PETITIONER:
SUPERINTENDENT OF POLICE (C.B.I.)

Vs.

RESPONDENT:
DEEPAK CHOWDHARY & ORS,

DATE OF JUDGMENT17/08/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)

CITATION:
1996 AIR 186 1995 SCC (6) 225
JT 1995 (6) 532 1995 SCALE (5)226

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Leave granted.

Delay of 232 days condoned.

The facts lie in a short compass. During the year 1982, while the respondent no.1 was working as a Branch Manager in Desh Priya branch of the United Bank of India at Calcutta it was realised that certain officers working in that bank had conspired with a creditor and the bank was defrauded for a sum of Rs.45,000/-. On a complaint laid, a crime case was registered and the appellant investigated the matter and submitted the report to the competent authority for sanction, who, by its order dated the 14th January, 1987 accorded sanction under 6(1-c) of the Prevention of Corruption Act, 1947 (for short, 'PC Act) to file the charge-sheet against the respondent for the offences punishable under Section 120B, 420, 467, 468, 471, 477A, 201 and 109 IPC and also under Section 5(1) (d) read with Section 5(2) of the PC Act. The respondent filed writ petition in the High Court to quash the sanction. The High Court by the impugned order dated the 2nd April, 1992 in Matter No.498/87 quashed the sanction on two grounds, namely, that the respondent was not given any opportunity of hearing before granting sanction and in the departmental enquiry conducted by the Bank, respondent was exonerated of the charge. Therefore, it was not expedient to proceed with the prosecution of the respondent. Hence, the above appeal has been filed.

It is contended for the appellant that the question of giving an opportunity to the charged officer before granting sanction does not arise since it is not a quasi-judicial function. Grant of sanction is an administrative function. What is required is that the investigating officer should place all the necessary material before the sanctioning authority who should apply its mind to that material and accord sanction. Therefore, the question of giving

opportunity of hearing to the accused before granting sanction does not arise.

We find force in the contention. The grant of sanction is only an administrative function, though it is true that the accused may be saddled with the liability to be prosecuted in a court of law. What is material at that time is that the necessary facts collected during investigation constituting the offence have to be placed before the sanctioning authority and it has to consider the material. Prima facie, the authority is required to reach the satisfaction that the relevant facts would constitute the offence and then either grant or refuse to grant sanction. The grant of sanction, therefore, being administrative act the need to provide an opportunity of hearing to the accused before according sanction does not arise. The High Court, therefore, was clearly in error in holding that the order of sanction is vitiated by violation of the principles of natural justice.

The second ground of departmental exoneration by the disciplinary authority is also not relevant. What is necessary and material is whether the facts collected during investigation would constitute the offence for which the sanction has been sought for.

It is not appropriate at this stage to go into the merits of the culpability of the respondent though sought to be contended for by Shri Thopas Roy, the learned counsel. In fairness to the accused, we deem it inappropriate to go into the merits to express any opinion.

The appeal is accordingly allowed, the order of the High Court is set aside and the trial court is directed to proceed with the trial against the respondent as expeditiously as possible and conduct joint trial, if trial is not already concluded, along with other accused. If the case has been separated and the trial of other accused has been concluded, then the trial court is directed to expeditiously conclude the trial of the respondent, not exceeding one year.