, we are of the considered view that no meaningful purpose would be served by prolonging the criminal prosecution against them. Accordingly, we are satisfied that the ends of justice would be adequately met in the instant case by quashing the proceedings against accused Nos.2 and 5.

42. In view of the foregoing discussion, we are of the considered opinion that the appeal deserves to succeed. Accordingly, the appeal is allowed. The impugned order dated 17.03.2021 passed by the High Court in Criminal Petition No.4512 of 2020, preferred under Section 482 of the CrPC is hereby set aside. Consequently, Criminal Petition No.4512 of 2020 stands allowed. As a result, the summoning order dated 07.05.2016 passed by the learned VII Additional Chief Metropolitan Magistrate, Bengaluru against accused Nos.2 and 5, as well as the order dated 11.06.2020 passed by the learned LXI City Civil and Sessions Judge, Bengaluru City in affirming the same are hereby quashed.

The appeal is allowed in the aforesaid terms.