

2026 LiveLaw (SC) 167

IN THE SUPREME COURT OF INDIA
DIPANKAR DATTA; J., SATISH CHANDRA SHARMA; J.
SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s).4380/2026; 13-02-2026

STATE REP. BY THE DEPUTY SUPERINTENDENT OF POLICE

versus

M. MUNEER AHAMED & ANR.

Criminal Law – Sanction for Prosecution – Concept of Deemed Sanction – Deemed Sanction not recognized in *Subramanian Swamy vs. Manmohan Singh* - The Supreme Court observed that the lead judgment in *Dr. Subramanian Swamy vs. Manmohan Singh* (2012) 3 SCC 64, does not refer to or discuss the concept of "deemed sanction" - While paragraph 81 of the said judgment part of the concurring opinion by Hon'ble A.K. Ganguly, is often cited, a Coordinate Bench in *Suneeti Toteja Vs. State of Uttar Pradesh* (2025) SCC OnLine SC 433 has already repelled arguments for deemed sanction, noting that even the Subramanian Swamy decision does not lend credence to such an argument.

Code of Criminal Procedure, 1973; Section 197 – Bharatiya Nagarik Suraksha Sanhita, 2023; Section 217 – Delay in Sanction – Reference to Larger Bench - While addressing the "lethargy and/or apathy" of competent authorities in granting sanction for prosecution, Supreme Court noted that the High Court of Madras had issued a direction stating that if no decision is taken on a sanction request within one month, "sanction will be deemed to have been granted." - Given the recurring nature of these grievances and existing proceedings before a Bench presided over by the Chief Justice of India, Supreme Court referred the matter for consideration by a Larger Bench – Held that the High Court's direction regarding "deemed sanction" remains stayed pending further orders. [Relied on *Suneeti Toteja Vs. State of Uttar Pradesh and Anr.* (2025) SCC OnLine SC 433; Paras 5-8]

[Arising out of impugned final judgment and order dated 22-11-2024 in CRLOP(MD) No.10458/2022 passed by the High Court of Judicature at Madras at Madurai]

For Petitioner(s): Mr. V.Giri, Sr. Adv. Mr. Sabarish Subramanian, AOR Mr. Veshal Tyagi, Adv. Mr. Vishnu Unnikrishnan, Adv. Mr. Nihar Dharmadhikari, Adv. Ms. Jahnavi Taneja, Adv. Mr. K.S.badhrinathan, Adv. Ms. Arpitha Anna Mathew, Adv. Mr. Muthu Mayan R, Adv.

ORDER

1. The impugned judgment and order of the High Court dated 22nd November, 2024, declines the prayer of the respondent for quashing of criminal proceedings. However, guidelines have been given for grant of sanction under Section 197, Code of Criminal Procedure, 1973¹ / Section 217 the Bharatiya Nagarik Suraksha Sanhita, 2023².

2. We have noted that there was a delay in filing of the final report under Section 193, BNSS by the investigating officer owing to late according of sanction under Section 217 thereof. This was primarily the reason assigned by the High Court for declining the prayer for quashing.

3. However, having noted the facts and figures with regard to pendency of matters where sanction was awaited, the High Court proceeded to consider paragraph 81 of the

¹ Cr. PC

² BNSS

decision in **Dr. Subramanian Swamy vs. Manmohan Singh**¹ and has given certain directions leaving the State of Tamil Nadu aggrieved. The impugned direction reads as follows:

“17.1. All the competent authorities including His Excellency Governor have to decide the issuance of sanction to prosecute the accused either under the prevention of corruption Act 1988 or under 197 CrPC within one month from the date of receipt of this copy of order, if the period fixed either by the Hon’ble Supreme Court or by statute has already lapsed. If no decision is taken, sanction will be deemed to have been granted for the proposed prosecution.”

4. Mr. V. Giri, learned senior counsel appearing for the petitioner-State, has placed before us the decision of a Coordinate Bench of this Court in **Suneeti Toteja Vs. State of Uttar Pradesh and Anr.**², of which one of us (Satish Chandra Sharma, J.) was a member.

5. The Coordinate Bench repelled the argument advanced by the State of Uttar Pradesh and the complainant with regard to deemed sanction observing that even the decision in **Subramanian Swamy** (supra) does not lend credence to the argument of deemed sanction.

6. Indeed, we find that paragraph 81 of **Subramanian Swamy** (supra) is a passage from the concurring judgment of Hon’ble A. K. Ganguly, J. (as His Lordship then was) being the companion judge on the Bench. The lead judgment authored by Hon’ble G. S. Singhvi, J. (as His Lordship then was), being the presiding judge of the Bench, does not refer to or discuss the concept of deemed sanction.

7. However, considering the fact that aggrieved parties time and again have been complaining of lethargy and/or apathy of the competent authority to grant sanction, for whatever reason, and the bench presided over by the Hon’ble the Chief Justice of this Court is seized of similar such grievance coupled with the facts/figures appearing from the impugned order, we consider it appropriate to refer this matter for consideration by a larger Bench.

8. Papers may be placed before the Hon’ble the Chief Justice of India for an appropriate order.

9. However, the direction contained in paragraph 17.1 above, shall remain stayed until further order to the contrary is passed.

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¹ (2012) 3 SCC 64

² 2025 SCC OnLine SC 433