



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE THE CHIEF JUSTICE
&
HON'BLE SHRI JUSTICE PAVAN KUMAR DWIVEDI**

WRIT APPEAL No. 2166 of 2024

***DR. HIMANSHU DUTT PANDEY*
Versus
*STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Ashok Kumar Sethi - learned Senior counsel with Shri Harshwardhan Sharma, learned counsel for the appellant.

Shri Anand Soni - learned Additional Advocate General for respondents/State.

ORDER

(Reserved for orders on 14/7/2025)

(Pronounced on 01/9/2025)

PER: PAVAN KUMAR DWIVEDI, J :-

1. The appellant has filed this appeal being aggrieved by the order dated 25th July, 2024, passed by the Single Bench in W.P.No.19512/2019 dismissing



the petition of the appellant challenging order dated 31/7/2019 whereby respondent No.1 declined to grant sanction under Section 197 of the Code of Criminal Procedure, 1973 for prosecution of respondents No.4 to 6.

2. It is the case of the appellant that he is a registered BAMS doctor. His wife is also a registered BAMS doctor. They are running a hospital at Nagda, District Ujjain since last 20 years. They are also registered with the State Board. The appellant submits when he and his wife were practicing at their clinic situated at Shop No.11 to 13 Rogi Kalyan Samiti Civil Hospital, Nagda on 18/5/2011 respondents No.4 to 6 conducted search of the appellant's clinic without authority of law. The respondents No.4 to 6 found that the patients were admitted in the hospital and were being administered I.V. drips and injections. Appellant failed to provide any certificate regarding registration with CMHO. The team of respondents No.4 to 6 also found large quantity of allopathic medicines, injections, bottles etc. The premises were sealed. A panchnama was prepared and the report was sent to Sub Divisional Officer (Revenue) Nagda vide letter dated 25/5/2011 whereupon the said authority directed for registration of FIR against the appellant.

3. The appellant then applied for opening of the seal of his clinic. The Chief Medical and Health Officer, District Ujjain granted permission vide order dated 30/5/2011 with a condition that he will not treat his patients with allopathic medicines and only administer Ayurvedic paddhathi to them. It was



also a condition in the permission that the clinic of the appellant has to be registered with Chief Medical and Health Officer, Ujjain and his wife Dr. Rashmi Pandey will not mention under her name the title Gynecologist.

4. He continued to run his clinic after that without complaint of any of the authority. On 4/1/2014 a complaint was made by Akhil Bhartiya Sangh Samiti Shakha M.P. Nagda, District Ujjain against appellant with same allegations to Medical Officer Govt. Hospital, Nagda, District Ujjain which was forwarded by the said authority vide letter dated 26/4/2014 to Sub Divisional Officer (Revenue) Nagda. At this stage after three years of the inspection dated 18/5/2011 the appellant filed a criminal complaint in the year of 2014 against the team which had inspected his clinic in the year 2011. The complaint was filed under Section 341, 355, 451, 500 read with Section 34 of the Indian Penal Code. This complaint was filed under Section 200 / 200(2) of the Code of Criminal Procedure, 1973. Initially the learned Magistrate took cognizance under Section 448 and 500 of IPC, but refused to take cognizance for offence under Section 341, 451 and 355 of the IPC.

5. Respondents No.4 to 6 filed M.Cr.C.No.2035/2016 before this Court which was dismissed as withdrawn vide order dated 8/8/2016 with liberty to file a revision. Thereafter they filed revision before the Sessions Court which was partly allowed vide order dated 2/3/2017 thereby holding that sanction under Section 197 of Code of Criminal Procedure, 1973 is necessary and trial



Court shall not proceed till the sanction is granted. The appellant initially challenged that order in M.Cr.C.No.4026/2017 but the same was withdrawn as per order dated 6/9/2017. The appellant then filed representation before the State Government for grant of sanction which is denied vide order dated 31/7/2019 which was challenged before the Hon'ble Single Judge in W.P.No.19512/2019 which has been dismissed by the impugned order. The singular ground of the appellant before the Single Judge as well as before this Court is that there was no order constituting committee. It is the contention of the appellant that the respondents No.4 to 6 have entered their clinic without authority of law. They were not assigned any official duty for inspection of their clinic. Interestingly, there is no denial about the fact that the committee found the appellant and his wife administering allopathic medicines to their patients when they are BAMS doctors.

6. The Hon'ble Single Judge has dismissed the petition by observing that the Sub Divisional Officer (Revenue), Nagda, constituted a three members committee of doctors posted in civil hospital ie., respondents No.4 to 6 vide letter dated 15/6/2011. Thus the Court found that the respondent No.4 to 6 performed their duties in good faith in exercise of powers conferred upon them by the Sub Divisional Officer. It is also recorded that there is no personal enmity with the present appellant of the team inspected his clinic. The appellant in writ appeal has relied on a communication enclosed as Annexure



A/2 which is a reply of his application filed under Right to Information. First of all this application was not there before the Single Judge. Secondly this application is of the date of 30th August, 2019, asking for information of the year of 2011. In reply of this application the Sub Divisional Officer (Revenue) Nagda has sent letter dated 01/9/2019 informing that no team was found constituted as per the dispatched register / record, which goes to show that only on the basis of register reply has been given without verifying the record. This cannot be a ground for quashing the order refusing sanction for the simple reason that competent authority, ie., the Secretary / Health and Family Welfare Department has specifically mentioned in para 3 of the impugned order that the Directorate Health Services issued directions to Collectors and Superintendent of Police of all the Districts for taking action against quacks pursuant to which SDM (Revenue), Nagda constituted committee which conducted inspection at the clinic of Dr. Himanshu Dutt, the appellant. In view of the clear findings recorded by the sanctioning authority the complaint of the appellant is nothing but an effort to harass the public officers who were simply discharging their duties. The provision of Section 197 of Code of Criminal Procedure, 1973 is to afford protection to public servants against malicious prosecution, so that they can perform their duties without fear.

7. As such it is abundantly clear that the respondents No.4 to 6 were acting in discharge of their official duties and there is no allegation of personal



enmity, fabrication of records. The appellant not even denied the contents of the report submitted by the committee. Not even the single assertion to the fact that they were not administering allopathic medicine is there in the petition. It is thus found that the act of respondents No.4 and 6 was directly connected with their official duty as assigned by the SDM.

8. In view of the above, it is a fit case where the aforesaid protection is warranted to the public officials who were discharging their official duties. Thus this Court does not find any merits in the contentions of the appellant. Therefore, interference in the order passed by the Single Bench is declined.

9. Resultantly, this writ appeal is hereby dismissed.

No order as to cost.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

(PAVAN KUMAR DWIVEDI)
JUDGE

SS/-