2026:KER:22892

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN

TUESDAY, THE 17TH DAY OF MARCH 2026/26TH PHALGUNA, 1947

CRL.MC NO. 1627 OF 2026

CRIME NO.215/1994 OF VANCHIYOOR POLICE STATION, THIRUVANANTHAPURAM

AGAINST THE ORDER DATED 17.02.2026 IN Crl.M.P.No. 2/2026 IN Crl.A NO.10 OF 2026 OF DISTRICT COURT & SESSIONS COURT/RENT CONTROL APPELLATE AUTHORITY, THIRUVANANTHAPURAM

PETITIONER/ACCUSED NO.2:

ANTONY RAJU
AGED 72 YEARS, S/O.ALPHONSE,
H.NO.237, SWATHI NAGAR, PADINJAREKOTTA,
KOTTAYKKAKOM WARD, VANCHIYOOR VILLAGE,
THIRUVANANTHAPURAM, PIN - 695542

BY ADVS.
SRI.AARON ZACHARIAS BENNY
SRI.M.REVIKRISHNAN
SRI.P.M.RAFIQ
SRI.AJEESH K.SASI
SMT.SRUTHY N. BHAT
SMT.SRUTHY K.K
SHRI.K.ARAVIND MENON
SMT.SONA MARIA BIJU
SRI.P.VIJAYA BHANU (SR.)

RESPONDENT:

1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031

ADDL.R2 M.R. AJAYAN
S/O. RAGHU,
EDITOR, GREEN KERALA NEWS,
THEKKETHALAKKAL HOUSE
CHERIYAPALLAMTHURUTHU NORTH PARAVOOR P.O

[ADDITIONAL R2 IS IMPLEADED AS PER ORDER DATED 17.03.2026]

BY
ADV.V.R.MANORANJAN (MUVATTUPUZHA)
DIRECTOR GENERAL OF PROSECUTION

ADV.P.NARAYANAN – SPECIAL GOVERNMENT PLEADER TO TO D.G.P. AND ADDITIONAL PUBLIC PROSECUTOR

ADV.SAJJU.S. - SENIOR GOVERNMENT PLEADER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06.03.2026, THE COURT ON 17.03.2026 PASSED THE FOLLOWING:

2026:KER:22892

"C.R."

O R D E R

Dated this the 17th day of March, 2026

The petitioner herein is the second accused in C.C.No.811/2014 of the Judicial First Class Magistrate, Court No.1, Nedumangadu. As per Annexure-1 judgment dated 03.01.2026, he was convicted, along with the 1st accused, for offences under Sections 120B, 420, 201, 193 and 217, read with Section 34, of the Indian Penal Code. The petitioner preferred Annexure-2 appeal before the Sessions Court, Thiruvananthapuram, numbered as Crl.A.No.10/2026. Along with the Appeal, the petitioner/A2 preferred a Criminal Miscellaneous Petition, bearing No.2/2026, seeking suspension of conviction under Section 430 (1) of the Bharatiya Nagarik Suraksha Sahhita, 2023. The same was dismissed vide Annexure-4 Order dated 17.02.2026, which is impugned in the instant miscellaneous case.

2. Heard **Sri.P.Vijayabhanu** - learned Senior Counsel duly instructed by Sri.K.Aravind Menon, on behalf of the petitioner and **Sri.Sajju S**, learned Senior Government Pleader on behalf of the respondent/State. An impleading petition has been filed by a third person. Sri.Manoranjan V.R, learned counsel for the impleading petitioner was also heard.

3. For a correct appreciation of the issue, it is necessary to look into the prosecution case in brief. In order to secure the acquittal of an Australian National, who was accused in Valiyathura Police Station Crime No.60/1990 (S.C.No.147/1990 of Sessions Court, Thiruvananthapuram) alleging offence under Section 21(b) of the N.D.P.S. Act, the 1st accused in the instant case – the then Clerk of the Judicial Second Class Magistrate, Thiruvananthapuram, in charge of the property section – entered into a conspiracy with the 2nd accused (petitioner herein), who was the defence counsel in the said case.

Pursuant to the conspiracy, the 1st accused, on 09.08.1990, dishonestly delivered to the 2nd accused M.O.1 underwear, which was in the custody of the Court as T.No.241/1990. The 2nd accused dishonestly received it, after endorsing its receipt in the property register. By the time M.O.1 was resubmitted on 05.12.1990, the same was tampered with, ultimately resulting in the acquittal of the accused/Australian National. The 1st accused thereafter accepted back the altered underwear and forwarded it to the Sessions Court for trial, as if it was genuine. The prosecution would say that by such fabrication of evidence and deception of the Court, the accused committed the offences under Sections 120(B), 420, 201, 193, 217, 409, 465 and 468, read with Section 34 of the Indian Penal Code.

4. In this regard, it is profitable to refer to the fact that there was an Order by the Magistrate concerned to return certain thondi articles, which were the personal belongings of the accused in S.C.No.147/1990. What was

directed to be returned were the articles kept under T.Nos.242/1990 and 243/1990, which were Exts.P40 and P42. It is by dishonest use of that Order that the subject underwear, Ext.P38, kept under T.No.241/1990, was handed over by A1 to A2. The Trial Court found that the prosecution successfully established the entrustment of M.O.1 underwear by deceitful means to the petitioner/A2 by A1, as also, its return by A2 to A1. Thereupon, the Trial Court proceeded on the premise that A2 is duty bound to explain as to what he has done with M.O.1 underwear, since it is a matter within his special knowledge, by taking recourse to Section 106 of the Indian Evidence Act, 1872, which burden, he failed to assume. For the reasons stated in detail in the judgment, the learned Magistrate convicted the accused persons for the offences made mention of above.

5. The learned Senior Counsel, on behalf of the petitioner, would primarily invite the attention of this Court to the fact that the Trial Court has not considered

the *actus reus* constituting the crime, which in the instant case, is the tampering of M.O.1 underwear. The Trial Court has proceeded on the premise that, once the entrustment of M.O.1 underwear has been established, tampering follows, for the purpose of finding guilt. There is no discussion, whatsoever, as to who tampered M.O.1 and *in absentia*, a finding of guilt against the petitioner/A2 cannot be sustained, at all. Learned Senior Counsel would explain that A2 was a junior lawyer attached to a Senior Counsel, who was defending the accused in S.C.No.147/1990 before the Sessions Court, Thiruvananthapuram. The accused therein was an Australian citizen. M.O.1 was released along with other items pursuant to a Court Order; and in his capacity as the junior lawyer, the petitioner/A2 received it. A lawyer receives an M.O - released pursuant to a Court Order - only on behalf of his client, and in ordinary circumstances, the presumption is that the same will be handed over to the client. If the client has done any tampering on M.O.1, the mere fact that the same was returned by the same lawyer

will not make the lawyer answerable for such tampering. In other words, if there exists no evidence, which would even remotely suggest that it was the petitioner/A2 who tampered M.O.1, the conviction cannot be sustained. Learned Senior Counsel would explain that Section 106 of the Evidence Act cannot be pressed into service in the given facts, since the petitioner has no exclusive knowledge as to who tampered M.O.1 underwear. Nor is the said fact beyond the scope of investigation by the investigating agency, so as to compel the petitioner to disclose the same. Learned Senior Counsel would submit that, the judgment of conviction cannot be sustained since there is serious dearth of evidence. The petitioner has a fair case for suspension of conviction; not merely of the sentence. On the special reason, as to why the petitioner stands in need of suspension of conviction, learned Senior Counsel would submit that the petitioner was formerly the Minister for Transport, that he is a sitting Member of the Legislative Assembly and that he stands in need of contesting the

ensuing elections. He is 72 years old, and will not get a further opportunity to contest the elections, due to the interdiction contained in Section 8(3) of the Representation of the People Act, 1951, ('R.P.Act' for short). Denial of an opportunity would visit the petitioner with irreversible consequences and hardship. It was also pointed out that the offence in question is not alleged to have been committed by the petitioner, while he was an M.L.A. In such circumstances, there exists special reasons for suspending the conviction, is the final argument advanced by the learned Senior Counsel.

6. Opposing the above submissions, Sri.Sajju S., learned Senior Government Pleader, would submit that the discussions in paragraph no.52 onwards of Annexure-1 judgment would clearly establish the entrustment of M.O.1 underwear with the petitioner/A2. In paragraph no.73, the endorsements indicating the entrustment has been practically admitted by the petitioner/A2, during the

course of examination under Section 313 Cr.P.C. The finding of the learned Magistrate that the handing over of M.O.1 underwear by A1 to A2 is not pursuant to a Court Order, was highlighted. Learned Senior Government Pleader also points out the discussion contained in paragraph no.158, wherein the learned Magistrate has placed reliance upon Illustration (a) to Section 106 of the Evidence Act to fix the burden on the petitioner/A2. The explanation offered by the petitioner/A2, when he returned M.O.1 underwear, that it was received by mistake, has been discounted by the learned Magistrate. Thus, according to the learned Senior Government Pleader, there exists sufficient material to uphold the conviction, in which circumstances, suspension of the conviction sought for cannot be granted. It was submitted that, going by the binding precedents on the point, the so-called denial of opportunity to contest the elections cannot afford sufficient ground for suspension of conviction, which is a course to be adopted in the rarest of the rare cases. Learned Senior Government Pleader would

hasten to add that a right to contest an election is not a fundamental right to be zealously guarded; and an exceptional course cannot be adopted, unless the judgment in question suffers from a perceivable serious infirmity.

7. Although, the locus of the third person, who sought impleadment vide Crl.M.A.No.3/2026, was challenged by the petitioner, this Court chose to hear the arguments advanced by the impleading petitioner, as well. More than the technicality of his locus, this Court thought of considering the points to be mooted by such third person as well, without choosing to consider threadbare whether such impleadment deserves merit or not. Learned counsel for the impleading petitioner argued that, it was at the interference of the said impleading petitioner - who went up to the Apex Court – that ultimately lead to the conviction of the petitioner/A2. Learned counsel would point out that the allegation which has been found against the petitioner/A2 is a serious one, directed against the

judiciary, especially when breach of trust and forgery were committed on a material object in *custodia legis*. Learned counsel would point out that no irreversible consequence is to follow, if the conviction is not suspended. It was submitted that the petitioner/A2 has no indefeasible right to contest an election. Learned counsel would finally point out that suspension of conviction would send across a very bad message to the Society; and other criminals, who are similarily placed, will be emboldened to approach this Court seeking similar reliefs.

8. Before addressing the merits of Annexure-4 Order of the Sessions Court, Thiruvananthapuram and to take a call on the question whether the conviction is liable to be suspended or not, this Court will refer to the basic legal parameters, while considering an application for suspension of the conviction, in contra-distinction with an application for suspension of the sentence.

9. Section 430 of the B.N.S.S, which is in parimateria with Section 389 of the Cr.P.C, only speaks of suspension of execution of the sentence or Order appealed against. It does not *per se* speak about the suspension of conviction. However, Section 389(1) was given a broader interpretation by the Hon'ble Supreme Court in ***Rama Narang v. Ramesh Narang and Others,*** [(1995) 2 SCC 513] so as to read into Section 389, a power to suspend the very conviction as well. The legal position in this regard was followed by the Apex Court in ***State of Tamilnadu v. A.Jaganathan,*** [(1996) 5 SCC 329]; ***K.C.Sareen v. C.B.I, Chandigarh,*** [(2001) 6 SCC 584]; ***State of Maharashtra v. Gajanan and Another,*** [(2003) 12 SCC 432]; ***Ravikant S.Patil v. Sarvabhouma S. Bagali*** [(2007) 1 SCC 673]; ***State of Maharashtra v. Balakrishna Duttatrya Kumbhar*** [(2012) 12 SCC 384]; ***Afjal Ansari v. State of Uttar Pradesh*** [(2024) 2 SCC 187] and recently, in ***C.B.I v. Rajendra Sadashiv Nikalje and Another*** [2025 INSC 1185].

10. Before addressing the special requirements of suspension of conviction, this Court will first look into the scope of consideration of suspension of sentence, for, suspension of conviction is nothing, but an extension of the suspension of sentence, of course with certain added parameters and considerations. In ***Rama Narang*** (supra), it has been held that the most relevant factor for the exercise of power of suspending the sentence is the degree of probability of the Appeal being finally allowed, which degree has to be determined on the basis of *prima facie* satisfaction. The nature and gravity of the offence and age and health of the accused were held to be other ancillary matters relevant for enquiry. In ***Sidhartha Vashisht v. State (NCT of Delhi)*** [(2008) 5 SCC 230], the Hon'ble Supreme Court held that the petitioner, having been found guilty, had lost the initial presumption of innocence, which he had in his favour. It was also held in ***Sidhartha Vasisht*** (supra) that in serious cases, the Court has to consider all relevant factors like the nature of

accusation, the manner in which crime is alleged to have been committed, the gravity of the offence and also the desirability of releasing the accused on bail. It was held that in such cases, the benefit of suspension of sentence can be granted only in exceptional cases. In ***Omprakash Sahni v. Jai Shankar Chaudhary and Another*** [(2023) 6 SCC 123], the Hon'ble Supreme Court held that the Court considering suspension of sentence should consider whether the convict has a fair chance of acquittal. If the answer is in the affirmative, then the accused should not be kept behind the bars for a pretty long time, since the conclusion of the Appeal takes a long time. However, it was cautioned that while ascertaining the chances of ultimate acquittal, what has to be looked into is something which is palpable, apparent or gross on the face of the record, so as to enable the Court to arrive at a *prima facie* satisfaction that the conviction requires suspension. At the stage of Section 389, Cr.P.C, re-appreciation of evidence was held to be a clear taboo.

11. Now, this Court will look into the special requirements of suspension of conviction. Relying on ***Rama Narang*** (supra), the Hon'ble Supreme Court held in ***A.Jaganathan*** (supra), that conviction can be suspended only if, non-grant of such relief would result in damage which could not be undone, if the appeal is ultimately allowed. Trifling matters, involving slight disadvantage to the convicted person, cannot be recognised for the purpose of suspension of conviction. In ***K.C.Sareen*** (supra), it was held that the power to suspend the conviction, traceable to Section 389 Cr.P.C, should be exercised in very exceptional cases. The Court has to look into all aspects, including the ramification of keeping such conviction in abeyance. ***K.C.Sareen*** (supra) ultimately held that, when conviction is on corruption charges against a public servant, the Order of conviction cannot be suspended, pending Appeal. ***Gajanan*** (supra) restated that suspension of conviction can only be in exceptional cases. In ***Ravikanth S.Patil*** (supra), the

Hon'ble Supreme Court summarized the legal position and cautioned that the power has to be exercised only in exceptional circumstances, where failure to stay the conviction would lead to injustice and irreversible consequences. In ***Balakrishna Duttatrya Kumbhar*** (supra), the Supreme Court held that the applicant must satisfy the Court the evil which is likely to befall, if the conviction is not suspended. In ***Afjal Ansari*** (supra), a three Judges Bench of the Hon'ble Supreme Court was divided in their opinion. Per majority, it was held that the peculiar facts of each case will be the primary factor to be looked into. The likelihood of injustice or irreversible consequences centered on factors including the criminal antecedents, the gravity of the offence, its wider social impact etc., were also taken stock of. In that case, the Hon'ble Supreme Court undertook a *prima facie* analysis of the merits of the judgment of the Trial Court, to hold that there is no cogent evidence to establish that the appellant therein was indulging in antisocial activities and crimes. Absence of

corroborative evidence that the appellant was responsible for influencing witnesses etc., was also taken into consideration. The Hon'ble Supreme Court went on to hold that the conviction, if allowed to operate, would lead to irreparable damage, which cannot be compensated in any monetary terms or otherwise, on the event of his acquittal later. That, by itself, carves out an exceptional situation, is the finding. The specific issue of the applicant's right to contest in the general election is seen considered in paragraph no.17 of the judgment. The effective disqualification, which may go up to a period of ten years, was taken stock of as a relevant criteria falling under the potential ramification to suspend the conviction. The fact that, unless the conviction is stayed, the appellant therein would face disqualification in the teeth of Section 8 of the Representation of the People Act was taken stock of. Ultimately, the Hon'ble Supreme Court, per majority judgment held that since the appeal raises significant legal and factual issues, the appellant's

future cannot be left hanging in the balance solely due to the conviction. The conviction was suspended and the trial was directed to be expedited.

12. Having referred to the broad parameters of legal consideration for suspension of conviction as propounded in the above dicta, this Court will now address the specific issues involved in this case.

13. Although several grounds have been canvassed to attack the judgment of conviction, it is trite that this Court cannot re-appreciate the evidence at this stage. As held in ***Rama Narang*** (supra), ***Sidhartha Vashisht*** (supra) and ***Omprakash Sahni*** (supra), what could be looked into at this stage is a palpable, manifest and apparent error in the judgment, so gross on the face of the record, which, in turn, may render the judgment vulnerable for interference when the Criminal Appeal is finally heard. Even the above exercise can only be within the parameters of ascertaining

whether the petitioner/accused has a fair chance of acquittal ultimately. Therefore, the following two major aspects espoused by the learned Senior Counsel are taken up for consideration, solely to ascertain whether the judgment suffers from a manifest illegality, capable of casting a cloud on its sustainability.

14. The first aspect:- The prosecution has no case, much less any proof, as to who, when, how and where M.O.1 underwear was tampered with. Tampering with M.O.1 is the hallmark of the prosecution allegation, which constitutes the *actus reus*. If proof, as enjoined by law, is not forthcoming on this aspect, the very edifice of the conviction is lost, is the argument mooted. For proof required on the above aspect, the Trial Court egregiously erred in placing reliance upon Section 106 of the Evidence Act to fix the responsibility on the shoulders of the petitioner/A2. Primarily - it was argued by the learned Senior Counsel - Section 106 can be pressed into service

only in respect of an aspect, the investigation of which is impossible for the agency concerned. In other words, if the so called matter within the special knowledge of the accused is also something, which the Investigating Agency could have probed into, reliance cannot be placed on Section 106. In the instant case, there was no investigation, whatsoever, as to who received M.O.1 underwear? Where it was altered? and at Whose instance? These are matters, which could have been probed into by the Investigating Officer, but not done for reasons best known to him. In such circumstances, reliance placed on Section 106 of the Evidence Act is illegal. Secondly, it was canvassed that the petitioner/A2 had explained in his statement under Section 313 Cr.P.C that, it was not he who received M.O.1 underwear, but the uncle of the accused, by name Paul. At any rate, it is common knowledge that a junior counsel receives a material object only on behalf of the client, more so when the material object is a personal belonging of the accused. Therefore, the petitioner/A2 had

no custody of M.O.1 underwear and hence not a matter within his special knowledge, as to what has been done with that underwear. Petitioner/A2 is not duty bound to explain as to what happened to M.O.1 underwear and who tampered with it.

15. Having recorded the submission made by the learned Senior Counsel, this Court cannot endorse the same. A perusal of the judgment assailed would *prima facie* indicate that the following aspects are established. Firstly, M.O.1 underwear was got removed from the accused/Australian citizen and the same was produced before the Court on 05.04.1990, duly entered into in Ext.P3 property register as T.No.241/1990 [see paragraph no.52 of the judgment]. Secondly, there was no Court Order enabling release of M.O.1 underwear. Thirdly, the 1st accused handed over M.O.1 underwear to the 2nd accused on 09.08.1990. This aspect is proved by the endorsement/entry vide Ext.P3(a), wherein, the 2nd accused had signed, as against his name. The opinion of the handwriting expert etc., would vouch proof in this

regard. Fourthly, M.O.1 underwear was returned by the 2nd accused - after meeting the Magistrate concerned with an explanation that M.O.1 was received by mistake - on 05.12.1990, that is to say, after more than three months. The judgment impugned also considers the fact that except for the three months above referred, M.O.1 was in *custodia legis*, thus ruling out the possibility of any tampering.

16. It is in the backdrop of the above telling circumstances that the learned Magistrate found that the petitioner/A2 is duty bound to explain, what he has done with M.O.1 underwear, which he admittedly received from A1 on 09.08.1990 and returned only on 05.12.1990. I cannot *prima facie* find any fundamental flaw in the approach made by the learned Magistrate in this regard. The ordinary presumption that a lawyer receives a material object - generally pursuant to a Court Order – only on behalf of his client, cannot be profitably employed in a case, where criminal conspiracy is alleged against the lawyer

concerned, in a bid to secure acquittal for his client. At any rate, once the entrustment of M.O.1 underwear to the petitioner/A2 is *prima facie* substantiated/established, coupled with the fact that the same was returned after more than three months by the 2nd accused, one cannot find fault with the learned Magistrate drawing an inference that it is within the special knowledge of the petitioner/A2 to explain, as to what he has done with M.O.1 underwear. It is relevant to note that the learned Magistrate found, based on *prima facie* satisfactory materials, that the release of M.O.1 by A1 to A2 was not enabled by any Court Order.

17. Now, coming to the explanation offered in the statement under Section 313 Cr.P.C, this Court may straightaway notice that Section 106 of the Evidence Act speaks about 'proof'. There arises a shift of burden in respect of matters within the special knowledge of a person; and what is expected from such person is to adduce proof. A statement under Section 313 Cr.P.C cannot partake

the character of proof in terms of law. The use of a statement under Section 313 Cr.P.C is well settled and delineated and the same cannot be made use of as a substitute for proof in respect of an aspect, which the accused is duty bound to establish by virtue of shifting of burden. Therefore, the explanation offered under Section 313 Cr.P.C is not *prima facie* found to be sufficient.

18. Once this Court resolves - solely for the *prima facie* purpose of suspension/stay of conviction - that recourse to Section 106 is not primarily flawed, then, the so-called dearth of evidence as to who, when and how M.O.1 underwear was tampered with, cannot be of much significance. The judgment cannot be found to be flawed fundamentally for that reason.

19. In the light of the above discussion, this Court concludes that the petitioner/A2 failed to establish any serious infirmity or a manifest illegality, writ large on

the face of the judgment impugned.

20. Learned Senior Counsel canvassed seriously the proposition that, even in the absence of a manifest illegality, if there is a fifty-fifty chance of the judgment being set aside and the accused being acquitted, the conviction is liable to be suspended, provided the accused establishes irreversible consequences on account of continuance of the conviction. First of all, this Court is not *prima facie* satisfied that there exists even a fifty-fifty chance of the accused getting ultimately acquitted. This Court is also of the opinion that such an exercise, by meticulous analysis of the evidence adduced and its sufficiency, cannot be undertaken at this stage. Secondly, it is a doubtful proposition that the conviction is liable to be suspended, *assuming arguendo* that there exists a fifty-fifty chance of an acquittal, the requirements in terms of ***Rama Narang*** (supra), ***Omprakash Sahni*** (supra) etc. being a fair chance of the accused being acquitted; and not

a fifty-fifty chance.

21. Now, coming to the irreversible consequence, specifically espoused for the purpose of suspension/stay of conviction, it requires to be noticed that a recent judgment of Hon'ble Supreme Court in ***Afjal Ansari*** (supra) recognised - to a considerable extent - that depriving the right of the accused to represent his constituency; the right of the constituency of its legitimate representation in the legislature; and the embargo on the accused to contest for future elections constitute irreversible consequences. However, the first two situations hardly arises in the instant case, since on facts, the period of the elected representatives had almost expired and a fresh election is at the doorstep. Therefore, there arises no serious question of the petitioner/A2 being deprived of his right to represent the constituency, or for that matter, the constituency being deprived of its representation. What is more significant to be considered is the interdiction to

contest future elections as per Section 8(3) of the R.P. Act, 1951.

22. Here, a distinction is liable to be drawn as between consequences which follows as a result of a statutory mandate; and other consequences. In the case of the former, the consequence is the very result created by the statute makers, after due deliberation, in accord with the due process; and hence it is doubtful, whether such a consequence can be propounded as constituting sufficient cause for suspension of conviction under Section 389 Cr.P.C. Secondly, this Court may have to observe that a statutory mandate in terms of Section 8(3) of the R.P. Act, has to be respected and cannot be overturned by judicial interference, except to the limited extent permissible by law and that too, for weighty and lofty reasons. One cannot loose sight of the fact that the interdictory mandate under Section 8(3) of the R.P. Act carries a definite purpose of keeping aloof from public life, those persons whose

credibility has been stained and tainted by a conviction for specified offences or a sentence for a period more than two years. To ensure purity of persons dabbling in public and political affairs is the enviable object sought to be protected. The interpretation, for the purpose of suspension of conviction, should necessarily sync with the above laudable object. When the law is settled, that suspension/stay of conviction, can only be in exceptional circumstances - as held in a catena of decisions already referred above - I am of the opinion that, when it comes to a suspension/stay of conviction, in the context of the interdiction under Section 8(3) of the R.P. Act, Courts of law should be slow and doubly cautious in ensuring that such suspension/stay is granted only in befitting cases, since it virtually overturns a statutory mandate.

23. Here, this Court also has to take stock of the legal position that the initial presumption of innocence in favour of an accused is no longer available, once he/she is

convicted by a competent criminal court [see in this regard ***Sidhartha Vashisht*** (supra) - quoted with approval in a recent judgment of the Hon'ble Supreme Court in ***Rajendra Sadashiv Nikalje*** (supra)]. There cannot be any quarrel that a person convicted of an offence cannot enjoy and exercise all the civil rights of an ordinary citizen. Necessary fetters in terms of law is an inevitable consequence of conviction.

24. Having held so, I am of the definite opinion that a 'very exceptional circumstance' – as consistently coined in ***Ravikant S.Patil*** (supra), ***Gajanan*** (supra), ***K.C.Sareen*** (supra) and ***Duttatrya Kumbhar*** (supra) – should necessarily be borne out from the judgment impugned itself, that is to say, a palpable perversity or patent unreasonableness writ large on the face of the impugned judgment. The following excerpts from ***Omprakash Sahni*** (supra) is apposite in this regard, though held in the context of suspension of sentence:

> *"33..... However, while undertaking the exercise to ascertain whether the convict has fair chances of acquittal, what is to be looked into is something palpable. To put it in other words, something which is very apparent or gross on the face of the record, on the basis of which, the court can arrive at a prima facie satisfaction that the conviction may not be sustainable....."*

Therefore, it is neither in the interest of law, nor in public interest to stay/suspend a conviction merely for the reason that the accused is an M.L.A or an M.P and that his future chances of contesting election is in jeopardy. Such jeopardy is nothing but a statutory legal consequence, emanating from the judgment of conviction, duly entered into by a competent Court, in accord with the due process of law. Therefore, in the absence of a serious infirmity or a fundamental flaw, probabilising preponderently a possible interference with the judgment, ultimately leading to the acquittal of the accused, the judgment of conviction is not liable to be stayed/suspended. The existence of such a

manifest and palpable error, gross on the face of the record, in the instant facts, has already been negated.

25. Learned Senior Counsel for the petitioner placed heavy reliance upon ***Navjot Singh Sidhu v. State of Punjab and Another*** [AIR 2007 SC 1003] and hence it is necessary to deal with that contention. In the Order impugned, the Learned Sessions Judge distinguished ***Navjot Singh Sidhu*** (supra) by pointing out that Sidhu was a Member of Parliament and he chose to resign, pursuant to the judgment of conviction. Learned Senior Counsel would assail that finding, by submitting that the above fact does not make much difference to the dictum laid down in ***Navjot Singh Sidhu*** (supra). This Court cannot completely agree with learned Senior Counsel in that regard. Paragraph no.18 of ***Navjot Singh Sidhu*** (supra) is extracted here below:

> *"18. The incident took place on 27.12.1988. It has no co-relation with the public life of the appellant which he entered much later in 2004 when he was elected as a Member of the*

> *Parliament. It is not a case where he took advantage of his position as M.P. in commission of the crime. As already stated, it was not necessary for the appellant to have resigned from the membership of the Parliament as he could in law continue as M.P. by merely filing an appeal within a period of 3 months and had he adopted such a course he could have easily avoided incurring any disqualification at least till the decision of the appeal. However, he has chosen to adopt a moral path and has set high standards in public life by resigning from his seat and in seeking to get a fresh mandate from the people. In the event prayer made by the appellant is not granted he would suffer irreparable injury as he would not be able to contest for the seat which he held and has fallen vacant only on account of his voluntary resignation which he did on purely moral grounds. Having regard to the entire facts and circumstances mentioned above we are of the opinion that it a fit case where the order of conviction passed by the High Court deserves to be suspended."*

The fact that Navjot Singh Sidhu has chosen to adopt a moral path and has set high standards in public life by

resigning from his seat, had a significant impact in the mind of the Supreme Court for suspension of the conviction, as otherwise, he would suffer irreparable injury. That apart, this Court notice that, vide the findings in paragraph no.17, the Hon'ble Supreme Court also took stock of the fact that the incident happened all of a sudden, without any pre-meditation, that the deceased was wholly unknown to the appellant Sidhu and that there was no motive for the commission of the crime. Neither such extenuating circumstances as found in paragraph no.17, nor any moral ground persuading the suspension of the conviction is available in the instant facts. *Per contra*, in the instant facts, the petitioner/A2 - on the allegations sustained by the Trial Court - has indulged in a very nefarious conduct involving moral turpitude, by tampering with a material object, which was in *custodia legis*.

26. For the afore reasons, this Court finds no serious infirmity with Annexure-4 Order of the learned Sessions

Judge, and hence refuse to suspend the judgment of conviction.

27. It is clarified that all the findings and observations in this Order is solely for the purpose of this Crl.M.C. and the same cannot have any impact, whatsoever, while considering Crl.A.No.10/2026 by the Sessions Court, Thiruvananthapuram.

The Crl.M.C will resultantly stand dismissed.

Sd/-

C. JAYACHANDRAN

JUDGE

SAS/WW/TR

APPENDIX OF CRL.MC NO. 1627 OF 2026

PETITIONER ANNEXURES

Annexure-1	**A TRUE COPY OF THE JUDGMENT DATED 03.01.2026 IN C.C.NO.811 OF 2014 PASSED BY THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS-I, NEDUMANGAD**
Annexure-2	**A TRUE COPY OF THE MEMORANDUM OF CRIMINAL APPEAL PREFERRED BY THE PETITIONER, IMPUGNING ANNEXURE-1**
Annexure-3	**A TRUE COPY OF THE APPLICATION TO SUSPEND THE CONVICTION PREFERRED BY THE PETITIONER BEFORE THE DISTRICT & SESSIONS COURT, THIRUVANANTHAPURAM**
Annexure-4	**A TRUE COPY OF THE ORDER DATED 17-02-2026 IN CRIMINAL M.P 02/2026 IN CRL APPEAL NO. 10/2026 OF THE DISTRICT AND SESSIONS COURT THIRUVANANTHAPURAM**

RESPONDENT ANNEXURES

Annexure-R2 (1)	**A COPY OF THE JUDGEMENT IN SLP(CRL.)NO.4887 OF 2024 PASSED BY HON'BLE SUPREME COURT OF INDIA DATED 20/11/2024**