IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY,THE TWENTY FIFTH DAY OF JULY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

CRIMINAL REVISION CASE NO: 693 OF 2022

Criminal Revision Case filed under Section 397 and 401 of CrPC against the order dated 17.10.2022 passed in Crl.M.P.No. 47 of 2021 in C.C.No.1 of 2012 on the file of the Court of the Principal Special Judge for CBI Cases at Hyderabad.

Between:

Srilakshmi Yerra, IAS, W/o. Sri M. Gopi Krishna (IPS), age 55 Years, Occ. IAS, Currently Special Chief Secretary (MA and UD), Govt. of Andhra Pradesh, Amaravathi. R/o. Plot No.161, Road No.72, Prashasan Nagar, Jubilee Hills, Hyderabad - 500033.

...PETITIONER/ACCUSED No. 6

AND

The State of Telangana, Rep. Through Special Public Prosecutor CBI, Hyderabad.

...RESPONDENT/COMPLAINANT

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings in so far as the Petitioner/ A 6 is concerned in C.C.No.1 of 2012 on the file of the learned Principal Special Judge for CBI Cases at Hyderabad including the appearance of the Petitioner Pending Disposal of Criminal RC.

Counsel for the Petitioner(s): Sri K. Vivek Reddy Representing
Sri P. V. Venkata Ravi Sankar

Counsel for the Respondents: Sri Srinivas Kapatia (SPCL. PP for CBI)

The Court made the following: ORDER

HON'BLE SRI JUSTICE K. LAKSHMAN

CRIMINAL REVISION CASE No.693 OF 2022

ORDER:

Heard Mr. K. Vivek Reddy, learned Senior Counsel representing Mr. P.V. Venkata Ravi Sankar, learned counsel for the petitioner and Mr. Srinivas Kapatia, learned Special Public Prosecutor for CBI appearing on behalf of the respondent.

2. This Criminal Revision Case is filed challenging the order dated 17.10.2022 in Crl.M.P. No.47 of 2021 in C.C. No.1 of 2012 passed by learned Principal Special Judge for CBI Cases at Hyderabad.

3. The petitioner herein is arraigned as accused No.6 in the aforesaid C.C. The offences alleged against her are punishable under Section - 120B read with 409 of IPC and Section - 13 (2) read with 13 (1) (d) of the Prevention of Corruption Act, 1988 (for short 'P.C. Act').

4. Upon filing the charge sheet by the Investigating Officer and upon taking cognizance of the aforesaid offences by the Special Court, the petitioner herein - accused No.6 filed an application under Section - 239 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.')

vide Crl.M.P. No.47 of 2021, seeking her discharge in the said C.C. *Vide* order dated 17.10.2022, learned Principal Special Judge for CBI Cases at Hyderabad (for short 'Special Judge') dismissed the said application. Challenging the same, the petitioner filed present revision.

5. *Vide* order dated 08.11.2022, a Co-ordinate Bench of this Court allowed said revision setting aside the order dated 17.10.2022 in Crl.M.P. No.47 of 2021 passed by learned Special Judge and allowed Crl.M.P.No.47 of 2021 discharging the petitioner - accused No.6 in the aforesaid C.C.

6. Challenging the said order dated 08.11.2022, the CBI preferred an appeal before the Hon'ble Supreme Court *vide* Crl.A. No.2654 of 2025 (arising out of SLP (Crl.) No.10747 of 2023). *Vide* order dated 07.05.2025, the Apex Court, without going into the merits of the case, allowed the appeal remitting the matter to this Court for passing a reasoned order by giving opportunity to both sides. The observations made by the Apex Court are as follows:

"1. Leave granted.

2. We have heard the learned Additional Solicitor General appearing for the appellant and the learned senior counsel appearing for the respondent.

3. We are not inclined to go into the merits of the case, as from a perusal of the records, we find that the appellant has not been given a sufficient opportunity to contest the matter before the High Court on merits.

4. In such view of the matter, the impugned order stands set aside and the matter stands remitted to the High Court for fresh consideration. Needless to state that the High Court is expected to hear both the appellant and the respondent at length and, thereafter, pass a reasoned order within a period of three months from today. We make it clear that all the issues are left open.

5. As law mandates, the interim order which was in existence before the High Court, pending the impugned order, shall get revived automatically.

6. The appeal is allowed, accordingly."

7. After remanding the matter, learned counsel on either side made their submissions extensively.

8. As per the charge sheet, the allegations levelled against the petitioner herein are that the petitioner during her term between 17.05.2006 to 10.10.2009 as Secretary, Industries & Commerce,

Government of Andhra Pradesh abused her official position as a public servant by not including the condition of 'captive mining' in the final leases and issued G.O. Ms. No.151 and G.O. Ms. No. 152 dated 18.06.2007 in favour of M/s. Obulapuram Mining Company Private Limited (for short 'OMCPL'). The Petitioner allegedly facilitated the other accused to cheat the Government by violating all the Rules & the Procedures prescribed in the Mines and Mineral (Development & Regulation) Act, 1957 (for short 'MMDR Act, 1957') and the Mineral Concession Rules, 1960, and thus caused huge loss to the public exchequer.

9. Mr. K. Vivek Reddy, learned Senior Counsel appearing on behalf of the petitioner contended mainly as follows:

i) The order of learned Special Judge suffers from lack of application of mind.

ii) There is no allegation against the petitioner in the charge sheet filed by the CBI.

iii) The petitioner assumed charge as Secretary, Industries & Commerce, Government of Andhra Pradesh State only on 17.05.2006, by which date, the Government has already taken a decision, concerned Minister has approved the note. The petitioner has implemented the same. As such, there was no role to be played by the petitioner in the commission of offences alleged against her.

iv) The petitioner being the Secretary, Industries & Commerce, Government of Andhra Pradesh State, has to implement the decision taken by the Government and she cannot say 'NO' to the said decision.

v) The prosecution alleged that the petitioner has intentionally omitted the word "captive mining" in G.O.Ms.Nos.151 and 152 and thereby facilitated M/s. OMCPL to do illegal mining. MMDR Act as on the date of issuance of the said GOs i.e., 18.06.2007 does not provide for any restrictive clause, such as 'captive mining'. Therefore, the petitioner does not have any power to frame a policy *de hors* the MMDR Act and the MC Rules.

vi) Section - 27 of the MMDR Act protects Public Servants from motivated prosecutions or other legal proceedings for the acts done by them in discharge of their official duties.

vii) Learned Special Judge acquitted accused Nos.8 and 9 and, therefore, the same also should be considered in this revision.

10. Learned Senior Counsel placed reliance on the following decisions:

i) Contending that mere suspicion is insufficient to frame the charge, he placed reliance on the decision in **CBI v. Srinivas D. Sridhar**[1].

ii) While considering discharge petition, the Court can sift and weigh the evidence to test grounds to try the accused, he relied upon the decision in **Sanjay Kumar Rai v. State of UP**[2] and **Union of India v. Prafulla Kumar Samal**[3].

iii) In the absence of specific allegations in the charge sheet, the Court can discharge the accused as held by the Apex

[1]. (2025) 1 SCC 378
[2]. (2021) 15 SCC 720
[3]. (1979) 3 SCC 4

Court in **Dipakbhai Jagdishchandra Patel v. Gujarat**[4], **Sharif Ahmed v. U.P.**[5], **Srinivas D. Sridhar**[1], **Srinivas D. v. CBI**[6].

iv) While considering the discharge petition, roving inquiry is not necessary, but a simple and necessary inquiry for a proper adjudication as held by the Apex Court in **Kanchan Kumar v. Bihar**[7].

v) In revision, the High Court can reverse dismissal of discharge if materials of charge sheet are not considered as held by the Apex Court in **Srinivas D.**[6].

vi) Offence of criminal breach of trust (S.409 of IPC) is not made out when precise 'direction of law' allegedly violated has not been identified as held by the Apex Court in **N. Raghavender v. A.P.**[8].

vii) Three wings of Clause (d) of Section - 13 (1) are independent, alternative and disjunctive as held by the Apex Court in **Neera Yadav v. CBI**[9].

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4. (2019) 16 SCC 547
5. 2024 SCC OnLine SC 726
6. 2017 SCC OnLine Guj.2900
7. (2022) 9 SCC 577
8. (2021) 18 SCC 70
9. (2017) 8 SCC 757

viii) Reliance or continuation of predecessor's actions cannot constitute criminal liability as held by the Apex Court in **Munish Singh Sikarwar v. State of M.P**[10].

ix) Mere procedural irregularity cannot constitute criminal liability as held by the Apex Court in **C.K. Jaffer Sharief v. State**[11] and **Union of India v. Major J.S. Khanna**[12].

x) Government's decisions attain finality through a Minister as held by the Apex Court in **State of Bihar v. Kripalu Shankar**[13].

11. Learned Special Public Prosecutor for CBI contended as follows:

i. There are specific allegations against the petitioner even in the charge sheet filed by the CBI though not named her. However, on completion of investigation, more particularly with regard to the role played by the petitioner in the commission of aforesaid offences, the Investigating Officer laid first supplementary charge sheet against the petitioner herein.

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10. 2017 SCC OnLine MP 71
11. (2013) 1 SCC 205
12. (1972) 3 SCC 873
13. (1987) 3 SCC 34

ii. The petitioner used her official position, issued the aforesaid G.Os. to favour accused No.4 Company. While working as such she entered into a criminal conspiracy with accused Nos.1 to 3 and others to cheat the Government of Andhra Pradesh in the matter of sanctioning of Mining Leases of Iron Ore to M/s. OMCPL violating all the Rules and the procedures prescribed in the MMDR Act, 1957.

iii. The writ petition filed by the petitioner vide W.P. No.3886 of 2015 seeking quashment of proceedings in the subject C.C.No.1 of 2012 was dismissed by this Court vide order dated 02.02.2022 on the ground that there are specific allegations against the petitioner, the same are triable issues and that the petitioner has to face trial and prove her innocence.

iv. Mere non-adding the name of petitioner as an accused in the charge sheet is no ground to discharge her in the subject C.C.

v. The petitioner wantonly did not mention the wording 'captive mining' in the aforesaid G.O.Ms.151 and 152. Thus, the petitioner abused her official position.

vi. Considering all the said aspects only, learned Special Judge dismissed the discharge application filed by the petitioner. Thus, there is no error in the said order.

vii. Acquitting accused Nos.8 and 9 is a subsequent event, which cannot be considered in this revision.

12. In support of his contentions, learned Special Public Prosecutor relied upon the decisions in **Lakshmi S.T. Mining and Leasing Labour Contractor cooperative Society Ltd., v. Gov. of Andhra Pradesh**[14], **State v. G. Easwaran**[15]; **Jamin v. State of U.P.**[16], **K. Ravi v. State of Tamil Nadu**[17], **State of Tamil Nandu v. R. Soundirarasu**[18], **State of Tamil Nadu v. Suresh Rajan**[19], **Amit Kapoor v. Ramesh Chander**[20], **State of Gujarat v. Dilipsinh Kishoresinh Rao**[21] and **State of Karnataka Lokayukta Police Station v. M.R. Hiremath**[22].

13. The aforesaid rival submissions and record would reveal that earlier the petitioner filed a writ petition *vide* W.P. No.3886 of

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14. 2004 (2) ALD (NOC) 106
15. 2025 SCC OnLine SC 643
16. 2025 SCC OnLine SC 506
17. 2024 INSC 642
18. (2023) 6 SCC 768
19. (2014) 11 SCC 709
20. (2012) 9 SCC 460
21. 2023 SCC OnLine SC 1294
22. (2019) 7 SCC 515

2015, to quash the proceedings against her in C.C. No.1 of 2012. The same was dismissed by this Court *vide* order dated 02.02.2022. The petitioner did not challenge the said order and, therefore, it attained finality.

14. She has also filed a Criminal Petition under Section - 482 of Cr.P.C. *vide* Crl.P. No.6534 of 2020, seeking a direction to the Special Judge to conduct hearing on charges and discharge petitions. *Vide* order dated 21.09.2021, this Court dismissed the said criminal petition. There is no challenge to it. It attained finality.

15. Thereafter, the petitioner filed an application under Section - 239 of Cr.P.C. *vide* Crl.M.P. No.47 of 2021 seeking her discharge in the aforesaid C.C. *Vide* order dated 17.10.2022, learned Special Judge dismissed the said petition. Challenging the same, the petitioner filed present revision. *Vide* order dated 08.11.2022, a Co-ordinate Bench of this Court allowed said revision, setting aside the order dated 17.10.2022 in Crl.M.P. No.47 of 2021 passed by learned Special Judge. Challenging the said order dated 08.11.2022, the CBI preferred an appeal before the Apex Court *vide* Crl.A. No.2654 of 2025. *Vide* order dated 07.05.2025, the Apex Court, without going

into the merits of the case, allowed the appeal remitting the matter to this Court for passing a reasoned order by giving opportunity to both sides.

16. Learned Senior Counsel would contend that learned Special Judge after completion of trial and after hearing both sides, convicted some of the accused i.e., accused Nos.1 to 4 and 7, while acquitting accused Nos.8 and 9. Therefore, this Court has to take into consideration of subsequent events including the acquittal of accused Nos.8 and 9 while deciding the present revision under Section - 397 read with 401 of Cr.P.C. In support of the same, he relied upon the decision in **Yogesh alias Sachin Jagdish Joshi v. State of Maharashtra**[23] and **Pushpendra Kumar Sinha v. State of Jharkhand**[24].

17. Whereas, Mr. Srinivas Kapatia, learned Special Public Prosecutor for CBI would contend that while considering the revision subsequent events cannot be considered and more particularly in the present case, earlier writ petition filed by the petitioner to quash the proceedings in the subject C.C. was dismissed and the said order

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23. (2008) 10 SCC 394
24. (2023) 11 SCC 636

attained finality. In support of the same, he has relied upon the principle laid down by the Apex Court in **G. Easwaran**[15].

18. In view of the above, before deciding the issues at hand, this Court feels it apposite to discuss the scope of revisional powers conferred under Section - 397 to Section - 401 of the Cr.P.C. and the same are extracted below:

> "**397. Calling for records to exercise powers of revision.**—(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself; to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on bail or on his own bond pending the examination of the record.
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> Explanation.—All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 398.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them."

"**398. Power to order inquiry**.—On examining any record under Section 397 or otherwise, the High Court or the Sessions Judge may direct the Chief Judicial Magistrate by himself or by any of the Magistrates subordinate to him to make, and the Chief Judicial Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under Section 203 or sub-section (4) of Section 204, or into the case of any person accused of an offence who has been discharged:

Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made."

"**399. Sessions Judge's powers of revision**.—(1) In the case of any proceeding the record of which has been called for by himself, the Sessions Judge may exercise all or any of the powers which may be exercised by the High Court under sub-section (1) of Section 401.

(2) Where any proceeding by way of revision is commenced before a Sessions Judge under sub-section (1), the provisions

of sub-sections (2), (3), (4) and (5) of Section 401 shall, so far as may be, apply to such proceeding and references in the said sub-sections to the High Court shall be construed as references to the Sessions Judge.

(3) Where any application for revision is made by or on behalf of any person before the Sessions Judge, the decision of the Sessions Judge thereon in relation to such person shall be final and no further proceeding by way of revision at the instance of such person shall be entertained by the High Court or any other Court."

"**401. High Court's powers of revision.**—(1) In the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 386, 389, 390 and 391 or on a Court of Session by section 307, and, when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in the manner provided by section 392.

(2) No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one conviction.

> (4) Where under this Code an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.
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> (5) Where under this Code an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of Justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly."

The powers of revision under Section - 397 of the Cr.P.C. are concurrently vested on both the Sessions Courts and the High Courts. Section - 399 of the Cr.P.C. provides that the Sessions Court shall have the same powers of revision as are conferred on the High Court under Section - 401 of the Cr.P.C. Therefore, the courts derive the power of revision from Section - 397 of the Cr.P.C. read with - 401 of the Cr.P.C.

19. Under the revisional powers, the Courts are empowered to call for records of any inferior or subordinate criminal Court to test the correctness, legality or propriety of any proceeding of such inferior or subordinate criminal Court. The powers of revision are limited and

cannot be invoked lightly. The object behind exercising the revisional powers is to set right an error or illegality in the orders passed by the lower Courts. The revisional powers under Section - 397 read with 401 of the Cr.P.C. are discretionary and the same shall be exercised to ensure that justice is done and the lower Courts do not exceed and abuse the powers vested in them. Interference with the orders of trial Courts is warranted only if findings in such orders are illegal, improper, perverse, contrary to the material on record or are grossly erroneous. Further, the revisional power may be exercised only to set right a patent defect to an error of law or jurisdiction.

20. The Apex Court in **Janata Dal v. H.S. Chowdhary**[25] explained the scope of revisional powers under Section - 397 and Section - 401 of the Cr.P.C. The relevant paragraphs are extracted below:

> "127. Now let us briefly cogitate over the legal issue relating to the revisional and inherent jurisdiction of the High Court to call for the records and examine the records of any proceeding before any inferior criminal court within its jurisdiction for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or

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[25]. (1992) 4 SCC 305.

order, recorded or passed and to quash criminal proceeding, deliberate on the legality and correctness of the later part of the order of Justice M.K. Chawla in and by which he has assumed the jurisdiction to initiate *suo - motu* proceedings, particularly for quashing the first information report and all other connected and allied proceedings arising during the course of the investigation.

128. Sections 397, 401 and 482 of the new Code are analogous to Sections 435, 439 and 561-A of the old Code of 1898 except for certain substitutions, omissions and modifications. Under Section 397, the High Court possesses the general power of superintendence over the actions of courts subordinate to it which discretionary power when administered on administration side, is known as the power of superintendence and on the judicial side as the power of revision. In exercise of the discretionary powers conferred on the High Court under the provisions of this section, the High Court can, at any stage, on its own motion, if it so desires and certainly when illegalities and irregularities resulting in injustice are brought to its notice, call for the records and examine them. The words in Section 435 are, however, very general and they empower the High Court to call for the record of a case not only when it intends to satisfy itself about the correctness of any finding, sentence or order but also as to the regularity of any proceeding of any subordinate court.

129. By virtue of the power under Section 401, the High Court can examine the proceedings of inferior courts if the necessity for doing so is brought to its notice in any manner,

namely, (1) when the records have been called for by itself, or (2) when the proceedings otherwise comes to its knowledge.

130. The object of the revisional jurisdiction under Section 401 is to confer power upon superior criminal courts - a kind of paternal or supervisory jurisdiction - in order to correct miscarriage of justice arising from misconception of law, irregularity of procedure, neglect of proper precaution or apparent harshness of treatment which has resulted, on the one hand, or on the other hand in some underserved hardship to individuals. The controlling power of the High Court is discretionary and it must be exercised in the interest of justice with regard to all facts and circumstances of each particular case, anxious attention being given to the said facts and circumstances which vary greatly from case to case."

21. Similarly, the Apex Court in **Sanjaysinh Ramrao Chavan v. Dattatray Gulabrao Phalke**[26] has held that the Magistrate's order can only be interfered by exercising revisional jurisdiction if such order is perverse and is marred by glaring illegalities. The Court therein held that revisional Courts are not supposed to act as appellate Courts. They only have to satisfy themselves regarding the correctness, legality and propriety of the findings of the lower Court which are under challenge. The relevant paragraph is extracted below:

[26]. (2015) 3 SCC 123

"14. In the case before us, the learned Magistrate went through the entire records of the case, not limiting to the report filed by the police and has passed a reasoned order holding that it is not a fit case to take cognizance for the purpose of issuing process to the appellant. Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non-consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. **The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court under Sections 397 to 401 CrPC is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with decision in exercise of their revisional jurisdiction**."

22. In **Amit Kapoor**[20], the Apex Court made the following observations:

*"**12.** Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. **The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law.** If one looks into the various judgments of this Court, it emerges that **the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.***

*13. **Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie.** Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in exercise of its revisional jurisdiction unless the case substantially falls within the categories aforestated. Even framing of charge is a much advanced stage in the proceedings under the CrPC.*

*18. **It may also be noticed that the revisional jurisdiction exercised by the High Court is in a way final and no inter court remedy is available*** *in such cases. Of course, it may be subject to jurisdiction of this Court under Article 136 of the Constitution of India. Normally, a revisional jurisdiction should be exercised on a question of law. However, when factual appreciation is involved, then it must find place in the class of cases resulting in a perverse finding. Basically, the power is required to be exercised so that justice is done and there is no abuse of power by the court. Merely an apprehension or suspicion of the same would not be a sufficient ground for interference in such cases.*

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20. The jurisdiction of the court under Section 397 can be exercised so as to examine the correctness, legality or propriety of an order passed by the trial court or the inferior court, as the case may be. Though the section does not specifically use the expression "prevent abuse of process of any court or otherwise to secure the ends of justice", the jurisdiction under Section 397 is a very limited one. The legality, propriety or correctness of an order passed by a court is the very foundation of exercise of jurisdiction under Section 397 but ultimately it also requires justice to be done. The jurisdiction could be exercised where there is palpable error, non-compliance with the provisions of law, the decision is completely erroneous or where the judicial discretion is exercised arbitrarily. [...]"

(Emphasis supplied)"

Thus, the scope of revisional jurisdiction is limited and is to set right a patent illegality or defect of law in the order of a subordinate Court. The power of revision is not as extensive as that under Section - 482 of Cr.P.C. and should not be exercised lightly. The said principle is also laid down by the Apex Court in **Jamin**[16].

23. In **K. Ravi**[17], the Apex Court held that the scope of interference and exercise of jurisdiction under Section - 397 of Cr.P.C. is extremely limited. Apart from the fact that sub-section (2) of Section - 397 prohibits the Court from exercising the powers of revision, even the powers under sub-section (1) thereof should be exercised very sparingly and only where the decision under challenge is grossly erroneous, or there is non-compliance of the provisions of law, or the finding recorded by the trial Court is based on no evidence, or material evidence is ignored or judicial discretion is exercised arbitrarily or perversely.

24. In **R. Soundirarasu**[18], the Apex Court held that at the stage of consideration of discharge, only a *prima facie* case is to be seen and the Court cannot speculate into the truthfulness or falsity of the allegations and contradictions and inconsistencies in the statement of witnesses. It was further held that in rarest of rare cases only, to correct the patent error of jurisdiction, revisional Court can interfere with the order of discharge. Revisional power cannot be exercised in

a casual or mechanical manner and, it can only be exercised to correct manifest error of law or procedure which would occasion injustice, if it is not corrected. The revisional power cannot be equated with the appellate power and, thus, a revisional Court cannot undertake meticulous examination of the material on record as it is undertaken by the trial Court or appellate Court. It further held that Section - 239 of Cr.P.C. envisages a careful and objective consideration of the question whether the charge against the accused is groundless or whether there is ground for presuming that he has committed an offence. Section - 239 of Cr.P.C. prescribes is not, therefore, an empty or routine formality. It is a valuable provision to the advantages of accused, and its breach is not permissible under the law. But, if the Judge, upon considering the record, including the examination, if any, and the hearing, is of the opinion that there is "ground for presuming" that the accused has committed the offence triable, he is required to frame a charge under Section - 240 of Cr.P.C. in writing.

25. In **M.R. Hiremat**[22]**,** the Apex Court held that at the stage of considering an application for discharge, the Court must proceed on the assumption that the material which has been brought on the record

by the prosecution is true and evaluate the material in order to determine whether the facts emerging from the material, taken on its face value, disclose the existence of the ingredients necessary to constitute the offence.

26. In **State of Tamil Nadu v. N. Suresh Rajan**[27], the Apex Court held as under:

> "*29.* ... At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage."

27. Keeping in view the aforesaid principle and scope of revision, now coming to the case on hand, it is contended by learned

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[27]. (2014) 11 SCC 709

Senior Counsel appearing for the petitioner that there is no allegation in the charge sheet against the petitioner herein. In the light of the said submission, it is relevant to note that in the charge sheet filed by the CBI, it is alleged against the petitioner which is as under:

> "Smt. Y. Srilakshmi, in furtherance of the conspiracy issued a rejection letter dated 18.06.2007 on flimsy grounds wherein it was mentioned that M/s.OMCPL (A-4) had proposed to set up an integrated steel plant consisting of 2 x 20 tonnes induction furnace, 20 tonnes continuous casting and 500 TPD rolling mill by utilization of ore available in the proposed grant area with the investment of Rs.450 Crores and M/s OMCPL (A-4) through M/s Brahmani Industries Limited has proposed to set up a green field integrated Steel Plant. Whereas, M/s Sathavahana was already in the business of production PIG Iron in their plant in Ananthapur District since 1992 and usage of Iron Ore is an essential raw material in the said business.
>
> The Observations/findings of Smt. Y. Srilakshmi were on the basis of conjunctures. Surmises and hypothetical and the same is arbitrary and the same has been substantiated by intentionally omitting the term captive usage of iron ore excavated from the mines in the GO

Ms.No.151 dated 18.06.2007 thereby intending to eliminate real end users-and to extend undue benefit and favour to M/s OMCPL (A-4) and thereby **Smt. Y. Srilakshmi resorted to abuse of her official position as a Public Servant**.

Investigation revealed that while the PL applications of Sri C. Shashi Kumar were still pending, he had approached the then DMG i.e. Sri V.D. Raja Gopal (A-3) as well as Smt. Y. Srilakshmi, Secretary, Industries and Commerce and requested them to consider his case as he is deserving and better than others on merit.

Sri V.D. Raja Gopal (A-3) and **Smt. Y. Srilakshmi demanded from him huge bribes running into crores of Rupees for the grant of PL to him**.

Smt. Y. Srilakshmi by abusing her official position projected that M/s OMCPL (A-4) requires the mining lease for captive purpose and that because of which it deserves preferential treatment when compared to the other applicants. However, in the Government Order the word 'captive mining' was not mentioned deliberately/ intentionally.

Accused Smt. Y. Srilakshmi had committed various omissions and commissions in conspiracy with other accused, resorted to

abuse of official position to extend pecuniary advantage to Sri B.V. Sreenivasa Reddy (A-1), Sri Gali Janardhan Reddy (A-2) and M/s OMCPL (A-4). The investigation with regard to the allegations of demand of money by her from Sri C. Sashi Kumar and the quid-pro-quo in this case against her is in progress and hence further investigation is required. A supplementary report will be filed accordingly."

28. Even in the first supplementary charge sheet, there are specific allegations against the petitioner to the effect that the role of the petitioner clearly shows that she in furtherance of criminal conspiracy with other accused persons abused her official position as a public servant and ensured that M/s. OMCPL represented by accused Nos.1 and 2 were allotted the Mining Leases in the areas of 68.5 ha and 39.50 ha. It is also mentioned that in furtherance of criminal conspiracy and to facilitate the exploitation of Iron Ore by M/s. OMCPL, the petitioner intentionally did not include the rider 'captive mining' in the Government orders promulgated by her.

29. There are also specific allegations against the petitioner that the subject mining is only re-grant and the same are in respect of Malapanagudi village, whereas the petitioner included

Antargangamma Konda in Siddapuram Village and Mallamma Konda in the aforesaid G.Os. and it is only to benefit accused No.4 Company. There is also allegation against the petitioner that she has changed the Survey Number and area. There is also specific allegation that the subject lease is with regard to virgin area and the petitioner failed to consider the same while issuing the G.Os. Intentionally she has not mentioned in the said G.Os. that it is not for captive use. She has intentionally allocated the land/mining lease which is not there in the notification. There is also a specific allegation that she has issued the aforesaid G.Os. clubbing the two applications and issued approvals in favour of accused No.4 company. Though the Central Government directed the petitioner to dispose of the applications submitted by the applicants in accordance with law, she has not disposed of the same in accordance with law. There is also allegation against the petitioner with regard to demarcation of forest area and Stage-I and Stage-II approvals.

30. *Vide* letter dated 10.04.2007 under Secretary to the Government of India, Ministry of Mines informed the petitioner that the recommended area is in two segments (Segment-I and II), which have been notified separately. To enable the Central Government, to

take a view regarding the proposal, the State Government is requested to send two separate comparative statements of merits (in enclosed proforma) in respect of all the applicants (including those who have been rejected as premature applicants) for both Segments I and II clearly mentioning the reasons for selection of M/s. OMCL and rejection of other applicants. The petitioner intentionally failed to comply with the same only to help accused No.4 Company.

31. There is also an allegation against the petitioner that though accused No.4 Company informed the State Government that at the time of submission of its application dated 02.11.2004, it has stated that it will use Iron Ore as a captive purpose by establishing an Integrated Steel Plant with an estimated cost of Rs.450 Crores. But, now accused No.4 Company is floating a Special Investment Vehicle i.e., M/s. Brahmani Industries Limited for setting up of an Integrated Steel Plant and accused No.4 Company is promoting the said Company holding 51% shares in the said Company. It has submitted proposal to set up ten million tones Integrated Steel Plant with an estimated cost of Rs.20,000 Crores in Jammalamadugu of Kadapa District in a phased manner and another Steel Plant with a capacity of

two million tones with an estimated cost of Rs.4,500/- Crores and provide employment. It has already entered MOU dated 02.05.2006. Accused No.4 Company failed to keep up the same. The petitioner - accused No.6 failed to consider the same while issuing the subject G.Os. and also in the proceedings dated 05.06.2007 issued by the petitioner.

32. There is also specific allegation against the petitioner that the Memo No.15477/M-III(1)/2006-04, dated 05.06.2007 is contrary to the earlier proceedings. In the said proceedings, she has stated that accused No.4 Company is in dire necessity of grant of mining leases for Iron Ore for captive consumption in their promoted Steel Industry. M/s. Gimpex Limited stated that it has invested Rs.50.00 Crores and their major trust is on export of iron ore from which it is evident that they do not need iron ore for indigenous consumption, as a result, no employment is created and value addition aspect is completely ignored. In fact, M/s. Gimpex Limited sought for extension. Therefore, the said memo dated 05.06.2007 issued by the petitioner in the capacity of Secretary of Industries and Commerce (Mines-III) Department is contrary to the record and she has issued the said memo

only to favour of accused No.4 Company, which resulted huge loss to the State Exchequer.

33. There is also an allegation against the petitioner that she has rejected the mining lease application of M/s. Gimpex Limited erroneously *vide* Memo dated 18.06.2007 only to favour accused No.4 Company. She is not a party to MOU dated 21.05.2007. She has rejected the application of M/s. Sathavahana Ispat Limited holding that M/s. Sathavahana Ispat Limited does not have any mining leases in its name and, thus, no experience etc. It is only to favour accused No.4 Company. In the Memo dated 18.06.2007, she has referred to MOU dated 21.05.2007 which is nothing to do with the subject mining lease and it is only to favour to accused No.4 Company.

34. In the statement of Mr. Chennamaneni Shashikumar (LW.3), he has specifically stated that the mining lease of Mr. Tapal Thimmappa was in Survey Nos.1 and 2 of Malpanagudi Village and was in two bits. Total area as per Survey Nos.1 and 2 as visible from the records of Survey and Land Records are 481.60 and 827.35 Acres and out of which 147.00 in Survey No.1 and Ac.84 in Survey No.2,

totaling Acs.231 were granted in favour of Mr. Tapal Thimmappa earlier and the same were advertised for re-grant.

35. His PL application is pending and even before granting of lease to accused No.4, he has approached the then Director of Mines and Geology, Mr. V.D. Rajagopal as well as the petitioner with a request to consider his case on merits. The petitioner has demanded huge bribes running into Crores and if the same is paid to her, she is stated that she would get him the prospecting license of the said area. The demand of the petitioner was made somewhere in September/October, 2006 when he approached her.

36. There is also an allegation that during the course of investigation it was revealed that Mr. M. Rakesh Babu, brother-in-law of the petitioner has acquired many properties during the period 2005 to 2009. Financial sources of the said Rakesh Babu do not commensurate with the value of properties acquired by him.

37. Thus, *prima facie*, there are specific allegations against the petitioner herein. The aforesaid contentions of the petitioners are the defences which she has to take during trial and it is for the trial Court to consider. On the ground of acquittal of accused Nos.8 and 8, this

Court cannot discharge the petitioner in exercise of its revisional jurisdiction. The allegations against accused Nos.8 and 9 are different to the allegations levelled against the petitioner herein.

38. However, during the course of hearing, learned Special Public Prosecutor for CBI, on instructions, submitted that the CBI has taken a decision to prefer an appeal challenging the judgment of the trial Court acquitting accused Nos.8 and 9 and they are taking steps to prefer an appeal.

39. Thus, there are specific allegations against the petitioner herein. There are also allegations of demand of money by the petitioner from Mr. C. Sashi Kumar and the *quid-pro-quo* in the subject case against her. By the time of filing of charge sheet, the investigation, more particularly with regard to role played by the petitioner was pending, therefore, she was not made as an accused in the charge. However, on completion of investigation with regard to the role played by the petitioner, the CBI filed first supplementary charge sheet against the petitioner. Therefore, the contention of learned Senior Counsel that there are no allegations in the charge sheet against the petitioner and that was the reason she was not made as an accused is untenable. Moreover, all the said allegations are

triable issues which cannot be considered in a revision and the same have to be decided after full-fledged trial.

40. Another contention raised by learned Senior Counsel that The Government has already taken decision to allot the Mining Lease in favour of accused No.4 Company, concerned Minister (accused No.9) approved the note much before 17.05.2006, the date on which, the petitioner assumed charge as a Secretary and, therefore, the question of the petitioner entering into criminal conspiracy does not at all arise. Whether the petitioner entered into criminal conspiracy with other accused and the role played by her etc., are all triable issues which can be decided only after full-fledged trial, but the same cannot be considered in a revision. Thus, the aforesaid contention of learned Senior Counsel cannot be considered at this stage.

41. As discussed supra, it is contended by learned Senior Counsel that Section - 27 of the MMDR Act protects the public servants from motivated prosecutions or other legal proceedings for the acts done by them in discharge of their official duties; that learned Special Judge acquitted accused Nos.8 and 9 stating that there may have been some administrative lapses though not *mala fides* on their part while discharging their duties, but the same were not intentional

and that the word 'captive mining' could not have been inserted by the State Government in the aforesaid G.O.Ms.Nos.151 and 152 for the reason that such wording was inserted only between the years 2015 to 2021 and not before or after. Therefore, the question of not inserting 'captive mining' in the said G.Os. does not at all arise. The said contentions of the petitioner are defences which she has to take before the trial Court and it is for the trial Court to consider the same, but in a petition filed under Section - 239 of Cr.P.C. or by this Court in the present revision.

42. As discussed supra, the scope of revision is very limited. Therefore, the contentions of the petitioner that mere suspicion is not sufficient to frame the charge against her, the suspicion should be based on firm material, in the absence of specific allegations, accused is entitled to discharge; the ingredients of Section - 409 of IPC and the twin requirements of demand and acceptance in terms of Section - 13 (1) (d) of the P.C. Act are lacking in the charge sheets and, therefore the petitioner is entitled for discharge cannot be considered in a discharge petition/revision. The principle laid down by the Apex Court in the judgments relied upon by the petitioner cannot be applied to the present case.

43. As discussed supra, *prima facie*, there are specific allegations against the petitioner herein. The aforesaid contentions of the petitioner are defences which she has to take before the trial Court and it is for the trial Court to consider the same. The revisional Court cannot re-weigh evidence or substitute its opinion unless there is a patent error or miscarriage of justice.

44. The present Criminal Revision Case is accordingly dismissed confirming the order dated 17.10.2022 passed in Crl.M.P. No.47 of 2021 in C.C. No.1 of 2012 by learned Principal Special Judge for CBI Cases at Hyderabad.

As a sequel thereto, miscellaneous petitions, if any, pending in the revision shall stand closed.

SD/- P.GOWRI SHANKAR,
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Court of the Principal Special Judge for CBI Cases at Hyderabad.
2. One CC to Sri P V Venkata Ravi Sankar, Advocate [OPUC]
3. One CC to Sri Srinivas Kapatia (SPCL. PP for CBI) [OPUC]
4. Two CD Copies

VH

HIGH COURT

DATED: 25/07/2025

HIGH COURT FOR THE STATE OF TELANGANA
01 AUG 2025
★ DESPATCHED ★

ORDER

CRLRC.No.693 of 2022

DISMISSING THE CRL.R.C

6

30/7/2025