



\$~43

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1845/2025**

LALU PRASAD YADAV

.....Petitioner

Through: Mr. Kapil Sibal, Senior Advocate,
Mr. Maninder Singh, Senior
Advocate, Mr. Varun Jain, Ms.
Aparjita Jamwal, Mr. Naveen Kumar,
Mr. Akhilesh Singh, Mr. Sumit Singh,
Mr. Deepak, Mr. Digvijay Singh
Rawat and Ms. Vamika Gupta,
Advocates.

versus

CENTRAL BUREAU OF INVESTIGATIONRespondent

Through: Mr. D.P. Singh, Senior Advocate and
Senior PP with Mr. Manu Mishra,
Ms. Garima Saxena, Ms. Roshini W
Anand and Mr. Imaan Khera,
Advocates.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

29.05.2025

%

W.P.(CRL) 1845/2025

1. This is a petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 [**“Cr. PC”**] for quashing of FIR No. RC2202022E0007 dated 18.05.2022 and charge sheets dated 07.10.2022, 01.07.2023 and 07.06.2024, filed in FIR/RC and also the quashing of the cognizance orders dated 27.02.2023, 22.09.2023 and 25.02.2025 along with consequential orders passed by learned Special Judge (PC Act).



2. Heard.
3. Issue notice.
4. Notice accepted by learned Senior Public Prosecutor, appearing on behalf of the CBI.
5. Reply be filed within six weeks and rejoinder, if any, be filed within two weeks thereafter.
6. List on 12.08.2025.

CRL.M.A. 17322/2025 (Stay)

7. Mr. Sibal, learned Senior Advocate, appearing for the petitioner, submits that CBI has failed to obtain mandatory sanction under Section 17-A of the Prevention of Corruption Act [**“PC Act”**] against the petitioner and the learned Special Court also ignored the said illegality committed by the CBI during investigation. It is also submitted that the alleged offences were committed during the period 2004-2009 and the present FIR was lodged in the year 2022, almost after a delay of 14 years, whereas, CBI has already conducted the investigation from 2009 to 2014 for the same offences by registering PE & RC during this period. It is argued that without mandatory approval under Section 17-A of the PC Act, the initiation of the enquiries and investigation are *nonest*. While placing reliance on the various cases including **Yashwant Sinha Vs. CBI, (2020) 2 SCC 338; State of Rajasthan Vs. Tejmal Choudhary, 2021 SCC OnLine SC 3477; Naresh Kumar Mittal & Ors. Vs. Central Bureau of Investigation, W.P.(Crl.) No. 2365 of 2023; D.S. Veeraiah Vs. State of Karnataka, W.P. No. 31828 of 2024; Anil Vasantrao Deshmukh Vs. State of Maharashtra, 2021 SCC OnLine Bom. 1192 & State of Haryana Vs. Bhajan Lal, 1992 (Suppl. 1) SCC 335**, learned Senior Counsel submits that no police officer



can conduct any enquiry or inquiry or investigation into the offence committed by a public servant where the offence is relatable to any recommendation made or decision taken by such public servant in discharge of his public functions without approval of the competent authority. Without such approval, any enquiry/inquiry/investigation undertaken would be *void abinitio*. He states that the initiation of investigation without such approval vitiates the entire proceedings since inception and the same is a jurisdictional error.

8. It is argued that Section 17-A of PC Act came into force on 26.07.2018, the enquiry was initiated in the year 2021 and the FIR was registered on 18.05.2022 and would therefore clearly attract the provision with the period of alleged offence being immaterial. It is submitted that in the present case, the registration of the FIR without approval under Section 17-A PC Act is absolutely illegal and nullifies all consequential actions including investigation, filing of charge sheets and passing of cognizance orders against the petitioner.

9. It has been submitted that matter is listed before the learned Special Judge for arguments on charge on 02.06.2025, if the arguments on charge are heard by the Special Court and charges are finalized, the present petition may become infructuous, a request has therefore been made for stay of proceedings pending before the learned Special Judge.

10. The request for stay of proceedings has been vehemently opposed by the learned Senior PP. He submits that the question of applicability of Section 17-A to the offences under the PC Act existing prior to its amendment is pending consideration before the Larger Bench of the Supreme Court and moreover the submissions made can be considered at the



stage of framing of charge.

11. In the case of **Nara Chandrababu Naidu Vs. The State of Andhra Pradesh & Anr. Special Leave to Appeal (Criminal) No. 12289/2023**, the Hon'ble Bench of Supreme Court expressed different views on the interpretation of Section 17-A of the PC Act, 1988 as also its applicability. In view of the same, the matter has been referred for the constitution of a Larger Bench for adjudication on the point on which contrary opinions have been expressed.

12. The present matter is stated to be listed before the learned Special Judge for arguments on charge. Notwithstanding, the pendency of the present petition, petitioner would be at liberty to urge all his contentions before the learned trial court at the stage of consideration of charge. This would be rather an added opportunity to the petitioner to put-forth his point and get the same adjudicated. Thus, I find no compelling reasons to stay the proceedings of the trial court.

13. The application for stay is therefore dismissed.

RAVINDER DUDEJA, J.

MAY 29, 2025

RM