2025:KER:82391

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE 31ST DAY OF OCTOBER 2025/9TH KARTHIKA, 1947

CRL.REV.PET NO. 173 OF 2023

AGAINST THE ORDER IN CMP 355/2018 IN CC NO.7 OF 2011 OF ENQUIRY COMR.& SPECIAL JUDGE,KZD.

REVISION PETITIONER/COMPLAINANT:

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

BY SRI.RAJESH A,SPECIAL PUBLIC PROSECUTOR, VACB
SMT.REKHA S, SR.PUBLIC PROSECUTOR, VACB

RESPONDENT/ACCUSED NO.3:

SAMEER NAVAS
S/O KOYA HAJI KUNDUPUZHAKKAL HOUSE,OORAKAM,
KUZHIMURI, MALAPPURAM., PIN - 676519

BY ADVS.
SHRI.A.MUHAMMED MUSTHAFA
SHRI.ABHILASH A J
SHRI.SUHAIL ALI.A

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 21.10.2025, ALONG WITH Crl.Rev.Pet.Nos.316/2023 AND 358/2023, THE COURT ON 31.10.2025 DELIVERED THE FOLLOWING:

2025:KER:82391

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE 31ST DAY OF OCTOBER 2025/9TH KARTHIKA, 1947

CRL.REV.PET NO. 316 OF 2023

CRIME NO.2/2008 OF VACB, KOZHIKODE, KOZHIKODE

AGAINST THE ORDER DATED 30.09.2021 IN CMP NO.59 OF 2018 OF ENQUIRY COMMR & SPECIAL JUDGE, KOZHIKODE

REVISION PETITIONER/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY THE ADDITIONAL PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031
BY SRI.RAJESH A,SPECIAL PUBLIC PROSECUTOR, VACB
SMT.REKHA S, SR.PUBLIC PROSECUTOR, VACB

RESPONDENTS/ACCUSED NOS.1&2:

1 ADOOR PRAKASH
S/O.KUNHIRAMAN ,RAMANILAYAM, ADOOR (FORMER MINISTER FOR FOOD AND CIVIL SUPPLIES, KERALA)., PIN - 691523

2 V.RAJU
S/O.VELAYUDHAN, KOCHUVEEDU, THATTAMALA, KOLLAM (FORMER PRIVATE SECRETARY TO MINISTER FOR FOOD AND CIVIL SUPPLIES)., PIN - 691020

BY ADVS.
SHRI.M.AJAY
SRI.SHARAN SHAHIER
SHRI.V.P.PRASAD

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 21.10.2025 ALONG WITH Crl.Rev.Pet.173/2023 AND CONNECTED CASES, THE COURT ON 31.10.2025 DELIVERED THE FOLLOWING:

2025:KER:82391

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE 31ST DAY OF OCTOBER 2025 / 9TH KARTHIKA, 1947

CRL.REV.PET NO. 358 OF 2023

AGAINST THE ORDER DATED IN CC NO.7 OF 2011 OF

ENQUIRY COMMISSIONER & SPECIAL JUDGE, KOZHIKODE

REVISION PETITIONER/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY THE ADDITIONAL PUBLIC
PROSECUTOR, HIGH COURT OF KERALA

BY SRI.RAJESH A,SPECIAL PUBLIC PROSECUTOR, VACB
SMT.REKHA S., SR.PUBLIC PROSECUTOR, VACB

RESPONDENTS/ACCUSED NOS.1 & 2:

1 O SUBRAMANIAN
AGED ABOUT 71 YEARS, S/O RARUKUTTY, MANU VIHAR,
EAST PONNIAM, THALASSERY, KANNUR DIST. (FORMER
TALUK SUPPLY OFFICER, KOZHIKODE), PIN – 670641

2 K R SAHADEVAN
AGED ABOUT 71 S/O VASU, POOTHERIPURAYIL HOUSE,
FEROKE, KOZHIKODE DISTRICT. (FORMER TALUK
SUPPLY OFFICER, KOZHIKODE), PIN – 673301

BY ADV SRI.SHARAN SHAHIER

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 21.10.2025, ALONG WITH Crl.Rev.Pet.173/2023, 316/2023, THE COURT ON 31.10.2025 DELIVERED THE FOLLOWING:

2025:KER:82391

CR

COMMON ORDER

Dated this the 31st day of October, 2025

Criminal revision petition Nos.358/2023 and 173/2023 have been filed by the State of Kerala, arraying accused Nos.1 and 2 in C.C.No.7/2011 as well as the 3rd accused in C.C.No.7/2011 respectively on the files of the Enquiry Commissioner and Special Judge, Kozhikode, aggrieved by the order passed by the learned Special Judge dated 30.09.2021 in CMP No.60/2018, whereby accused Nos.1 to 3 were discharged.

2. Criminal revision petition No.316/2023 has been filed by the State of Kerala, arraying accused Nos.1 and 2 in C.C.No.6/2011 pending before the Enquiry Commissioner and Special Judge, Kozhikode. The challenge in this revision petition also is against the order allowing

discharge plea of accused Nos.1 and 2 in this case.

3. Heard the learned Special Public Prosecutor as well as the learned counsel appearing for the party respondents in detail. Perused the prosecution records as well as the orders impugned.

4. In this matter, C.C.No.6/2011 as well as C.C.No.7/2011 arose out of crime No.VC No.02/2008 of VACB, Northern Range, Kozhikode. The said crime was registered on 20.02.2008, when CMP No.199/2007 filed by one Sri.P.C.Sachithran before the Enquiry Commissioner and Special Judge, Thiruvananthapuram, was referred for investigation after conducting preliminary enquiry regarding the truth of the allegations in the said complaint. After investigation, the Deputy Superintendent of VACB, Northern Range, Kozhikode, filed two charges, viz., A charge and B charge. 'A' charge is against accused Nos. 1 and 2 under

Sections 7, 12 and 15 r/w. Section 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter referred to as the ‘PC Act, 1988’ for short) and Section 120B of the Indian Penal Code (hereinafter referred to as ‘IPC’ for short). 'B' charge is one filed under Section 13(2) r/w. Section 13(1)(d) of PC Act, 1988 and Sections 468, 471 and 120B of IPC against accused No.3 – Sri.Subramanian, accused No.4 – Sri.Sahadevan and accused No.5, Sri.Sameer Navas. The Special Judge took cognizance of the offences under Sections 7, 12 and 15 r/w. 13(1)(d) of the PC Act, 1988 and Section 120B of the IPC against accused No.1 – Sri.Adoor Prakash and accused No.2 – Sri. V. Raju as C.C.No.6/2011 based on 'A' Charge. Based on 'B' Charge, the learned Special Judge took cognizance of the offences punishable under Section 13(2) r/w. Section 13(1)(d) of PC Act, 1988 and Sections 468, 471 and 120B of IPC against other accused persons arrayed as accused in

C.C.No.7/2011.

5. While so, after filing the Final Report, alleging that new materials had been brought to the notice of the Investigating Officer, he filed CMP Nos.108/2011 and 109/2011 under Section 173(8) of the Code of Criminal Procedure (hereinafter referred to as 'Cr.P.C.' for short), seeking further investigation in the matter. While these petitions were pending before the Special Court, one Mr. Joy Kaitharath filed a petition before this Court seeking to quash the order directing further investigation by issuance of a Writ of Certiorari. This Court, as per order dated 01.01.2014 in W.P.(C) No.25740/2011, directed the learned Special Judge to consider the request from the Deputy Superintendent of Police, Vigilance, after hearing the affected parties. Thereafter, the learned Special Judge, as per order dated 05.12.2014, allowed the request for further investigation in

the matter. During further investigation, 13 witnesses were questioned and perused 10 documents. Statements of CW1 – Sri.Abdurahiman and CW3 – Sri.P.C. Sachithran under Section 164 Cr.P.C were also recorded. Thereupon, a further investigation report was filed before the Special Court after obtaining necessary sanction from the Director, VACB.

6. While impeaching the veracity of two orders passed by the learned Special Judge, the learned Public Prosecutor would submit that the learned Special Judge considered the inconsistencies in the statements of CW1 as well as CW2 by conducting a mini trial to hold that the prosecution records are insufficient to frame charge and accordingly, the respondents were discharged. It is pointed out by the learned Public Prosecutor that at the time of framing charge or at the stage of Section 528 Bharatiya Nagarik Suraksha Sanhita, 2023, the special court has no

power to conduct a mini trial by weighing the evidence in detail and in this regard, the learned Public Prosecutor placed decision of the Apex Court in **State of Odisha v. Pratima Mohanty,** reported in **2021 KHC 6826** with reference to paragraph No.6, which reads as under and the legal position is not in dispute.

> *"6. At the outset, it is required to be noted that by the impugned judgment and order the High Court in exercise of its powers under S.482 Cr. P. C. has quashed the criminal proceedings for the offences under S.13(2) read with S.13(1)(d) of the Act and S.420 read with S.120B IPC. From the impugned judgment and order passed by the High Court, it appears that the High Court has entered into the merits of the allegations and has conducted the mini - trial by weighing the evidence in detail which, as such, as observed and held by this Court in a catena of decisions is wholly impermissible. As held by this Court in the case of* ***State of Haryana And Others vs Ch. Bhajan Lal And Others, AIR 1992***

SC 604, *the powers under S.482 Cr. P. C. could be exercised either to prevent an abuse of process of any court and/or otherwise to secure the ends of justice. In the said decision this Court had carved out the exceptions to the general rule that normally in exercise of powers under S.482 Cr. P. C. the criminal proceedings / FIR should not be quashed. Exceptions to the above general rule are carved out in para 102 in* ***Bhajan Lal*** *(supra) which reads as under:*

> *"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Art.226 or the inherent powers under S.482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined*

and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under S.156(1) of the Code except under an order of a Magistrate within the purview of S.155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non cognizable 42 PART E offence, no

investigation is permitted by a police officer without an order of a Magistrate as contemplated under S.155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and / or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge"

7. This legal position is not in dispute.

8. Apart from that, the learned Public Prosecutor pointed out that there was conspiracy in between the accused to grant licence in the name of the 3rd accused in C.C.No.7/2011 without following the rules. Thus, the offences alleged are made out, *prima facie*, necessitating trial. In this connection, the learned Public Prosecutor placed decision of the Apex Court in **Rajiv Kumar v. State of U.P.and Another** reported in **2017 KHC 6522 SC,** with reference to paragraph No.42. In addition to that, the learned Public Prosecutor read out the relevant portions of the statements of CW1, recorded two times, as well as his statement recorded under Section 164 of Cr.P.C. along with the statement of CW2 who had accompanied CW1. It was alleged that a demand of ₹25 lakh was made by Sri Adoor Prakash, the 1st accused in C.C.No.6/2011. The learned Public Prosecutor

pointed out the essentials required to constitute an offence under Section 7 of the PC Act, 1988, with reference to the decision of the Apex Court in **Devinder Kumar Bansal v. State of Punjab** reported in **2025 KHC 6219 (SC),** wherein the Apex court considered a case in which the facts are as under:

> ***"****Petitioner, serving as an Audit Inspector, was accused of demanding illegal gratification in connection with an audit of development work conducted during the tenure of complainant's wife as Sarpanch of the Gram Panchayat. The co-accused was caught red-handed while allegedly accepting the bribe on behalf of the petitioner, and an audio recording further corroborated the demand. High Court denied anticipatory bail, citing strong evidence, including the co-accused's admission and recorded conversation. Question that arose for consideration was whether petitioner, accused of corruption under S.7 of the Prevention of Corruption Act, 1988 and S.61(2) of the Bharatiya Nyaya Sanhita, 2023, was entitled to anticipatory bail despite that incriminating evidence"*

9. In the said judgment, the Apex Court, in paragraphs 11 to 13, further observed as under:

> *"11. Thus, in an offence under S.7 of the Act, 1988, the points requiring proof are:*
>
> *(i) that, the accused at the time of the offence was, or expected to be, a public servant;*
>
> *(ii) that, he accepted or retained or agreed to accept, or attempted to obtain from some person a gratification;*
>
> *(iii) that, such gratification was not a legal remuneration due to him:*
>
> *(iv) that, he accepted such gratification as a motive or reward, proof of which is essential for*
>
> *(a) doing or forbearing to do an official act, or*
>
> *(b) showing or forbearing to show favour or disfavour to someone in exercise of his official functions, or*
>
> *(c) rendering or attempting to render any service, or disservice to someone, with the legislative or executive government, or with any public servant.*
>
> *12. Further it is seen that, S.7 speaks of the "attempt" to obtain a bribe as being in itself an offence. Mere demand or solicitation,*

therefore, by a public servant amounts to commission of an offence under S.7 of the P.C. Act. The word "attempt" is to imply no more than a mere solicitation, which, again may be made as effectually in implicit or in explicit terms.

13. Actual exchange of a bribe is not an essential requirement to be prosecuted under this law. Further, those public servants, who do not take a bribe directly, but, through middlemen or touts, and those who take valuable things from a person with whom they have or are likely to have official dealings, are also punishable as per S.10 and S.11 of the Act 1988 respectively."

10. Whereas, it is argued by the learned counsel appearing for Sri.Adoor Prakash that, in this matter, the application put up by CW1, Sri. Abdurahiman, was not considered for the purpose of issuing licence since he was found not to be a resident of the locality, as one of the

conditions for allotment of licence is that "*candidates should normally be a resident of the locality".* According to the learned counsel for the 1st accused, Sri.Adoor Prakash, none of the offences is made out in this case and alleging malpractices on the part of the 2nd accused, Sri.V.Raju, in C.C.No.6/2011, he was suspended and thereafter, this Court, as per judgment dated 30.01.2009 in WP(C) No.33565 of 2008, set aside the order. It is pointed out by the learned counsel for the 1st accused further that even though the licence was allotted in the name of Sri.Sameer Navas, thereafter, by the intervention of the Court, the same was referred for re-consideration and in turn, allotted to CW1, Sri.Abdurahiman by the new government.

11. The learned counsel appearing for the other accused also shared this argument and justified the order of the Special court granting discharge.

12. While addressing whether the learned Special judge went wrong in passing the orders impugned by discharging the respective accused persons, it is relevant to note that five applicants, including CW1 and Sri.Sameer Navas, applied for the licence. Out of which, two applicants were found to be not qualified. Acting on the applications of the other three persons, the Taluk Supply Officer, in the prescribed proforma, recommended the applications of Sri.Abdurahiman (CW1), Sri.Sameer Navas and Sri.K.N.Suresh Kumar, subject to eligibility. Some remarks were made with respect to the godown proposed by CW1 and K.N.Suresh Kumar. It was reported that CW1 was not a resident of the locality and he was a resident of Karassery Panchayat. The Taluk Supply Officer also recommended that Sri.Sasidharan and Sri.Sayid Jiffri withdrew their applications. The application of CW1, in fact, recommended by the Taluk

Supply Officer, who is arrayed as 2nd accused in C.C.No.6/2011. Later, the District Collector, Kozhikode, Smt.Rachana Shah, invited all four applicants except Sri.Sasidharan for interview and thereafter, the District Collector rejected the application of Sri.N.K.Abdurahiman, and the reasons for rejection are twofold. The first reason was that he was residing in another Panchayat, and the second was that his godown was situated away from the main road, and the road leading to the godown from the main road was too narrow to carry vehicles with a load. Thereafter, the District Collector allotted the licence in favour of Sri. Sameer Navas. The prosecution did not raise any contention that the District Collector committed any of the offences. Thus, it appears that, though the Taluk Supply Officer and, in turn, the District Supply Officer submitted their reports without specifically opposing the application in respect of CW1,

the licence in favour of CW1 was rejected by the District Collector for the reasons stated above.

13. The question arises for consideration in the above circumstances is that whether the offences alleged by the prosecution under Sections 7, 12 and 15 r/w Section 13(1)(d) of the PC Act, 1988 and under Section 120B of IPC are made out as against accused Nos.1 and 2 in C.C.No.6/2011 and the offences under Sections 13(1)(2) r/w 13(1)(d) of PC Act, 1988 as well as under Sections 468, 471 and 120B of IPC are made out against accused No.3 in C.C.No.7/2011. Similarly, the offences alleged against accused Nos.1 and 2 in C.C.No.7/2011 are made out *prima facie.*

14. In the 1st statement given by CW1 - Sri.Abdurahiman, on 09.06.2008, CW1 stated that when he applied for Wholesale Depot licence in Omassery, Sri.Adoor Prakash demanded ₹30 lakh for allotting the same. In 164

Cr.P.C. statement, recorded as that of CW1, as on 03.03.2009, he stated that he repeated the demand made on 03.12.2005 and 06.12.2005. Apart from the above statements of CW1, CW2 who is none other than Sri.AjithKumar who accompanied CW1 also given statement regarding the demand of ₹30 lakh. On perusal of the statement given by CW1, he has given statement that on 03.12.2005 he obtained an appointment at 3 pm to meet Sri.Adoor Prakash at his official residence (Rose House) along with CW2 and in the discussion, it was informed that a person from Malappuram also applied for Depot licence and they offered ₹30 lakh for the same. But CW1 being a party worker was given concession of ₹5 lakh therefrom and ₹25 lakh was demanded. His version further is that, the Private Secretary to the Minister invited the District Supply Officer as well as the Taluk Supply Officer and deputed the rationing

control officer to the office of the Minister and obtained a report against him and a report in favour of Sri.Sameer Navas. In this matter, at a later stage, CW1 sent a letter to the Dy.S.P. (date is not legible) stating that the licence would be allotted by the District Collector and the Civil Supplies Department Minister, could not do anything in this regard as stated by the Minister and also he deviated from his earlier statement that the Minister demanded money or anything from him.

15. Going through the impugned orders, the learned Special Judge, addressed the issue at length in minute niceties. It could be seen from the prosecution records, as already observed that, in this matter, the District Collector, passed the order in favour of Sri.Sameer Navas, adverting to the report of the Taluk Supply Officer and District Supply Officer including the name of the CW1. Subsequently,

some interference therein also was found and later, the same was allotted to CW1 itself. In sofar as the offences under Sections 13(1)(d) r/w 13(2) of the PC Act, 1988 as well as under Sections 468, 471 and 120B of IPC, the special court found that none of the offences could be found from the prosecution records to proceed further.

16. Going by the decision in ***Devinder Kumar Bansal'*** case (*supra),* the Apex Court while considering grant of anticipatory bail to the petitioner therein, who was a co-accused, made certain observations in paragraph Nos.11, 12, and 13.

17. It is true that, as per Section 7 of the PC Act, 1988, the demand for illegal gratification itself is sufficient to justify registration of an FIR alleging commission of offences punishable under Section 7 as well as under Section 13(1)(d) read with Section 13(2) of the PC Act, 1988.

However, the law is well settled with respect to the ingredients required to establish these offences.

18. Now, it is necessary to address the ingredients required to attract the offences under Section 7 and Section 13(1)(d) r/w Section 13(2) of the PC Act, 1988. The same are extracted as under:-

> ***Section 7:- Public servant taking gratification other than legal remuneration in respect of an official act.*** *– Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any*

State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government Company referred to in clause (C) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than three years but which may extend to seven years and shall also be liable to fine.

Section 13:- Criminal misconduct by a public servant. – *(1) A public servant is said to commit the offence of criminal misconduct,-*

a) xxxxx

(b) xxxxx

(c) xxxxxx

(d) If he,- (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest. Xxxxx

> *(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than four years but which may extend to ten years and shall also be liable to fine.*

19. In this connection, it is relevant to refer a 5 Bench decision of the Apex Court in **[AIR 2023 SC 330], Neeraj Dutta** v. **State**, where the Apex Court considered when the demand and acceptance under Section 7 of the PC Act, 1988 to be said to be proved along with ingredients for the offences under Sections 7 and 13(1)(d) r/w 13(2) of the PC Act, 1988 and in paragraph No.68, it has been held as under :

> *"68. What emerges from the aforesaid discussion is summarised as under:*
>
> *(a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13 (1)(d) (i) and (ii)*

of the Act.

(b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.

(c) Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.

(d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:

(i) if there is an offer to pay by the bribe giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of

the Act. In such a case, there need not be a prior demand by the public servant.

(ii) On the other hand, if the public servant makes a demand and the bribe giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Section 13 (1)(d)(i) and (ii) of the Act

iii) In both cases of (i) and (ii) above, the offer by the bribe giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Section 13 (1)(d),

(i) and (ii) respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Section 13 (1)(d) and (i) and (ii) of the Act.

(e) The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the material on record, the Court has the discretion to raise a presumption of fact while considering whether the

fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands.

(f) In the event the complainant turns 'hostile', or has died or is unavailable to let in his evidence during trial, demand of illegal gratification can be proved by letting in the evidence of any other witness who can again let in evidence, either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant.

(g) In so far as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law. Of course, the said presumption is also subject to rebuttal. Section

20 does not apply to Section 13(1) (d) and (ii) of the Act.

(h) We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to above in point (e) as the former is a mandatory presumption while the latter is discretionary in nature."

20. Thus, the legal position as regards to the essentials under Sections 7 and 13(1)(d)(i) and (ii) of the PC Act, 1988, is extracted above. Regarding the mode of proof of demand of bribe, if there is an offer to pay bribe by the bribe giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant. The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of

an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the material on record, the Court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands. The mode of proof of demand and acceptance is either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant. Insofar as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The

said presumption has to be raised by the court as a legal presumption or a presumption in law.

21. In this context, it is relevant to refer the decision of this Court in **Sunil Kumar K.** v. **State of Kerala** reported in **[2025 KHC OnLine 983]**, in Crl.Appeal No.323/2020, dated 12.9.2025, wherein in paragraph No. 12, it was held as under:

> *"12. Indubitably in **Neeraj Dutta's** case (supra) the Apex Court held in paragraph No.69 that there is no conflict in the three judge Bench decisions of this Court in B.Jayaraj and P.Satyanarayana Murthy with the three judge Bench decision in M.Narasinga Rao, with regard to the nature and quality of proof necessary to sustain a conviction for offences under Section 7 or 13(1)(d)(i) and (ii) of the Act, when the direct evidence of the complainant or "primary evidence" of the complainant is unavailable owing to his death or any other reason. The position of law when a complainant or prosecution witness turns*

"hostile" is also discussed and the observations made above would accordingly apply in light of Section 154 of the Evidence Act. In view of the aforesaid discussion there is no conflict between the judgments in the aforesaid three cases. Further in Paragraph No.70 the Apex Court held that in the absence of evidence of the complainant (direct/primary,oral/documentary evidence) it is permissible to draw an inferential deduction of culpability/guilt of a public servant under Section 7 and 13(1)(d) r/w Section 13(2) of the Act based on other evidence adduced by the prosecution. In paragraph No.68 the Apex Court summarized the discussion. That apart, in ***State by Lokayuktha Police****'s case (supra) placed by the learned counsel for the accused also the Apex Court considered the ingredients for the offences punishable under Section 7 and 13(1)(d) r/w 13(2) of the PC Act,1988 and held that demand and acceptance of bribe are necessary to constitute the said offences. Similarly as pointed out by the learned counsel for the petitioner in* ***Aman Bhatia****'s case (supra) the Apex court reiterated*

the same principles. Thus the legal position as regards to the essentials to be established to fasten criminal culpability on an accused are demand and acceptance of illegal gratification by the accused. To put it otherwise, proof of demand is sine qua non for the offences to be established under Sections 7 and 13(1)(d) r/w 13(2) of the PC Act, 1988 and dehors the proof of demand the offences under the two Sections could not be established. Therefore mere acceptance of any amount allegedly by way of bribe or as undue pecuniary advantage or illegal gratification or the recovery of the same would not be sufficient to prove the offences under the two Sections in the absence of evidence to prove the demand."

22. On a plain reading of Section 7 of the PC Act, 1988, an attempt to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration is sufficient to constitute an offence under Section 7 of the PC Act, 1988. The Apex Court also

expressed the same view in **Devinder Kumar Bansal** (supra) after discussing the essentials. Thus, it was held that actual exchange of bribe is not an essential requirement to prosecute an accused under Section 7 of the PC Act, 1988. Similarly, those public servants who do not take a bribe directly, but through middlemen or touts, and those who accept valuable things from a person with whom they have or are likely to have official dealings, are also punishable under Sections 10 and 11 of the PC Act, 1988. Here, the statement of CW1 is that, Sri.Adoor Prakash demanded ₹30 lakh from him and later, reduced the same to ₹25 lakh for issuing the licence. CW2 also given statement in this regard. However, the question is whether this allegation is justifiable from the facts of the case divulged. As already pointed out, the District Collector was the person who passed order in favour of Sri.Sameer Navas

and denied the same to CW1. When allegation demanding bribe by a minister is raised, merely on the basis of oral statements, the same would require thorough scrutiny as false implication of persons holding higher posts, including Ministers, merely by oral statements could not be ruled out due to animosity arose out of failure in getting the demand or need of the complainant. To put it otherwise, anybody who is having grudge against the Minister or a higher official can simply asserts that he had demanded bribe on a particular day for doing something. Then the substance of the allegation to be evaluated based on the circumstances which stemmed into the allegation of demand of illegal gratification. When the allegation of demand of illegal gratification is raised by a person merely relying on his oral statement alone without any other cogent materials to see the bonafides of the allegation of demand after getting failed

to achieve their goal, the oral allegation to be adjudged as an afterthought to wreck vengeance against the officer, unless any other cogent materials brought out in support of the allegations. Such an exercise is permissible to avoid abuse of the process of the court and to avoid false implication of higher officials and such an exercise is not a mini trial, but only evaluation of prosecution materials and the attending circumstances based on the prosecution records to satisfy prime facie, whether the allegations have the legs to stand on.

23. Here, non-grant of licence to CW1 is the substratum where from the allegation of demand for bribe emerges. CW1 did not raise any complaint before getting a rejection order disallowing license he urged for. If the allegation is having truth, CW1 should have raised a complaint within a reasonable time, without waiting for the outcome of the proceedings. In such a case, once it is found

by the prosecution records, that the licence was denied by the District Collector for valid reasons stated by him, in the proceedings for license, demand of bribe by the Minister, that too, without arraying any allegation against the District Collector, would posit false implication of the accused persons. Thus, the allegations raised by the complainant as to demand of bribe by Sri.Adoor Prakash and the involvement of the other accused are found to be not made out *prima facie* or not even a strong suspicion could be gathered. A mere suspicion would not suffice the requirement to go for trial. On appraisal of the order passed by the learned Special Judge, in the context of events discussed, I am not inclined to interfere with the orders impugned and as such, the orders are confirmed.

In the result, these revision petitions fail and are dismissed.

Registry is directed to forward a copy of this order to the special court forthwith.

Sd/-
A. BADHARUDEEN
JUDGE

nkr

APPENDIX OF CRL.REV.PET 173/2023

PETITIONER ANNEXURES

ANNEXURE A	**CERTIFIED COPY OF CRL.MP NO 355/2018 IN CC NO 07/2011 ON THE FILE OF THE COURT OF THE ENQUIRY COMMISSIONER AND SPECIAL JUDGE,KOZHIKODE**

APPENDIX OF CRL.REV.PET 316/2023

PETITIONER ANNEXURES

Annexure	CERTIFIED COPY OF THE COMMON ORDER DATED 30.09.2021.IN C.M.P NO. 59/2018 ON THE FILES OF THE COURT OF THE ENQUIRY COMMISSIONER AND SPECIAL JUDGE ,KOZHIKODE

RESPONDENT ANNEXURES

ANNEXURE 1	A TRUE COPY OF THE APPLICATION FILED BY SRI. B.P. MUHAMMED ABDUL RASHEED BEFORE THE STATE PUBLIC INFORMATION OFFICER, VIGILANCE DEPARTMENT UNDER THE RIGHT TO INFORMATION ACT DATED 17.1.2025.
ANNEXURE 2	A TRUE COPY OF THE REPLY SRI B.P. MUHAMMED ABDUL RASHEED BY THE STATE PUBLIC INFORMATION OFFICER, VIGILANCE DEPARTMENT UNDER THE RIGHT TO INFORMATION ACT DATED 25.1.2025
ANNEXURE.3	A TRUE COPY OF G.O.(RT) NO. 323/2022/HOME DATED 8.2.2022
ANNEXURE.4	A TRUE COPY OF THE G.O.(RT) NO. 2421/2022/HOME DATED 29.8.2022

APPENDIX OF CRL.REV.PET 358/2023

PETITIONER ANNEXURES

Annexure A	**CERTIFIED COPY OF CMP 60/2018 IN CC 07/2011 ON THE FILE OF THE COURT OF THE ENQUIRY COMMISSIONER AND SPECIAL JUDGE, KOZHIKODE**