

W.P.(Crl.)No.1118 of 2024

1



2025:KER:19421

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K. BABU

FRIDAY, THE 7TH DAY OF MARCH 2025 / 16TH PHALGUNA, 1946

WP(CRL.) NO. 1118 OF 2024

CRIME NO.RC 10 (A)/2004 OF CENTRAL BUREAU OF

INVESTIGATION, KOCHI, Ernakulam

AGAINST THE ORDER/JUDGMENT DATED 12.02.2007 IN SC

NO.35 OF 2007 OF SPECIAL C SPE/CBI-I&3 ADDITIONAL

DISTRICT COURT , ERNAKULAM

PETITIONER/S:

V.SUBRAMANIAN
AGED 60 YEARS
4/330,SOUTH STREET, KARUPPATHUR, LALAPETTAI,
KRISHNARAYAPURAM TALUK, KARUR
DISTRICT,TAMILNADU, PIN - 639105

BY ADV V.SUBRAMANIAN(Party-In-Person)

RESPONDENT/S:

- 1 UNION OF INDIA
REPRESENTED BY THE SECRETARY DEPARTMENT OF
STATES MINISTRY OF HOME AFFAIRS NORT BLOCK NEW
DELHI, PIN - 110001
- 2 THE SECRETARY
DEPARTMENT OF PERSONNEL AND TRAINING, MINISTRY



**OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS,
NORTH BLOCK, NEW DELHI, PIN - 110001**

- 3 THE SECRETARY,
MINISTRY OF LAW AND JUSTICE, SHASTRI BHAWAN, NEW
DELHI, PIN - 110001**
- 4 THE SECRETARY,
CENTRAL VIGILANCE COMMISSION (CVC), SATARKATA
BHAVAN, A-BLOCK, GPO COMPLEX, INA, NEW DELHI,
PIN - 110023**
- 5 THE DIRECTOR,
CENTRAL BUREAU OF INVESTIGATION, (CBI) HEAD
OFFICE, PLOT NO.5-B,CGO COMPLEX, LODHI ROAD, NEW
DELHI, PIN - 110003**
- 6 THE DIRECTOR
DIRECTORATE OF PROSECUTION, CENTRAL BUREAU OF
INVESTIGATION, HEAD OFFICE, PLOT NO.5-
B,9THFLOOR,CGO COMPLEX, LODHI ROAD, NEW DELHI,
PIN - 110003**
- 7 THE CHIEF VIGILANCE OFFICER(CVO),
CENTRAL BUREAU OF INVESTIGATION, HEAD OFFICE,
PLOT NO.5-B,9THFLOOR,CGO COMPLEX, LODHI ROAD,
NEW DELHI, PIN - 110003**
- 8 THE JOINT DIRECTOR AND HEAD OF ZONE,
CBI CHENNAI ZONE, CENTRAL BUREAU OF
INVESTIGATION,(CBI) III FLOOR, E.V.K.SAMPATH
BUILDING, COLLEGE ROAD, CHENNAI, PIN - 600006**
- 9 THE SUPERINTENDENT OF POLICE,
SPE/CBI, ACB COCHIN, CENTRAL BUREAU OF
INVESTIGATION,(CBI) KATHIRKADAVU, KALOOR,
COCHIN, PIN - 682017**
- 10 THE INSPECTOR OF POLICE,
SPE/CBI, ACB COCHIN, CENTRAL BUREAU OF
INVESTIGATION, SPECIAL POLICE ESTABLISHMENT,**

W.P.(Crl.)No.1118 of 2024

3



2025:KER:19421

COCHIN, PIN - 682017

- 11 [THE REGISTRAR GENERAL
HON'BLE HIGH COURT OF KERALA, ERNAKULAM, COCHIN
PIN - 682031] [DELETED]**

**R11 TO R13 ARE DELETED VIDE ORDER DATED
27/11/2024 IN IA 1/24**

- 12 [THE PRESIDING OFFICER
HON'BLE COURT OF SPECIAL JUDGE (SPE/CBI)-I,
DISTRICT COURT(ANNEX), ERNAKULAM, KALOOR,
COCHIN, PIN - 682017] [DELETED]
R11 TO R13 ARE DELETED VIDE ORDER DATED
27/11/2024 IN IA 1/24**

- 13 [K. SATHIYAN
[FORMER SPECIAL JUDGE (SPE/CBI)-) , HON'BLE
COURT OF SPECIAL JUDGE (SPE/CBI)-I, DISTRICT
COURT(ANNEX), ERNAKULAM, KALOOR, COCHIN]
[DELETED]
R11 TO R13 ARE DELETED VIDE ORDER DATED
27/11/2024 IN IA 1/24, PIN - 682017**

**BY ADVS.
SREELAL WARRIAR, SPL GP CBI
LEO LUKOSE**

**THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 07.03.2025, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

W.P.(Crl.)No.1118 of 2024

4



2025:KER:19421

“C.R.”

K.BABU, J

W.P.(Crl.).No.1118 of 2024

Dated this the 7th day of March, 2025

JUDGMENT

The petitioner, accused No.6 in SC No. 35 of 2007 on the file of the Additional Sessions Court -III, Ernakulam, seeks to quash the summons dated 12.02.2017 and all further proceedings.

Prosecution Case

2. During 1998-1999, accused Nos. 1 to 3 hatched a criminal conspiracy to cheat Canara Bank, Overseas Branch Ernakulam by availing credit facilities worth Rupees Thirty Lakhs in Packing Credit Limit and Rupees Fifty Lakhs in FDB limits in the name of M/s Dharaja Ventures Private Limited using false and forged documents relating to land not in existence as collateral security. In furtherance of the criminal conspiracy, accused No.3 contacted accused No.4



to arrange forged documents. Accused No.4 approached accused No.5 to prepare those documents, who accordingly prepared a sale deed, Patta, Pass Books, Chittas, Adangal Extract, three Encumbrance Certificates, Tax Receipts, Possession Certificates, etc. for a property measuring 48.58 Acres in Sy.Nos. 50, 67 and 68 of Suriyur Village, Thiruchirappally District, Tamil Nadu. Accused No.4, thereafter, approached the Panel Advocate of Canara Bank, Trichy Branch, for legal opinion based on the forged documents, making him believe that those documents were genuine. Accused No.4 approached accused No.6 (the petitioner herein), who was the Panel Valuer of the Canara Bank for the valuation report. Accused No.6 joined the conspiracy and prepared a false location sketch of a property measuring 48.58 Acres, describing it as situated opposite the staff quarters of Bharathidasan University. A valuation report showing its value at Rs.72.87 Lakhs, along with false location sketch and forged FMB sketches, were prepared. Accused Nos. 1 and 2, as part of the conspiracy, induced the



bank officials and got the credit facility sanctioned. Accused No.4 contacted one N.M.S. Shaikh Mohammed and A. Nasar (accused Nos. 7 and 8, respectively) in order to fraudulently represent them as the owners of the property to produce the forged documents in the Bank and to sign the necessary documents to create an equitable mortgage over a non-existent property. As a result of the conspiracy, the bank suffered a loss of Rs.80 Lakhs and accused Nos. 1 and 2 obtained unlawful gain to the tune of Rs.80 Lakhs.

Registration of FIR and Investigation

3. On 16.03.2024, the Inspector of Police, CBI,SPE, Cochin, registered FIR No.RC10(A)/2004-CBI/KER against Sri. V. Hariharan, Divisional Manager, Canara Bank, Sri. T. Baby, Manager, Canara Bank and six others alleging offences under Sections 120B r/w 420, 467 and 471 IPC and Section 13(2) r/w 13(1)(d) of the PC Act, 1988. The Inspector of Police, CBI, submitted the FIR before the Court of the Special Judge (SPE/CBI)-I, Ernakulam, on 16.03.2004. In the investigation, it was



found that no public servants were involved in the crime, and therefore, no offence under Section 13(2) r/w 13(1) (d) of the PC Act was revealed. The Investigating Officer submitted a report deleting respondent Nos. 1 and 2, the bank officials, from the array of accused and the offences under the PC Act from the FIR. The ranks of the accused in the FIR were rearranged.

3.1 The Investigating Officer initially submitted the Final Report before the Special Judge (SPE/CBI)-I, Ernakulam. The learned Special Judge returned the Final Report, instructing the Investigating Officer to submit the same before the jurisdictional Court. The Investigating Officer thereafter submitted the Final Report before the Chief Judicial Magistrate's Court, Ernakulam.

Proceedings before the Chief Judicial Magistrate's Court, Ernakulam

4. Based on the Final Report, the Chief Judicial Magistrate took cognizance of the offences under



Sections 120B, 420, 467, 468, 471 and 472 of the Indian Penal Code against the accused and numbered the case as C.C.No.110 of 2005. All the accused appeared before the Chief Judicial Magistrate.

Tender of Pardon to accused Nos. 7 and 8

5. The Chief Judicial Magistrate, as per order dated 20.12.2005 in Crl.M.P.No.3302/2005, tendered pardon under Section 306 Cr.P.C. to accused Nos.7 and 8.

Committal

6. The tender of pardon was accepted by accused Nos. 7 and 8. The Chief Judicial Magistrate renumbered the case as C.P.No.4 of 2006 and committed it to the Court of Session for trial under Section 306(5)(a)(i) Cr.P.C.

Proceedings before the Court of Session, Ernakulam Division

7. The Court of Session took cognizance of the offences, numbered the case as Sessions Case No.35 of 2007 and made it over to the Additional Sessions Court-III, which is also a Special Court for SPE/CBI cases.



Proceedings before the Additional Sessions Court-III

8. All the accused appeared. Charges against accused Nos.2 and 5 abated as they died during the proceedings. The petitioner filed Crl.M.P.No.296/2017 seeking discharge under Section 239 Cr.P.C. The Additional Sessions Court-III dismissed the application.

Framing of charge

9. On 20.02.2020, the Additional Sessions Court-III, Ernakulam, framed charges against the petitioner. The petitioner denied the charges. He also pleaded that the name of the Court referred to in the charge was wrong.

10. The petitioner appeared in person. I have heard the petitioner and the learned Standing counsel for the CBI.

11. The petitioner raised the following grounds in support of the reliefs in the Writ Petition:-.

(1)The CBI has no jurisdiction to register the FIR and also to investigate offences relating to the banking business.

(2)The Chief Judicial Magistrate should not have committed the case to the Sessions Court under Section 306(5) Cr.P.C.



(3)As the petitioner received summons from the Special Court for CBI cases and the trial is being conducted by the Additional Sessions Court-III, the proceedings are illegal and irregular.

(4)Two charge sheets have been submitted by the Investigating Agency and the petitioner has not been called upon specifically as to which charge he has to answer.

(5)Being a Valuer of property, no prosecution could be initiated against the petitioner.

12. The learned Standing Counsel for the CBI submitted that the CBI has jurisdiction to register FIR in respect of the offences under the PC Act in the case of Central Government Employees. If a cognizable offence under the PC Act is revealed, the Investigating Agency has the power to implicate private persons along with the public servants, if any conspiracy to commit offences under the PC Act is revealed. The Investigating Agency may also investigate offences other than those mentioned in Section 3 of the PC Act with which the accused may be charged at the



same trial. The CBI is empowered to submit Final Report before the Jurisdictional Magistrate if it is revealed that no PC Act offences are finally disclosed.

13. The learned Standing Counsel submitted that the committal of the case to the Sessions Court, Ernakulam, is as per the relevant provisions of the Cr.P.C. The Additional Sessions Court-III, to which the case has been made over is also a Special Court for CBI cases. Initially the summons happened to be issued by way of a mistake in the name of the Special Court. After the committal, the Sessions Court and the Additional Sessions Court proceeded with the case. The Sessions Judges have not exercised the powers of the Special Judge (CBI) in the matter. It is contended by the learned Standing Counsel that the question of whether the Valuer of land in a banking transaction could be prosecuted or not is a matter to be decided in trial.

Consideration

14. The first challenge of the petitioner is that the CBI-Anti-Corruption Bureau has no jurisdiction to register



the FIR and proceed with the investigation. As per Section 17 of the PC Act, an Inspector of Police in the case of the Delhi Police Establishment is authorized to investigate any offence punishable under the PC Act. The CBI was established on 01.04.1963 vide Government of India Resolution No.4/31/61/T/MHA to meet the need of having a Central Police Agency at the disposal of the Central Government to investigate cases not only of bribery and corruption but also those relating to the breach of central fiscal laws, frauds in Government Departments and public sector undertakings and other serious crimes. The authority of the CBI is stated to have been derived from the Delhi Police Establishment Act. Therefore, the CBI-Anti-Corruption Bureau, Kochi Unit is authorised to register FIR alleging offences under the PC Act and investigate such offences.

15. In the FIR, the CBI alleged the offences under Sections 120B r/w 420, 467 and 471 IPC and Section



13(2) r/w 13(1)(d) of the PC Act, 1988. In the investigation, the CBI found that the public servants were not involved. Therefore, after deleting the offence under the PC Act, they submitted final report against the private persons, including the petitioner.

16. The challenge of the petitioner is that in the absence of PC Act offences the CBI is divested of with the power to proceed with the investigation and submit the Final Report. The crux of the arguments of the petitioner is that the CBI is not empowered to submit final report alleging non-PC Act offences.

17. As per the scheme of the PC Act, 1988, an offence under the PC Act can be committed by either a public servant or a private person or a combination of both. Offences under Sections 7, 10 and 11 of the PC Act can be committed only by a public servant. An offence under Section 7 can also be committed by a person expected to be a public servant. An offence under



Section 7 or 11 could be abetted by a non-public servant. An offence under Sections 8, 9 or 10 can be committed by a person who need not necessarily be a public servant. As per Section 3 of the PC Act, an offence under the PC Act is required to be tried only by a Special Judge and no other court. It is not necessary that in every offence under the PC Act, a public servant must be an accused. The existence of a public servant for facing the trial before the Special Court is not a must and even in his absence, private persons can be tried for PC Act and non-PC Act offences. As per sub-section (2) of Section 4 of the PC Act, every offence under the PC Act shall be tried by the Special Judge for the area within which it was committed. Sub-section (3) of Section 4 says that when 'trying any case', a Special Judge may also try any offence, other than an offence specified in Section 3, with which the accused may, under the Code of Criminal Procedure, be charged at the same trial.



18. A conjoint reading of Sections 3 and 4 of the PC Act would indicate that, insofar as the PC Act offences are concerned, the jurisdiction of ordinary criminal court is excluded whereas, such an exclusion is not applicable to non-PC Act offences. A Special Judge exercising powers under the PC Act is not invested with the power to try non-PC Act offences totally unconnected with any PC Act offences. The Special Judge is expected to try non-PC Act offences only when those offences are connected with PC Act offences. This is evident from sub-section (3) of Section 4 which says that when `trying any offence' under the PC Act a Special Judge may also try any non-PC Act offence. The jurisdiction of the Special Court to try the non-PC Act offence is dependent on the existence of the trial of a PC Act offence, which is inter-related with the non-PC Act offences.

19. Section 17 of the PC Act deals with the power of Police officers to investigate into an offence punishable



under the PC Act. Sub-section (1) of Section 17 says that an Inspector of Police in the case of Delhi Police Establishment shall investigate into an offence punishable under the PC Act. The scheme of the PC Act makes it clear that the Investigating Officer is empowered under Section 17 of the Act to investigate into any offence other than an offence under the PC Act which is connected with any PC Act offence. The existence of an FIR alleging offence under the PC Act is a *sine qua non* for exercising the power of investigation as provided under Section 17 of the PC Act. An officer empowered to conduct investigation under Section 17 of the PC Act gets the jurisdiction to investigate non-PC Act offences when those offences are connected with the PC Act offences. The jurisdiction of the Investigating Officer to conduct an investigation of non-PC Act offence is dependent on the existence of an FIR alleging offence under the PC Act. Once the Investigating Officer is conferred with the



power under Section 17 of the PC Act to commence and continue the investigation of the PC Act offences, he is empowered to complete the investigation of the said offences and submit final report.

20. The argument of the petitioner is that once the CBI concludes that the offences under the PC Act are not revealed, they are divested of the power to submit the final report in respect of the non-PC Act offences. In the circumstances mentioned above, the investigating agency does not investigate non-PC Act offences independently. Throughout the process of investigation the inter-relationship between the PC Act and the non-PC Act offences subsists. Every investigation shall culminate in a report under Section 173(2) Cr.P.C. Where the investigating agency finds that offence under the PC Act is not revealed, the investigation shall end in a report under Section 173(2) Cr.P.C. revealing the non-PC Act offences. In such circumstances, the final report shall not



be filed before the Special Court as the Special Court gets jurisdiction to take cognizance of the offences and proceed with the trial only in cases where the PC Act offence is alleged as “trying any case” under the PC Act is a necessary requirement for the Special Court to exercise its jurisdiction. (See ***State through CBI, New Delhi v. Jitender Kumar Singh*** [(2014) 11 SCC 724]). Therefore, the investigating agency is bound to submit the final report in respect of the non-PC Act offences before the competent jurisdictional Magistrate to proceed further.

21. In the Final Report, the CBI alleged offences under Sections 120B r/w 420, 467, 468, 471 and 472 of the Indian Penal Code. As per notification No. B1-13062/74 dated 10.12.1974, the High Court of Kerala has appointed with effect from 01.04.1974 the Chief Judicial Magistrate, Ernakulam, as Judicial Magistrate of the First Class for all the districts of Kerala State with headquarters at Ernakulam



to try or inquire into and commit to the court of Session all such cases arising in any local area within the state of Kerala in which investigations are made or charge sheets filed by the Special Police Establishment Constituted under the Delhi Special Police Establishment Act, 1946 (Act No.XXV of 1946). Therefore, the CBI submitted Final Report before the Chief Judicial Magistrate Court, Ernakulam. I find no irregularity or illegality in the procedure adopted by the CBI. It is pertinent to note that even complete absence of valid authorization in law has been held to be a mere defect of investigation which would not per se vitiate investigation and has to be judged in each case on the anvil of prejudice (vide: ***H.N.Rishbud v. State of Delhi*** [AIR 1955 SC 196], ***Munnalal v. State of U.P.*** [AIR 1964 SC 28], ***Khandu Sonu Dhobi v. State of Maharashtra*** [AIR 1972 SC 958], ***State of M.P. v. Ramesh C. Sharma*** [(2005) 12 SCC 628], ***State of M.P. v. Virender Kumar Tripathi*** [(2009) 15 SCC 533]. The very purpose of the



investigation is to collect the evidence relating to the commission of the offence for establishing the accusation against the offender. It would always be necessary for the court to examine that if the accused in anyway has been prejudiced by the steps taken by the investigating agency and further by the court proceeding with the matter. (vide: ***Rekha v. State of Maharashtra*** [(2010) 15 SCC 725]. This Court, at this stage, finds no prejudice against the petitioner as a result of the investigation conducted by the CBI. The contention of the petitioner that once it was revealed that no PC Act offences were involved, the CBI lost its jurisdiction to proceed further cannot be sustained.

Challenge on the committal under Section 306(5) Cr.P.C.

22. The petitioner submits that the Chief Judicial Magistrate ought not have committed the case to the Sessions Court. As I mentioned above, the learned Chief Judicial Magistrate tendered pardon to accused Nos. 7



and 8, and they accepted the same. Where a person has accepted a tender of pardon, and he has been examined, if the Magistrate taking cognizance of the offence is the Chief Judicial Magistrate, he has to commit the case for trial to the Sessions Court. This is the mandate of Section 306(5) Cr.P.C.

23. Section 306 Cr.P.C. reads thus:-

“306.Tender of pardon to accomplice.-

(1) With a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to an offence to which this section applies, the Chief Judicial Magistrate or a Metropolitan Magistrate at any stage of the investigation or inquiry into, or the trial of, the offence, and the Magistrate of the first class inquiring into or trying the offence, at any stage of the inquiry or trial, may tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof.

(2) This section applies to -

(a) any offence triable exclusively by the Court of Session or by the Court of a Special Judge appointed under the Criminal Law (Amendment) Act, 1952 (46 of 1952);

b) any offence punishable with imprisonment which may extend to seven years or with a more severe sentence.

(3) Every Magistrate who tenders a pardon under sub-section (1) shall record -

(a) his reasons for so doing;

(b) whether the tender was or was not accepted by the person to whom it was made,

and shall, on application made by the accused, furnish him with a copy of such record free of cost.



- (4) Every person accepting a tender of pardon made under sub-section (1)-
- (a) shall be examined as a witness in the court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any;
- (b) shall, unless he is already on bail, be detained in custody until the termination of the trial.
- (5) Where a person has accepted a tender of pardon made under sub-section (1) and has been examined under sub-section (4), the Magistrate taking cognizance of the offence shall, without making any further inquiry in the case, -
- (a) commit it for trial -
- (i) **to the Court of Session** if the offence is triable exclusively by that Court or **if the Magistrate taking cognizance is the Chief Judicial Magistrate,**
- (ii) to a court of Special Judge appointed under the Criminal Law (Amendment) Act, 1952 (46 of 1952), if the offence is triable exclusively by the Court;
- (b) in any other case, make over the case to the Chief Judicial Magistrate who shall try the case himself."

24. Sub-section (5) of Section 306 Cr.P.C. makes it clear that where a person has accepted a tender of pardon under sub-section (1) and has been examined under sub-section (4), if the Magistrate taking cognizance is the Chief Judicial Magistrate, irrespective of whether the offence is exclusively triable by a Sessions Court or not it shall commit it to the Sessions Court. Therefore, there is no irregularity in the committal of the case to the Sessions Court.



25. The next contention of the petitioner is that the learned Magistrate committed the case to the Special Court for CBI cases, which has no jurisdiction to try the offences alleged. In support of his contention, he relied on the summons issued to him.

26. I have gone through the committal proceedings and the proceedings in the Sessions Court. The learned Chief Judicial Magistrate committed the case to the Sessions Court, Ernakulam Division. The Sessions Court took cognizance of the offences and made over the case to the Additional Sessions Court-III. These are evident from the committal order dated 18.12.2006 passed by the Chief Judicial Magistrate and, the order taking cognizance by the Sessions Court and the further order making over the case to the Additional Sessions Court-III. It is true that the summons was issued to the petitioner with the seal the Special Court SPE/CBI, Ernakulam.



27. The Additional Sessions Court-III, Ernakulam is also a Special Court for SPE/CBI Cases. That Court is notified as an Additional Sessions Court within Ernakulam Sessions Division. The said Court is also notified as the Special Court for the trial of the offences under the PC Act under Section 3. The 'Court Charge' specifically shows that the Additional Sessions Court-III took cognizance of the offence and framed charges against the petitioner. It is only by way of a clerical error in the summons the name of the Special Court was mentioned. It is made clear that the Sessions Case is pending before the Additional Sessions Court-III. This is more clear from the committal order extracted below:-

"When the accused appeared in answer to the summons, they are furnished with copies of all prosecution records. Thereafter, prosecution filed CMP 3302/2005 for tendering pardons to Accused Nos.7 and 8. After completing the legal formalities, accused numbers 7 and 8 were tendered pardons as per order dated 20.12.2005 and they were examined under Sub Section 4 of Section 306 of Cr.P.C. Thereafter it is re-numbered as CP 4/2006 and the case is committed the Hon'ble Sessions Court, Ernakulam for trial under section 306(5)(a)(i) of Cr.P.C.



Accused are on bail with direction to appear before the Sessions Court on summons.” (Sic.)

28. The petitioner and the other accused had appeared before the Chief Judicial Magistrate, Ernakulam. The petitioner had knowledge regarding the committal of the case under Section 306(5)(a)(1) of the Cr.P.C. to the Court of Session, Ernakulam and the transfer of the case to the Additional Sessions Court-III.

29. The error in the name of the Court in the summons will not affect the jurisdiction of the Court in anyway and this will not cause any prejudice to the accused. The error is only to be ignored.

30. The further contention of the petitioner is that the Investigating Agency submitted two charge sheets. This submission has no foundation. I have gone through the records placed before the trial Court. The prosecution submitted only one final report in the matter. The final report was initially submitted before the Special



Court, which returned the same. The CBI later submitted the final report before the CJM Court.

31. It is submitted by the petitioner that he was discharging the duty as a Valuer of the property involved in the transactions. It is contended that the petitioner only discharged his official responsibility to value the property and therefore, he cannot be prosecuted. The prosecution case is that all the accused conspired together to create forged documents in respect of a property not in existence. *Prima facie*, there are specific allegations pointing to the involvement of the petitioner and the other accused.

32. In ***State of Kerala v. O.C. Kuttan*** [(1999) 2 SCC 651], the Apex Court held that while exercising the power, it is not possible for the Court to sift the materials or to weigh the materials and then come to the conclusion one way or the other. In ***State of U.P v. O.P. Sharma*** [(1996) 7 SCC 705] a Three Judge Bench of the Apex



Court observed that the High Court should be loath to interfere at the threshold to thwart the prosecution exercising its inherent power under Section 482 Cr.P.C or under Articles 226 and 227 of the Constitution of India, as the case may be, and allow the law to take its own course. This view was reiterated by another Three Judge Bench of the Apex Court in ***Rashmi Kumar v. Mahesh Kumar Bhada*** [(1997) 2 SCC 397], wherein the Apex Court held that such power should be sparingly and cautiously exercised only when the Court is of the opinion that otherwise there will be gross miscarriage of justice. It is trite that the power of quashing criminal proceedings should be exercised with circumspection and that too, in the rarest of rare cases and it was not justified for this Court in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the Final report or the complaint. A finding on the veracity of a material relied on by the prosecution in a



case where the allegations levelled by the prosecution disclose a cognizable offence, is not a consideration for the High Court while exercising its power under Section 482 Cr.P.C. This view is fortified by the decision of the Apex Court in ***Mahendra K.C. v. State of Karnataka and Ors.*** [AIR 2021 SC 5711].

33. In ***Amit Kapoor v. Ramesh Chander and another*** [2012 (9) SCC 460], the Apex Court held that where the factual foundation for an offence has been laid down, the Courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied if there is substantial compliance with the requirements of the offence.

34. Yet another aspect that requires consideration is that the trial Court has already framed charges against the petitioner and the other accused. The Court is now proceeding with the examination of the witnesses.



35. In ***Minakshi Bala Vs. Sudhir Kumar and Others*** [1994 (4) SCC 142] ,the Apex Court in paragraph 7 of the judgment held thus:-

“If charges are framed in accordance with Section 240 CrPC on a finding that a prima facie case has been made out - as has been done in the instant case - the person arraigned may, if he feels aggrieved, invoke the revisional jurisdiction of the High Court or the Sessions Judge to contend that the charge-sheet submitted under Section 173 CrPC and documents sent with it did not disclose any ground to presume that he had committed any offence for which he is charged and the revisional court if so satisfied can quash the charges framed against him. To put it differently, once charges are framed under Section 240 CrPC the High Court in its revisional jurisdiction would not be justified in relying upon documents other than those referred to in Section 239 and 240 CrPC; nor would it be justified in invoking its inherent jurisdiction under Section 482 CrPC to quash the same except in those rare cases where forensic exigencies and formidable compulsions justify such a course. We hasten to add even in such exceptional cases the High Court can look into only those documents which are unimpeachable and can be legally translated into relevant evidence.”



36. In the light of the discussions made above, I am of the view that this is not a fit case to quash the proceedings at this stage. However, I clarify that *de hors* these observations, the trial Court is absolutely free to analyse, appreciate, evaluate and arrive at a proper conclusion based on the evidence and materials placed by the prosecution as well as the defence during the trial. The trial Court shall complete the trial and dispose of the case within six months from the date of receipt of a certified copy of this judgment.

The W.P.(Crl.) stands dismissed.

Sd/-
K.BABU, JUDGE

kkj



APPENDIX OF WP(CRL.) 1118/2024

PETITIONER EXHIBITS

- | | |
|----------------------|---|
| Exhibit P-1 | A TRUE COPY OF TABLE 1 SHOWING THE OPEN IRREGULARITIES IN FIR AND FINAL REPORT OF RESPONDENT CBI |
| Exhibit P - 2 | A TRUE COPY OF TABLE NO.2 SHOWING THE OPEN FLAW IN INVESTIGATION AND MOTIVATED BIAS IN FIR AND FINAL REPORT OF THE RESPONDENT-CBI |
| Exhibit P - 3 | A TRUE COPY OF TABLE NO.3 SHOWING ADMINISTRATIVE FRAUDS COMMITTED BY THE RESPONDENT - CBI AND THE PRESIDING OFFICERS OF THE HON'BLE COURT OF SPECIAL JUDGE (SPE/CBI)-I, ERNAKULAM AND FAILURE OF FUNDAMENTAL ADMINISTRATIVE DUTY OF THE HON'BLE HIGH COURT |
| Exhibit P - 4 | A TRUE COPY OF PETITIONER'S VALUATION REPORT |
| Exhibit P - 5 | A TRUE COPY OF ANOTHER VALUER D.RMAKRISHNAN'S VALUATION REPORT |
| Exhibit P - 6 | A TRUE COPY OF COUNTER VERIFIED VALUER B.KANAGASABAPATHY'S VALUATION REPORT FOR SIMILAR PROPERTY |
| Exhibit P- 7 | A TRUE COPY OF FIR NO. RC 10(A)/2004 DATED 16.03.2004 LODGED AT CBI, COCHIN P.S , ERNAKULAM DISTRICT FILED BEFORE THE COURT OF SPECIAL JUDGE (SPE/CBI)-I, ERNAKULAM |



- Exhibit P- 8** **A TRUE COPY OF THE FINAL REPORT (CHARGE SHEET) ADDRESSED TO THE COURT OF SPECIAL JUDGE (SPE/CBI)-I, ERNAKULAM, BUT CBI IS FILED BEFORE THE HON'BLE CHIEF JUDICIAL MAGISTRATE (CJM), ERNAKULAM AND NUMBERED AS CC NO.110/2005 DATED 29.04.2005**
- Exhibit P - 9** **A TRUE COPY OF STATEMENTS GIVEN BY THE TWO PUBLIC SERVANTS AND TWO OTHER VALUERS BEFORE THE RESPONDENT-CBI IN THE FINAL REPORT.**
- Exhibit P -10** **A TRUE COPY OF THE SUMMONS DATED 15.06.2005 ISSUED BY THE HON'BLE CHIEF JUDICIAL MAGISTRATE, ERNAKULAM TO THE SIXTH ACCUSED IN C.C.NO.110/2005.**
- Exhibit P -11** **A TRUE COPY OF LETTER RECEIVED FROM THE CBI-DIG DATED 22.12.2005**
- Exhibit P -12** **A TRUE COPY OF THE BAIL ORDER DATED 03.05.2006 ISSUED BY THE HON'BLE CHIEF JUDICIAL MAGISTRATE, ERNAKULAM IN CC NO.110/05.**
- Exhibit P - 13** **A TRUE COPY OF ACTUAL DATES OF HEARINGS AND PROCEEDINGS IN CC NO.110/2005 IN THE HON'BLE CHIEF JUDICIAL MAGISTRATE, ERNAKULAM**
- Exhibit P - 14** **A TRUE COPY OF THE ORDER DATED 18.12.2006 BY THE HON'BLE CHIEF JUDICIAL MAGISTRATE, ERNAKULAM. (COPY OF THE ORDER OBTAINED ON 24.05.2019 FROM THE HON'BLE COURT OF SPECIAL JUDGE (SPE/CBI)-I, ERNAKULAM)**
- Exhibit P - 15** **A TRUE COPY OF THE SECOND SUMMONS DATED 12.02.2007 TO SIXTH ACCUSED ISSUED BY THE HON'BLE SPECIAL JUDGE (SPE/CBI)-I, ERNAKULAM IN**

W.P.(Crl.)No.1118 of 2024

33



2025:KER:19421

**S.C.NO.35/2007 FOR APPEARANCE ON
20.03.2007.**

- Exhibit P - 16** **A TRUE COPY OF THE OBJECTIONS FILED BY THE RESPONDENT CBI-COCHIN THE HON'BLE SPECIAL JUDGE(SPE/CBI)-I, ERNAKULAM IN THE NAME OF IIIRD ADDITIONAL SESSIONS COURT, ERNAKULAM IN CRL.M.P.NOS. 4400/2009, 3665/2012 AND 20/2013 IN S.C.NO.35/2007 DATED 04.01.2013**
- Exhibit P - 17** **PETITIONER'S REPLY TO OBJECTIONS FILED BY THE RESPONDENT/ PROSECUTION ON 04.01.2013 SUBMITTED BEFORE THE HON'BLE COURT OF SPECIAL JUDGE (SPE/CBI)-I, ERNAKULAM ON 18.01.2013**
- Exhibit P - 18** **A TRUE COPY OF THE FURTHER OBJECTION DATED 06.02.2013 FILED BEFORE THE HON'BLE SPECIAL JUDGE (SPE/CBI)-I, ERNAKULAM IN THE NAME OF IIIRD ADDITIONAL SESSIONS COURT, ERNAKULAM IN CRL.M.P.NOS.4400/2009,3665/2012 AND 20/2013 IN S.C.NO.35/2007. (THE DATE WAS MENTIONED WRONGLY AS 06TH JANUARY 2013 IN THE CBI DOCUMENT AND ACTUAL HEARING DATE IS 06.02.2013)**
- Exhibit P - 19** **A TRUE COPY OF THE ORDER PASSED BY SHRI. P. SASIDHARAN, PRESIDING OFFICER OF THE COURT OF SPECIAL JUDGE (SPE/CBI)-I IN THE NAME OF IIIRD ADDITIONAL SESSIONS JUDGE, ERNAKULAM IN CRL.M.P.NO.4400/2019 IN S.C.NO.35/2007 DATED 28.05.2013.**
- Exhibit P - 20** **A TRUE COPY OF THE ORDER PASSED BY SHRI.P.SASIDHARAN PRESIDING OFFICER OF THE COURT OF SPECIAL JUDGE (SPE/CBI)-I IN THE NAME OF IIIRD ADDITIONAL SESSIONS JUDGE, ERNAKULAM IN CRL.M.P.NO . 3665 / 2012 IN S.C.NO.**

W.P.(Crl.)No.1118 of 2024

34



2025:KER:19421

35/2007 DATED 28.05.2013.

**Exhibit P - 21 A TRUE COPY OF THE ORDER PASSED BY
SHRI.P.SASIDHARAN PRESIDING OFFICER OF
THE COURT OF SPECIAL JUDGE (SPE/CBI)-I
IN THE NAME OF IIIRD ADDITIONAL
SESSIONS JUDGE, ERNAKULAM IN
CRL.M.P.NO . 20/2013 IN S.C.NO.
35/2007 DATED 28.05.2013.**

**Exhibit P - 22 A TRUE COPY OF THE ARREST AND SEARCH
MEMO OF THE RESPONDENT -CBI, COCHIN
DATED 22.02.2014**

**Exhibit P - 23 A TRUE COPY OF PETITION TO CHANGE THE
CAUSE TITLE IN THE ORDER DATED
28.05.2013 FILED BY THE PETITIONER ON
12.12.2014 AND NUMBERED AS
CR.M.P.NO.133/2016**

**Exhibit P - 24 A TRUE COPY OF PETITION FOR OBJECTION
OF JURISDICTION IN CRL. M.P.
NO.1104/2017 IN S.C.NO.35/2007 DATED
26.04.2017 FILED BEFORE THE HON'BLE
SPECIAL COURT (SPE/CBI)-I, ERNAKULAM.**

**Exhibit P - 25 A TRUE COPY OF COPY OF THE DAILY
STATUS AND THE RETURN ORDER IN COPY
APPLICATION AND ORDER DATED 16.05.2019
PASSED IN S.C. NO.35/2007 BY THE
HON'BLE SPECIAL JUDGE (SPE/CBI)-I,
ERNAKULAM IN THE NAME OF III
ADDITIONAL SESSIONS JUDGE, ERNAKULAM**

**Exhibit P - 26 A TRUE COPY OF THE REPLY LETTER FROM
PUBLIC INFORMATION OFFICER OF THE
COURT OF SPECIAL JUDGE (SPE/ CBI)-I,
ERNAKULAM IN S.C.NO.35/2007 DATED
18.06.2019**

Exhibit P - 27 A TRUE COPY OF THE LETTER SENT TO THE



**CBI, DIRECTOR, NEW DELHI BY THE
MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSIONS DATED
23.07.2019.**

- Exhibit P - 28 A TRUE COPY OF THE LETTER RECEIVED
FROM THE KERALA HIGH COURT IN 1-3-
43325/2019 DATED 30.07.2019.**
- Exhibit P - 29 A TRUE COPY OF THE DAILY ORDER PASSED
BY THE PRESIDING OFFICER OF THE COURT
OF SPECIAL JUDGE (SPE/CBI)-I, ERNAKULAM
DATED 13.08.2019.**
- Exhibit P - 30 A TRUE COPY OF REPLY FROM CVC IN THE
MATTER OF COMPLAINT AGAINST CBI DATED
30.09.2019**
- Exhibit P - 31 A TRUE COPY OF THE ORDER IN W.P.(CRL)
NO.257 / 2019 DATED 04.11.2019 PASSED
BY THIS HON'BLE COURT.**
- Exhibit P - 32 A TRUE COPY OF DAILY STATUS OF THE
WEB-SITE OF E-COURTS SERVICE AND
SEPARATE ORDER OF THE PRESIDING
OFFICER SRI.K.SATHYAN PASSED IN
CRL.M.P.NO.2850/ 2019 DATED
20.11.2019.**
- Exhibit P - 33 A TRUE COPY OF ORDER OF FRAMING
CHARGES BY THE THEN PRESIDING OFFICER
SRI.K.SATHYAN IN S.C.NO.35/2007 DATED
25.02.2020.**
- Exhibit P - 34 A TRUE COPY OF REPLY FROM THE
DEPARTMENT OF PERSONNEL AND TRAINING
DATED 05.03.2020.**
- Exhibit P - 35 A TRUE COPY OF ORDER OF THE THEN
PRESIDING OFFICER OF THE SUMMON ISSUED
COURT OF SPECIAL JUDGE (SPE/CBI)-**

W.P.(Crl.)No.1118 of 2024

36



2025:KER:19421

**I, ERNAKULAM IN UNNUMBERED PETITION IN
SC. NO.35/2007 DATED 31.03.2021**

- Exhibit P - 36** **A TRUE COPY OF REPLY FROM THE CENTRAL
VIGILANCE COMMISSION FOR MY
REPRESENTATION DATED 17.03.2023 VIDE
IN COMPLAINT NUMBER 10299/2023/545597
DATED 28-04-2023.**
- Exhibit P - 37** **A TRUE COPY OF REPLY LETTER GIVEN BY
THE REGISTRAR GENERAL OF HON'BLE HIGH
COURT OF KERALA DATED 25.05.2023**
- Exhibit P - 38** **A TRUE COPY OF REPLY GIVEN BY THE
HON'BLE SUPREME COURT OF INDIA TO THE
PETITIONER DATED 19.07.2023**
- Exhibit P - 39** **A TRUE COPY OF CR.M.P.NO.4073 OF 2023
IN S.C.NO.35/2007 FILED BY THE 1ST
ACCUSED FAKRUDHEEN HAJI BEFORE THE
HON'BLE COURT OF SPECIAL JUDGE
(SPE/CBI)-I, ERNAKULAM ON 20.09.2023**
- Exhibit P - 40** **A TRUE COPY OF REPLY GIVEN BY THE
HON'BLE HIGH COURT OF KERALA TO THE
PETITIONER IN THE CASE SC.NO.35/2007
DATED 08.12.2023.**
- Exhibit P - 41** **A TRUE COPY OF ORDER IN
CR.M.P.NO.4073/2023 IN SC NO.35/2007
PASSED BY HON'BLE COURT OF SPECIAL
JUDGE (SPE/CBI)-I ERNAKULAM ON 5TH
JULY 2024 (05.07.2024)**
- Exhibit P - 42** **A TRUE COPY OF SUPREME COURT ORDER
DATED 13.09.2024**
- Exhibit P - 43** **A TRUE COPY OF RELEVANT PORTIONS OF
JUDGMENTS PASSED BY HON'BLE SUPREME
COURT**

W.P.(Crl.)No.1118 of 2024

37



2025:KER:19421

Exhibit P -44

**CLARIFICATION TO INCLUDE JUDICIAL
OFFICERS AS RESPONDENT IN THIS WRIT
PETITION**