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HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 28 of 2012

1. Sanjay Agrawal S/o Late D.D. Agrawal, aged about 40 years, Occupation Government Servant, presently posted as Commissioner, Commissioner. Municipal Corporation Bhilai Distt. Durg, R/o D-8, Civil Lines, Durg CG

---- Petitioner

Versus

1. State Of Chhattisgarh through the Superintendent of Police, Anti Corruption Bureau, Raipur, CG
2. Rajneesh Sahu S/o Shri Palakram Sahu, aged about 42 years R/o 121 Shyam Plaza, Nutan Chowk, Sarkanda, Bilaspur, Tahsil and District Bilaspur CG
3. K.K. Yadav the then Revenue Inspector, Land Records, Bilaspur, Police Station Civil Lines, Bilaspur CG
4. A.K. Tiwari, the then Sub Divisional Officer (R) Bilaspur, Resident of Nehru Nagar, Police Station, Civil Lines, Bilapsur, CG
5. H.K. Sharma, the then Superintendent, Land Records, Bilaspur, presently posted as Deputy Collector, Korba.

---- Respondents

And

WPCR No. 26 of 2012

1. Ashok Kumar Tiwari, aged about 61 years, S/o Late Shatrughan Prasad Tiwari, Additional Collector (Rtd) R/o Nehru Nagar Bilaspur, Distt. Bilaspur C.G.

---- Petitioner

Vs

1. State of Chhattisgarh through the Secretary, General Administration Department, Mantralaya, DKS Bhawan, Raipur, CG
2. The State Anti Corruption Bureau, Anti Corruption Cell, CG Through- The Superintendent of Police, Head Quarter - Anand Nagar, Raipur C.G.
3. Shri Rajnish Sahu aged about 42 years, S/o Shri Palak Ram Sahu, 121, Shyam Plaza, Nutan Chowk, Sarkanda, Bilaspur, Distt. Bilasur C.G.

---- Respondents

And

WPCR No. 40 Of 2012

1. Dr. Santosh Kumar Dewangan S/o Late Shri H. R. Dewangan, aged about 42 years, Presently Posted as Sub Divisional Officer (Revenue) Jagdalpur, Distt Bastar

---- Petitioner

Vs

1. State of Chhattisgarh through the Secretary, Department of Revenue, DKS Bhavan, Raipur.
2. Superintendent Of Police, Anti Corruption Bureau, Raipur CG
3. Collector Distt. Bilaspur CG
4. Joint Director, Department of Town & Country Planning, Bilaspur CG
5. Rajneesh Sahu S/o Shri Palakram Sahu, aged about 42 years R/o 121 Shyam Plaza, Nutan Chowk, Sarkanda, Bilaspur, Tahsil and District Bilaspur CG
6. Tulika Prajapati D/o Shri Praveen Kumar Prajapati, aged about 30 years, the then Sub Divisional Officer, Kota presently posted As Sub Divisional Officer (R) Dhamtari.
7. Sanjay Agrawal, the then (Revenue) Bilaspur, presently posted as Commissioner, Municipal Corporation, Durg, CG Police Station Bhilai
8. Pramod Sharma, the then Sub Divisional Officer (Revenue) Bilaspur present posted as Sub Divisional Officer, Pendra Road, Police Station Pendra Road
9. D.K. Singh S/o Shri Jagdish Singh, aged about 53 years, Occupation Service, Presently posted as Commissioner, Municipal Corporation Durg
10. Divya Mishra, the then Sub Divisional Officer (Revenue) Bilaspur, Presently Posted as Personal Assistant to Shri Brijmohan Agrawal, Mantrlaya, Raipur CG
11. A.K. Tiwari, the then Sub Divisional Officer (Revenue) Bilaspur R/o Nehru Nagar Bilaspur, Police Station Civil Lines Bilaspur, CG
12. H.K. Sharma, the then Superintendent Land Records, Bilaspur CG, presently posted as Deputy Collector, Korba (CG) Police Station Korba
13. Harsh Wardhan, the then Superintendent Land Records, Bilaspur CG Presently Posted as Superintendent Land Records Raipur, Police Station, Raipur

14. H. Toppo the then Superintendent Land Records Bilaspur CG R/o J.P. Vihar Mangla, Bilaspur, Police Station Civil Lines
15. H.R. Vaisya, the then Superintendent Land Records Bilaspur CG, presently posted as Deputy Collector, Raigarh, Police Station Raigarh
16. T.R. Ratre, the then Superintendent Land Records Bilaspur CG, presently posted as Tehsildar, Marwahi, PS Marwahi
17. C.P. Misra, Revenue Inspector, Land Records Branch, Bilaspur, presently posted as Nayab Tahsildar, Durg, Police Station. Durg
18. J.S. Kushram, the then Superintendent Land Records Bilaspur CG, presently posted as Superintendent Land Records Bilaspur, Police Station Civil Lines
19. Kranti Kumar Yadav, Revenue Inspector, Land Records Branch, Bilaspur Police Station Civil Lines
20. Kailash Nath Dwivedi, Revenue Inspector Land Records Branch. Bilaspur , Police Station Civil Lines Bilaspur CG
21. C.L. Naik, the then Revenue Inspector (Diversion) Bilaspur, R/o Navagaon, PS Katghora, District Bilaspur CG
22. Yogesh Sharma, Revenue Inspector Land Records Branch. Bilaspur Police Station Civil Lines, Bilaspur CG
23. Subhash Sharma, Revenue Inspector Land Records Bilaspur, Police Station Civil Lines
24. K.D. Bande Revenue Inspector Land Records Branch Bilaspur, Police Station Civil Lines, Bilaspur
25. Gopal Prasad Yadav Revenue Inspector Land Records Branch Bilaspur, Police Station Civil Lines Bilaspur CG
26. L.R. Lahare, the then Assistant Superintendent Land Records, Bilaspur Mangla Bilaspur CG

---- Respondents

And

WPCR No. 41 Of 2012

1. D.K.Singh S/o Shri Jagdish Singh, Occupation-Service, Presently Posted As Commissioner, Posted As Commissioner, Municipal Corporation Durg

---- Petitioner

Vs

1. State of Chhattisgarh through the Secretary, Department of Revenue, DKS Bhavan, Raipur.

2. Superintendent Of Police, Anti Corruption Bureau, Raipur CG
3. Collector Distt. Bilaspur CG
4. Joint Director, Department of Town & Country Planning, Bilaspur CG
5. Rajneesh Sahu S/o Shri Palakram Sahu, aged about 42 years R/o 121 Shyam Plaza, Nutan Chowk, Sarkanda, Bilaspur, Tahsil and District Bilaspur CG
6. Tulika Prajapati D/o Shri Praveen Kumar Prajapati, aged about 30 years, the then Sub Divisional Officer, Kota presently posted As Sub Divisional Officer (R) Dhamtari.
7. Sanjay Agrawal, the then (Revenue) Bilaspur, presently posted as Commissioner, Municipal Corporation, Durg, CG Police Station Bhilai
8. Pramod Sharma, the then Sub Divisional Officer (Revenue) Bilaspur present posted as Sub Divisional Officer, Pendra Road, Police Station Pendra Road
9. Santosh Dewangan, the then Sub Divisional Officer (Revenue), Bilaspur, presently posted as Joint Collector, Bastar.
10. Divya Mishra, the then Sub Divisional Officer (Revenue) Bilaspur, Presently Posted as Personal Assistant to Shri Brijmohan Agrawal, Mantrilaya, Raipur CG
11. A.K. Tiwari, the then Sub Divisional Officer (Revenue) Bilaspur R/o Nehru Nagar Bilaspur, Police Station Civil Lines Bilaspur, CG
12. H.K. Sharma, the then Superintendent Land Records, Bilaspur CG, presently posted as Deputy Collector, Korba (CG) Police Station Korba
13. Harsh Wardhan, the then Superintendent Land Records, Bilaspur CG Presently Posted as Superintendent Land Records Raipur, Police Station, Raipur
14. H. Toppo the then Superintendent Land Records Bilaspur CG R/o J.P. Vihar Mangla, Bilaspur, Police Station Civil Lines
15. H.R. Vaisya, the then Superintendent Land Records Bilaspur CG, presently posted as Deputy Collector, Raigarh, Police Station Raigarh
16. T.R. Ratre, the then Superintendent Land Records Bilaspur CG, presently posted as Tehsildar, Marwahi, PS Marwahi
17. C.P. Misra, Revenue Inspector, Land Records Branch, Bilaspur, presently posted as Nayab Tahsildar, Durg, Police Station. Durg
18. J.S. Kushram, the then Superintendent Land Records Bilaspur CG, presently posted as Superintendent Land Records Bilaspur, Police Station Civil Lines
19. Kranti Kumar Yadav, Revenue Inspector, Land Records Branch,

Bilaspur Police Station Civil Lines

20. Kailash Nath Dwivedi, Revenue Inspector Land Records Branch. Bilaspur , Police Station Civil Lines Bilaspur CG
21. C.L. Naik, the then Revenue Inspector (Diversion) Bilaspur, R/o Navagaon, PS Katghora, District Bilaspur CG
22. Yogesh Sharma, Revenue Inspector Land Records Branch. Bilaspur Police Station Civil Lines, Bilaspur CG
23. Subhash Sharma, Revenue Inspector Land Records Bilaspur, Police Station Civil Lines
24. K.D. Bande Revenue Inspector Land Records Branch Bilaspur, Police Station Civil Lines, Bilaspur
25. Gopal Prasad Yadav Revenue Inspector Land Records Branch Bilaspur, Police Station Civil Lines Bilaspur CG
26. L.R. Lahare, the then Assistant Superintendent Land Records, Bilaspur Mangla Bilaspur CG

---- Respondents

And

WPCR No. 49 Of 2012

1. Ashok Kumar Tiwari, aged about 61 years, S/o Late Shtrughan Prasad Tiwari Addi. Collector (Rtd.) R/o Nehru Nagar, Bilaspur CG

---- Petitioner

Vs

1. State of Chhattisgarh through the Secretary, General Administration Department, DKS Bhavan, Raipur (C.G.).
2. The State Anti Corruption Bureau, Anti Corruption Cell, C.G. Through : The Superintendent of Police, Headquarter at Anand Nagar, Raipur CG
3. Rajneesh Sahu S/o Shri Palakram Sahu, aged about 42 years R/o 121 Shyam Plaza, Nutan Chowk, Sarkanda, Bilaspur, Tahsil and District Bilaspur CG
4. D.K. Singh, Sub Divisional Officer (Revenue), Kota C.G. Posted as Deputy Collector, Durg, C.G. P.S. Durg.
5. Sanjay Agrawal, the then (Revenue) Bilaspur, presently posted as Commissioner, Municipal Corporation, Durg, CG Police Station Bhilai.
6. Pramod Sharma, the then Sub Divisional Officer (Revenue) Bilaspur present posted as Sub Divisional Officer, Pendra Road, Police Station Pendra Road

7. Tulika Prajapati D/o Shri Praveen Kumar Prajapati, aged about 30 years, the then Sub Divisional Officer, Kota presently posted As Sub Divisional Officer (R) Dhamtari.
8. Santosh Dewangan, the then Sub Divisional Officer (Revenue), Bilaspur, presently posted as Joint Collector, Bastar.
9. Divya Mishra, the then Sub Divisional Officer (Revenue) Bilaspur, Presently Posted as Personal Assistant to Shri Brijmohan Agrawal, Mantrlaya, Raipur CG
10. H.K. Sharma, the then Superintendent Land Records, Bilaspur CG, presently posted as Deputy Collector, Korba (CG) Police Station Korba
11. Harsh Wardhan, the then Superintendent Land Records, Bilaspur CG Presently Posted as Superintendent Land Records Raipur, Police Station, Raipur
12. H. Toppo the then Superintendent Land Records Bilaspur CG R/o J.P. Vihar Mangla, Bilaspur, Police Station Civil Lines
13. H.R. Vaisya, the then Superintendent Land Records Bilaspur CG, presently posted as Deputy Collector, Raigarh, Police Station Raigarh
14. T.R. Ratre, the then Superintendent Land Records Bilaspur CG, presently posted as Tehsildar, Marwahi, PS Marwahi
15. C.P. Misra, Revenue Inspector, Land Records Branch, Bilaspur, presently posted as Nayab Tahsildar, Durg, Police Station. Durg
16. J.S. Kushram, the then Superintendent Land Records Bilaspur CG, presently posted as Superintendent Land Records Bilaspur, Police Station Civil Lines.
17. Kranti Kumar Yadav, Revenue Inspector, Land Records Branch, Bilaspur Police Station Civil Lines
18. Kailash Nath Dwivedi, Revenue Inspector Land Records Branch. Bilaspur , Police Station Civil Lines Bilaspur CG
19. C.L. Naik, the then Revenue Inspector (Diversión) Bilaspur, R/o Navagaon, PS Katghora, District Bilaspur CG
20. Yogesh Sharma, Revenue Inspector Land Records Branch. Bilaspur Police Station Civil Lines, Bilaspur CG
21. Subhash Sharma, Revenue Inspector Land Records Bilaspur, Police Station Civil Lines
22. K.D. Bande Revenue Inspector Land Records Branch Bilaspur, Police Station Civil Lines, Bilaspur
23. Gopal Prasad Yadav Revenue Inspector Land Records Branch Bilaspur, Police Station Civil Lines Bilaspur CG

24.L.R. Lahare, the then Assistant Superintendent Land Records,
Bilaspur Mangla Bilaspur CG

---- Respondents

And

WPCR No. 63 Of 2012

1. C.P.Mishra, aged about 59 years, S/o Late Parmeshwardin Mishra, Nayab Tehsildr, R/o Tahsil Office Durg, District Durg CG.
2. CL Nayak, aged about 65 years, S/o Late Dhansay, Inspector, (Rtd) R/o Katghora, District Korba, CG
3. KD Bandy, aged about 59 years, S/o Late Rijauram Bandy, Inspector, R/o Majhwapara Jarhabhata, Gopal Marg, Bilaspur, District Bilaspur, CG
4. Subhash Chandra Sharma, aged about 59 years, S/o Late BP Sharma, Inspector, R/o C-19 Rajswa Colony Chantidih Bilaspur, District Bilaspur CG.
5. Kailashnath Dwivedi, Revenue Inspector, Land Records Branch, Bilaspur, Police Station Civil Lines.
6. Gopal Prasad Yadav, aged about 54 years S/o Late Dayaram Yadav, Revenue Inspector, R/o Tahsil Office Durg, District Durg, CG
7. Yogesh Sharma, Aged about 59 years, S/o Late Lakhanlal Sharma, Inspector, R/o Nagarnigam Colony, Old Raipur, District Raipur, CG

---- Petitioners

Vs

1. State Of Chhattisgarh through the Secretary, General Administration Department, Mantralaya DKS Bhawan, Raipur, CG
2. The State Anti Corruption Bureau, Anti Corruption Cell, CG Through The Superintendent of Police Headquarters & Anand Nagar Raipur CG
3. Rajneesh Sahu S/o Shri Palakram Sahu, aged about 42 years R/o 121 Shyam Plaza, Nutan Chowk, Sarkanda, Bilaspur, Tahsil and District Bilaspur CG
4. D.K. Singh, Sub Divisional Officer (Revenue), Kota C.G. Posted as Deputy Collector, Durg, C.G. P.S. Durg.
5. Sanjay Agrawal, the then (Revenue) Bilaspur, presently posted as Commissioner, Municipal Corporation, Durg, CG Police Station Bhilai.
6. Pramod Sharma, the then Sub Divisional Officer (Revenue) Bilaspur present posted as Sub Divisional Officer, Pendra Road, Police Station Pendra Road

7. Tulika Prajapati D/o Shri Praveen Kumar Prajapati, aged about 30 years, the then Sub Divisional Officer, Kota presently posted As Sub Divisional Officer (R) Dhamtari.
8. Santosh Dewangan, the then Sub Divisional Officer (Revenue), Bilaspur, presently posted as Joint Collector, Bastar.
9. Divya Mishra, the then Sub Divisional Officer (Revenue) Bilaspur, Presently Posted as Personal Assistant to Shri Brijmohan Agrawal, Mantrlaya, Raipur CG
10. Ashok Kumar Tiwari, aged about 61 years, S/o Late Shtrughan Prasad Tiwari Addi. Collector (Rtd.) R/o Nehru Nagar, Bilaspur CG
11. Harsh Wardhan, the then Superintendent Land Records, Bilaspur CG Presently Posted as Superintendent Land Records Raipur, Police Station, Raipur
12. H. Toppo the then Superintendent Land Records Bilaspur CG R/o J.P. Vihar Mangla, Bilaspur, Police Station Civil Lines
13. H.K. Sharma, the then Superintendent Land Records, Bilaspur CG, presently posted as Deputy Collector, Korba (CG) Police Station Korba
14. H.R. Vaisya, the then Superintendent Land Records Bilaspur CG, presently posted as Deputy Collector, Raigarh, Police Station Raigarh
15. T.R. Ratre, the then Superintendent Land Records Bilaspur CG, presently posted as Tehsildar, Marwahi, PS Marwahi
16. J.S. Kushram, the then Superintendent Land Records Bilaspur CG, presently posted as Superintendent Land Records Bilaspur, Police Station Civil Lines.
17. L.R. Lahare, the then Assistant Superintendent Land Records, Bilaspur Mangla Bilaspur CG
18. Kranti Kumar Yadav, Revenu Inspector, Land Records Branch, Bilaspur Police Station Civil Lines

---- Respondents

And

WPCR No. 64 Of 2012

1. H.R. Vaisya, aged about 59 years S/o Late Madhav Prasad Vaishya, Occupation Service as Deputy Collector Raigarh, R/o Deputy Collector, Raigarh
2. L.R. Lahare, aged about 61 years S/o late Bhuwan Lal Lahre, Assistant Superintendent Land Records (Retd) R/o Jarha Bhata, Bilaspur CG
3. T.R. Ratrey, aged about 59 years, S/o Late Samelal Ratrey,

Occupation Service as Tehsildar, Marwahi, PS Marwahi

4. H. Toppo, aged about 68 years, S/o late Johan Toppo, Superintendent Land Records (Retd.) R/o Ganga Nagar, Sector 2, Mangla Bilaspur CG
5. J.S. Kushram, aged about 57 years S/o Chamra Singh, occupation Service as Superintendent Land Records Bilaspur R/o Quarter No. 4 Nutan Colony, New Sarkanda, Bilaspur CG

---- **Petitioners**

Vs

1. State Of Chhattisgarh through the Secretary, General Administration Department, Mantralaya DKS Bhawan, Raipur, CG
2. The State Anti Corruption Bureau, Anti Corruption Cell, CG Through The Superintendent of Police Headquarters & Anand Nagar Raipur CG
3. Rajneesh Sahu S/o Shri Palakram Sahu, aged about 42 years R/o 121 Shyam Plaza, Nutan Chowk, Sarkanda, Bilaspur, Tahsil and District Bilaspur CG
4. D.K. Singh, Sub Divisional Officer (Revenue), Kota C.G. Posted as Deputy Collector, Durg, C.G. P.S. Durg.
5. Sanjay Agrawal, the then Sub Divisional Officer (Revenue) Bilaspur, presently posted as Commissioner, Municipal Corporation, Durg, CG Police Station Bhilai.
6. Pramod Sharma, the then Sub Divisional Officer (Revenue) Bilaspur present posted as Sub Divisional Officer, Pendra Road, Police Station Pendra Road
7. AK Tiwari, Sub Divisional Officer, Revenue, Bilaspur CG (Retd) R/o Nehru Nagar, Bilaspur CG, police station Civil Lines Bilaspur
8. Tulika Prajapati D/o Shri Praveen Kumar Prajapati, aged about 30 years, the then Sub Divisional Officer, Kota presently posted As Sub Divisional Officer (R) Dhamtari.
9. Santosh Dewangan, the then Sub Divisional Officer (Revenue), Bilaspur, presently posted as Joint Collector, Bastar.
10. Divya Mishra, the then Sub Divisional Officer (Revenue) Bilaspur, Presently Posted as Personal Assistant to Shri Brijmohan Agrawal, Mantralaya, Raipur CG
11. H.K. Sharma, the then Superintendent Land Records, Bilaspur CG, presently posted as Deputy Collector, Korba (CG) Police Station Korba
12. Kranti Kumar Yadav, Revenu Inspector, Land Records Branch, Bilaspur Police Station Civil Lines

13. CP Mishra, Superintendent of Land Records Bilaspur, Posted as Nayab Tehsildar Durg, CG Police Station Durg
14. Kailashnath Dwivedi, Revenue Inspector, Land Records, Branch Bilaspur, Police Station Civil Lines.
15. CL Nayak, Revenue Inspector Diversion, R/o Nawagaon Police Station, Katghora, District Korba CG
16. Yogesh sharma, Revenue Inspector, Land Records Branch Bilaspur, Police Station Civil Lines
17. Subhash Sharma, Revenue Inspector, Land Records Branch Bilaspur, Police Station Civil Lines
18. KD Banday Revenue Inspector, Land Record, Branch Bilaspur, Police Station Civil Lines
19. Gopal Prasad Yadav, Revenue Inspector, Land Record, Branch Bilaspur, Police Station Civil Lines
20. Harsh Wardhan Singh, Superintendent Land Records, Raipur, R/o Chhattisgarh Hospital, Mova HN 102 Adharsila Apartment, Raipur CG

---- Respondents

And

WPCR No. 32 of 2012

1. Tulika Prajapati D/o Shri Praveen Kumar Prajapati, aged about 30 years, Occupation – Service, Presently posted as Sub Divisional Officer (Revenue), Dhamtari and R/o E-3 Officers' Colony Rudri, village Rudri Distt. Dhamtari CG

---- Petitioner

Vs

1. State Of Chhattisgarh through the Secretary, Department of Revenue, DKS Bhawan, Raipur
2. Superintendent of Police, Anti Corruption Bureau Raipur, CG
3. Collector Distt. Bilaspur CG
4. Joint Director, Department of Town & Country Planning, Bilaspur CG
5. Rajneesh Sahu S/o Shri Palakram Sahu, aged about 42 years R/o 121 Shyam Plaza, Nutan Chowk, Sarkanda, Bilaspur, Tahsil and District Bilaspur CG
6. D.K. Singh, the then Sub Divisional Officer (Revenue), Kota C.G. Presently posted as Deputy Collector, Durg, C.G. P.S. Durg.

7. Sanjay Agrawal, the then Sub Divisional Officer (Revenue) Bilaspur, presently posted as Commissioner, Municipal Corporation, Durg, CG Police Station Bhilai.
8. Pramod Sharma, the then Sub Divisional Officer (Revenue) Bilaspur present posted as Sub Divisional Officer, Pendra Road, Police Station Pendra Road
9. Santosh Dewangan, the then Sub Divisional Officer (Revenue), Bilaspur, presently posted as Joint Collector, Bastar.
10. Divya Mishra, the then Sub Divisional Officer (Revenue) Bilaspur, Presently Posted as Personal Assistant to Shri Brijmohan Agrawal, Mantrlaya, Raipur CG
11. AK Tiwari, Sub Divisional Officer, Revenue, Bilaspur CG (Retd) R/o Nehru Nagar, Bilaspur CG, police station Civil Lines Bilaspur
12. H.K. Sharma, the then Superintendent Land Records, Bilaspur CG, presently posted as Deputy Collector, Korba (CG) Police Station Korba
13. Harsh Wardhan Singh, the then Superintendent Land Records, Bilaspur, presently posted as Superintendent, Land Records Raipur, Police station Raipur.
14. H. Toppo, the then Superintendent Land Records, Bilaspur CG, R/o JP Vihar, Mangla, Bilaspur, PS Civil Lines.
15. HR Vaisya, the then Superintendent Land Records, Bilaspur (CG) Presently posted as Deputy Collector Raigarh, PS Raigarh.
16. TR Ratre, the then Superintendent Land Records, Bilaspur (CG) presently posted as Tahsildar, Marwahi, PS Marwahi.
17. CP Mishra, Revenue Inspector, Land Record Branch Bilaspur, Presnetly posted as Nayab Tahsildar, Durg (CG), PS Durg.
18. J.S. Kushram, the then Superintendent Land Records Bilaspur CG, presently posted as Superintendent Land Records Bilaspur, Police Station Civil Lines.
19. Kranti Kumar Yadav, Revenu Inspector, Land Records Branch, Bilaspur Police Station Civil Lines
20. Kailashnath Dwivedi, Revenue Inspector, Land Records, Branch Bilaspur, Police Station Civil Lines.
21. CL Nayak, Revenue Inspector Diversion, R/o Nawagaon Police Station, Katghora, District Korba CG
22. Yogesh sharma, Revenue Inspector, Land Records Branch Bilaspur, Police Station Civil Lines
23. Subhash Sharma, Revenue Inspector, Land Records Branch Bilaspur, Police Station Civil Lines

24. KD Banday Revenue Inspector, Land Record, Branch Bilaspur, Police Station Civil Lines
25. Gopal Prasad Yadav, Revenue Inspector, Land Record, Branch Bilaspur, Police Station Civil Lines
26. LR Lahare, the then Assistant Superintendent Land Records, Bilaspur, Mangla, Bilaspur CG.

---- Respondents

And

WPCR No. 38 Of 2012

1. Sanjay Agrawal S/o Late Shri D.D. Agarwal, aged about 40 years, presently posted as Commissioner – Municipal Corporation - Bhilai District Durg and R/o D-8 Civil Lines Durg CG

---- Petitioner

Vs

1. State Of Chhattisgarh through the Secretary, Department of Revenue, DKS Bhawan, Raipur
2. Superintendent of Police, Anti Corruption Bureau Raipur, CG
3. Collector Distt. Bilaspur CG
4. Joint Director, Department of Town & Country Planning, Bilaspur CG
5. Rajneesh Sahu S/o Shri Palakram Sahu, aged about 42 years R/o 121 Shyam Plaza, Nutan Chowk, Sarkanda, Bilaspur, Tahsil and District Bilaspur CG
6. Tulika Prajapati D/o Shri Praveen Kumar Prajapati, aged about 30 years, the then Sub Divisional Officer, Kota, Presently posted as Sub Divisional Officer (R) Dhamtari.
7. D.K. Singh, the then Sub Divisional Officer (Revenue), Kota C.G. Presently posted as Deputy Collector, Durg, C.G. P.S. Durg.
8. Pramod Sharma, the then Sub Divisional Officer (Revenue) Bilaspur present posted as Sub Divisional Officer, Pendra Road, Police Station Pendra Road
9. Santosh Dewangan, the then Sub Divisional Officer (Revenue), Bilaspur, presently posted as Joint Collector, Bastar.
10. Divya Mishra, the then Sub Divisional Officer (Revenue) Bilaspur, Presently Posted as Personal Assistant to Shri Brijmohan Agrawal, Mantrlaya, Raipur CG
11. AK Tiwari, Sub Divisional Officer, Revenue, Bilaspur CG (Retd) R/o Nehru Nagar, Bilaspur CG, police station Civil Lines Bilaspur

12. H.K. Sharma, the then Superintendent Land Records, Bilaspur CG, presently posted as Deputy Collector, Korba (CG) Police Station Korba
13. Harsh Wardhan Singh, the then Superintendent Land Records, Bilaspur, presently posted as Superintendent, Land Records Raipur, Police station Raipur.
14. H. Toppo, the then Superintendent Land Records, Bilaspur CG, R/o JP Vihar, Mangla, Bilaspur, PS Civil Lines.
15. HR Vaisya, the then Superintendent Land Records, Bilaspur (CG) Presently posted as Deputy Collector Raigarh, PS Raigarh.
16. TR Ratre, the then Superintendent Land Records, Bilaspur (CG) presently posted as Tahsildar, Marwahi, PS Marwahi.
17. CP Mishra, Revenue Inspector, Land Record Branch Bilaspur, Presently posted as Nayab Tahsildar, Durg (CG), PS Durg.
18. J.S. Kushram, the then Superintendent Land Records Bilaspur CG, presently posted as Superintendent Land Records Bilaspur, Police Station Civil Lines.
19. Kranti Kumar Yadav, Revenue Inspector, Land Records Branch, Bilaspur Police Station Civil Lines
20. Kailashnath Dwivedi, Revenue Inspector, Land Records, Branch Bilaspur, Police Station Civil Lines.
21. CL Nayak, Revenue Inspector Diversion, R/o Nawagaon Police Station, Katghora, District Korba CG
22. Yogesh sharma, Revenue Inspector, Land Records Branch Bilaspur, Police Station Civil Lines
23. Subhash Sharma, Revenue Inspector, Land Records Branch Bilaspur, Police Station Civil Lines
24. KD Banday Revenue Inspector, Land Record, Branch Bilaspur, Police Station Civil Lines
25. Gopal Prasad Yadav, Revenue Inspector, Land Record, Branch Bilaspur, Police Station Civil Lines
26. LR Lahare, the then Assistant Superintendent Land Records, Bilaspur, Mangla, Bilaspur CG.

---- Respondents

And

WPCR No. 39 Of 2012

1. Divya Umesh Mishra W/o Shri Umesh Mishra, aged about 42 years, Presently posted as Special Assistant To The Ministry of PWD &

School Education, DKS Bhawan, Mantralaya, Raipur R/o Shanti Nagar, Raipur CG

---- Petitioner

Vs

1. State Of Chhattisgarh through the Secretary, Department of Revenue, DKS Bhawan, Raipur
2. Superintendent of Police, Anti Corruption Bureau Raipur, CG
3. Collector Distt. Bilaspur CG
4. Joint Director, Department of Town & Country Planning, Bilaspur CG
5. Rajneesh Sahu S/o Shri Palakram Sahu, aged about 42 years R/o 121 Shyam Plaza, Nutan Chowk, Sarkanda, Bilaspur, Tahsil and District Bilaspur CG
6. D.K. Singh, the then Sub Divisional Officer (Revenue), Kota C.G. Presently posted as Deputy Collector, Durg, C.G. P.S. Durg.
7. Sanjay Agrawal, the then Sub Divisional Officer (Revenue) Bilaspur, presently posted as Commissioner, Municipal Corporation Durg (CG) Police Station Bhilai.
8. Pramod Sharma, the then Sub Divisional Officer (Revenue) Bilaspur present posted as Sub Divisional Officer, Pendra Road, Police Station Pendra Road
9. Santosh Dewangan, the then Sub Divisional Officer (Revenue), Bilaspur, presently posted as Joint Collector, Bastar.
10. Tulika Prajapati D/o Shri Praveen Kumar Prajapati, aged about 30 years, the then Sub Divisional Officer, Kota, Presently posted as Sub Divisional Officer (R) Dhamtari, resident of E-3 Officers' Colony, Rudri, Village Rudri District Dhamtari CG
11. AK Tiwari, Sub Divisional Officer, Revenue, Bilaspur CG (Retd) R/o Nehru Nagar, Bilaspur CG, police station Civil Lines Bilaspur
12. H.K. Sharma, the then Superintendent Land Records, Bilaspur CG, presently posted as Deputy Collector, Korba (CG) Police Station Korba
13. Harsh Wardhan Singh, the then Superintendent Land Records, Bilaspur, presently posted as Superintendent, Land Records Raipur, Police station Raipur.
14. H. Toppo, the then Superintendent Land Records, Bilaspur CG, R/o JP Vihar, Mangla, Bilaspur, PS Civil Lines.
15. HR Vaisya, the then Superintendent Land Records, Bilaspur (CG) Presently posted as Deputy Collector Raigarh, PS Raigarh.

16. TR Ratre, the then Superintendent Land Records, Bilaspur (CG) presently posted as Tahsildar, Marwahi, PS Marwahi.
17. CP Mishra, Revenue Inspector, Land Record Branch Bilaspur, Presently posted as Nayab Tahsildar, Durg (CG), PS Durg.
18. J.S. Kushram, the then Superintendent Land Records Bilaspur CG, presently posted as Superintendent Land Records Bilaspur, Police Station Civil Lines.
19. Kranti Kumar Yadav, Revenue Inspector, Land Records Branch, Bilaspur Police Station Civil Lines
20. Kailashnath Dwivedi, Revenue Inspector, Land Records, Branch Bilaspur, Police Station Civil Lines.
21. CL Nayak, Revenue Inspector Diversion, R/o Nawagaon Police Station, Katghora, District Korba CG
22. Yogesh sharma, Revenue Inspector, Land Records Branch Bilaspur, Police Station Civil Lines
23. Subhash Sharma, Revenue Inspector, Land Records Branch Bilaspur, Police Station Civil Lines
24. KD Bandy Revenue Inspector, Land Record, Branch Bilaspur, Police Station Civil Lines
25. Gopal Prasad Yadav, Revenue Inspector, Land Record, Branch Bilaspur, Police Station Civil Lines
26. LR Lahare, the then Assistant Superintendent Land Records, Bilaspur, Mangla, Bilaspur CG.

---- Respondents

And

WPCR No. 59 Of 2012

1. Pramod Sharma S/o Shri Jawahar Lal Sharma, Aged about 59 years, currently posted as SDO (Revenue) Pendra Road Bilaspur, District Bilaspur CG

---- Petitioner

Vs

1. State Of Chhattisgarh through the Secretary, Department of Home, DKS Bhawan, Raipur
2. Superintendent of Police, Anti Corruption Bureau Raipur, CG
3. Rajneesh Sahu S/o Shri Palakram Sahu, aged about 42 years R/o 121 Shyam Plaza, Nutan Chowk, Sarkanda, Bilaspur, Tahsil and District Bilaspur CG

4. K.K. Yadav, the Then Revenue Inspector Land Records Bilaspur, presently posted as Revenue Inspector, Janjgir, District Janjgir Champa CG
5. Sanjay Agrawal, the then Sub Divisional Officer (Revenue) Bilaspur, presently posted as Commissioner, Municipal Corporation Durg (CG) Police Station Bhilai.
6. LR Lahare, the then Assistant Superintendent Land Records, Bilaspur, Mangla, Bilaspur CG.
7. D.K. Singh, the then Sub Divisional Officer (Revenue), Kota C.G. Presently posted as Deputy Collector, Durg, C.G. P.S. Durg.
8. Tulika Prajapati D/o Shri Praveen Kumar Prajapati, aged about 30 years, the then Sub Divisional Officer, Kota, Presently posted as Sub Divisional Officer (R) Dhamtari, resident of E-3 Officers' Colony, Rudri, Village Rudri District Dhamtari CG
9. Santosh Dewangan, the then Sub Divisional Officer (Revenue), Bilaspur, presently posted as Joint Collector, Bastar.
10. Divya Mishra, the then SDO (Revenue) Bilaspur, currently posted as PS to Hon'ble Shri Brijmohan Agrawal, Mantralaya, DKS Bhawan, Raipur, CG
11. SK Tiwari, the then Sub Divisional Officer (Revenue) Bilaspur, R/o Nehru Nagar, Bilaspur, CG
12. H.K. Sharma, the then Superintendent Land Records, Bilaspur CG, presently posted as Deputy Collector, Korba (CG) Police Station Korba
13. Harsh Wardhan Singh, the then Superintendent Land Records, Bilaspur, presently posted as Superintendent, Land Records Raipur, Police station Raipur.
14. H. Toppo, the then Superintendent Land Records, Bilaspur CG, R/o JP Vihar, Mangla, Bilaspur, PS Civil Lines.
15. HR Vaisya, the then Superintendent Land Records, Bilaspur (CG) Presently posted as Deputy Collector Raigarh, PS Raigarh.
16. TR Ratre, the then Superintendent Land Records, Bilaspur (CG) presently posted as Tahsildar, Marwahi, PS Marwahi.
17. CP Mishra, Revenue Inspector, Land Record Branch Bilaspur, Presently posted as Nayab Tahsildar, Durg (CG), PS Durg.
18. J.S. Kushram, the then Superintendent Land Records Bilaspur CG, presently posted as Superintendent Land Records Bilaspur, Police Station Civil Lines.
19. Kailash Nath Dwivedi, Revenue Inspector, Land Records, Bilaspur, CG

20. CL Nayak, Revenue Inspector Diversion, R/o Nawagaon Police Station, Katghora, District Korba CG

21. Yogesh sharma, Revenue Inspector, Diversion Bilaspur, CG

22. Subhash Sharma, Revenue Inspector, Land Records, Bilaspur, CG

23. KD Bande, Revenue Inspector, Land Records, Bilaspur CG

24. Gopal Prasad Yadav, Revenue Inspector, Land Record, Branch Bilaspur, Police Station Civil Lines

1. ---- Respondents

And

WPCR No. 25 Of 2012

1. H.K.Sharma aged about 52 years, S/o Late Chandrika Prasad Sharma Working As - Deputy Collector, At - Korba, District - Korba C.G. R/o Civil Lines, Korba, District - Korba C.G.

---- Petitioner

Vs

1. State Of Chhattisgarh through the Secretary, General Administration Department, Mantralaya, DKS Bhawan, Raipur
2. The State Anti Corruption Bureau, Anti Corruption Cell, C.G. Through The Superintendent Of Police, Head Quarter-Anand Nagar, Raipur C.G.
3. Shri Rajnish Sahu, aged about 42 years S/o Shri Palak Ram Sahu, 121, Shyam Plaza, Nutan Chowk, Sarkanda, Bilaspur District-Bilaspur C.G.

---- Respondents

And

WPCR No. 46 Of 2012

1. H.K.Sharma aged about 52 years, S/o Late Chandrika Prasad Sharma Working As - Deputy Collector, At - Korba, District - Korba C.G.

---- Petitioner

Vs

1. State Of Chhattisgarh through the Secretary, Department of Revenue, DKS Bhawan, Raipur
2. Superintendent of Police, Anti Corruption Bureau Raipur, CG
3. The Collector, District Bilaspur, CG

4. Joint Director, Department of Town & Country Planning, Bilaspur CG
5. Rajneesh Sahu S/o Shri Palakram Sahu, aged about 42 years R/o 121 Shyam Plaza, Nutan Chowk, Sarkanda, Bilaspur, Tahsil and District Bilaspur CG
6. Tulika Prajapati D/o Shri Praveen Kumar Prajapati, aged about 30 years, the then Sub Divisional Officer, Kota, Presently posted as Sub Divisional Officer (R) Dhamtari, resident of E-3 Officers' Colony, Rudri, Village Rudri District Dhamtari CG
7. D.K. Singh, the then Sub Divisional Officer (Revenue), Kota C.G. Presently posted as Deputy Collector, Durg, C.G. P.S. Durg.
8. Pramod Sharma, the then Sub Divisional Officer (Revenue) Bilaspur present posted as Sub Divisional Officer, Pendra Road, Police Station Pendra Road
9. Santosh Dewangan, the then Sub Divisional Officer (Revenue), Bilaspur, presently posted as Joint Collector, Bastar.
10. Divya Mishra, the then SDO (Revenue) Bilaspur, currently posted as PS to Hon'ble Shri Brijmohan Agrawal, Mantralaya, DKS Bhawan, Raipur, CG
11. AK Tiwari, the then Sub Divisional Officer (Revenue) Bilaspur, R/o Nehru Nagar, Bilaspur, CG
12. Sanjay Agrawal, the then Sub Divisional Officer (Revenue) Bilaspur, presently posted as Commissioner, Municipal Corporation Durg (CG) Police Station Bhilai.
13. Harsh Wardhan Singh, the then Superintendent Land Records, Bilaspur, presently posted as Superintendent, Land Records Raipur, Police station Raipur.
14. H. Toppo, the then Superintendent Land Records, Bilaspur CG, R/o JP Vihar, Mangla, Bilaspur, PS Civil Lines.
15. HR Vaisya, the then Superintendent Land Records, Bilaspur (CG) Presently posted as Deputy Collector Raigarh, PS Raigarh.
16. TR Ratre, the then Superintendent Land Records, Bilaspur (CG) presently posted as Tahsildar, Marwahi, PS Marwahi.
17. CP Mishra, Revenue Inspector, Land Record Branch Bilaspur, Presently posted as Nayab Tahsildar, Durg (CG), PS Durg.
18. J.S. Kushram, the then Superintendent Land Records Bilaspur CG, presently posted as Superintendent Land Records Bilaspur, Police Station Civil Lines.
19. Kranti Kumar Yadav, the Then Revenue Inspector Land Records Bilaspur, District Bilaspur, CG
20. Kailash Nath Dwivedi, Revenue Inspector, Land Records, Bilaspur,

CG

21. CL Nayak, Revenue Inspector Diversion, R/o Nawagaon Police Station, Katghora, District Korba CG
22. Yogesh sharma, Revenue Inspector, Diversion Bilaspur, CG
23. Subhash Sharma, Revenue Inspector, Land Records, Bilaspur, CG
24. KD Bande, Revenue Inspector, Land Records, Bilaspur CG
25. Gopal Prasad Yadav, Revenue Inspector, Land Record, Branch Bilaspur, Police Station Civil Lines
26. LR Lahare, the then Assistant Superintendent Land Records, Bilaspur, Mangla, Bilaspur CG.

---- Respondents

And

WPCR No. 37 Of 2012

1. K.K.Yadav S/o Shri Laxmi Prasad Yadav, aged about 55 years, R.I. Land Records (Diversion) Bilaspur At Present R.I. Land Records Janjgir Champa, Distt. Janjgir Champa- (C.G.)

---- Petitioner

Vs

1. State Of Chhattisgarh through the Superintendent of Police Anti Corruption Bureau, Raipur, CG
2. Rajnish Sahu S/o Shri Palak Ram Sahu, R/o 121, Shyam Plaza, Nutan Chowk, Sarkanda, Bilaspur C.G.
3. Sanjay Agrawal The Then S.D.O. (Rev.) Bilaspur, Presently Posted As Commissioner, Municipal Corporation, Bhilai, Distt. Durg C.G.
4. A.K. Tiwari The Then S.D.O. (Rev) Bilaspur R/o Nehru Nagar, P.S. - Civil Lines, Bilaspur
5. H.K. Sharma The Then Superintendent Land Records, Bilaspur Presently Posted As Deputy Collector, Korba

---- Respondents

For Petitioners: Shri Awadh Tripathi, Shri Rajiv Shrivastava,
R.K.Kesharwani, Shri Anand Mohan Tiwari,
Shri Rahul Jha, Shri Vaibhav Shukla,
Shri Keshav Dewangan

Advocates

For Respondents/State: Shri Arun Sao, Dy. Advocate General.

For private respondents: Shri Somnath Verma, Shri Prateek Sharma, Shri Anil Mourya, Shri Neeraj Choubey, Shri Alok Bakshi, Advocates

Hon'ble Shri Justice Pritinker Diwaker

C A V Order

30.09.2015

As out of aforesaid 14 petitions, 04 being WPCR Nos.28/2012, 26/2012, 25/2012 & 37/2012 arise out of the impugned order dated 14.2.2012 passed by Special Judge (Prevention of Corruption) Act and Additional Sessions Judge, Bilaspur in an unregistered complaint case and remaining ones i.e. WPCR Nos. 39/2012, 40/2012, 38/2012, 63/2012, 32/2012, 64/2012, 46/2012, 59/2012, 41/2012 and 49/2012 arise out of the order dated 30.3.2012 passed in MJC No. 15/2012 by the same Court and involve identical question of law, they are being disposed of by this common order.

2. At the relevant time the petitioners herein were posted as mentioned below:

Sanjay Agrawal in WPCR Nos.28/2012 & 38/2012	SDO (R) Bilaspur
Ashok Kumar Tiwari in WPCR Nos. 26/2012 & 49/2012	SDO (R) Bilaspur
Dr. Santosh Kumar Dewangan in WPCR 40/2012	SDO (R) Bilaspur
D.K. Singh in WPCR 41/2012	SDO (R) Kota
CP Mishra, CL Nayak, KD Bandey, Subhash Chand Sharma, Kailash Nath Dwivedi, Gopal Prasad Yadav and Yogesh Sharma in WPCR 63/2012	Revenue Inspectors, Bilaspur District

HR Vaishya, LR Lahre, TR Ratre, H. Toppo and JS Kushram in WPCR 64/2012	Superintendent Land Records, Bilaspur District
Tulika Prajapati in WPCR No. 32/2012	SDO (R) Kota
Divya Umesh Mishra in WPCR 39/2012	SDO (R) Bilaspur
Pramod Sharma in WPCR No. 59/2012	SDO (R) Bilaspur
HK Sharma in WPCR No. 25/2012 & 46/2012	SLR, Bilaspur
KK Yadav in WPCR 37/2012	Revenue Inspector, Bilaspur

3. It is alleged that during the period 2002-2003 to 2008-2009 when the petitioners were given different assignments, various diversion cases were registered by them and orders were passed for diversion of the land. In the year 2008 private respondent Rajnish Sahu (common in all the petitions) being a so-called public spirited person made a complaint before Collector, Bilaspur on 17.11.2008 alleging several illegalities and irregularities in the said diversion proceedings.

4. Collector Bilaspur, in turn constituted a Committee headed by GP Choudhary, Dy. Collector Bilaspur, AR Tandon Superintendent Land Records, LR Lahre and RP Sunahare – both Assistant Superintendent Land Records. The said Committee inquired into 75 cases in one batch and 80 cases in another batch, and submitted its report dated 10.8.2010 and 17.8.2010 opining that in some cases the applicants in the diversion proceedings got diverted their land in pieces; in some cases diversion was done contrary to the master plan; in some cases reassessment for difference of revenue was done without prior permission of the higher authorities; in some cases order of diversion was passed without obtaining sanction of layout by the Town and Country Planning Department and in some cases order regarding change of

land use was not obtained from the State Government. The report also contains an observation regarding tampering of certain documents by the revenue inspectors.

5. In the meantime, on 20.1.2009 complainant Rajnish Sahu also made a complaint to Pramukh Lokayukta against revenue inspector Kranti Kumar Yadav {petitioner in WP (Cr. 37/2012)} stating that in about 10 cases revenue loss has been caused to the State Government and therefore the matter was required to be investigated. After receiving the aforesaid complaint the Pramukh Lokayukta called for factual report from the Collector Bilaspur. Collector, Bilaspur accordingly submitted the said report before the Pramukh Lokayukta on 29.4.2010 stating that on account of certain errors on the part of revenue inspectors and the Superintendent Land Records, in some cases illegalities and irregularities were committed. On the basis of report received from Collector, Bilaspur, Pramukh Lokayukta issued notice to some of the revenue officers and called explanation from Kranti Kumar Yadav, Ashok Kumar Tiwari, Sanjay Agrawal and HK Sharma. Being dissatisfied with the explanation of the aforesaid revenue officers, the Pramukh Lokayukta gave recommendation on 15.11.2011 for initiating departmental proceedings against them. Acting upon the report of the inquiry committee dated 10.8.2010 and 17.8.2010 and that of the Pramukh Lokayukta, complainant Rajnish Sahu filed two applications before the Special Judge under Section 156 (3) of the Code of Criminal Procedure, one on 14.2.2012 in relation to the report of Pramukh Lokayukta and the other on 16.2.2012 which was registered as MJC No. 15/2012 in which order impugned has been passed on 30.3.2012.

6. In both the aforesaid applications filed by the complainant it has been prayed that FIR under various provisions of Prevention of Corruption Act and that of Indian Penal Code be registered and SP Anti Corruption Bureau (for

short “ACB”) be directed to file *challan*. By the order impugned dated 14.2.2012 it has been directed by the Special Judge that FIR against the revenue officers arrayed in the application be registered and *challan* be filed whereas by order dated 30.3.2012 it has been directed by the Court to investigate the matter and in case any offence is found to have been committed by the revenue officers arrayed in the application, FIR be registered against them and *challan* be put up in the Court. It is these two orders which have been assailed by the revenue officers in the present batch of petitions.

7. Counsel for the petitioners submit as under:

(i) That the applications filed by complainant Rajnish Sahu dated 14.2.2012 and 16.2.2012 are vague in nature as they do not disclose any offence inasmuch as the cognizable offence against an officer individually. They referred to various paragraphs of the applications to substantiate the fact that merely on the basis of bald allegations, the applications have been filed based on the report submitted by the committee and the recommendation of the Pramukh Lokayukta. According to the counsel for the petitioners, in paragraphs 2, 3 and 4 of the applications an incorrect statement has been made and the report submitted by the committee is in fact not against the revenue officers.

(ii) That even if the entire report is accepted on its face value, it does not state that any offence has been committed by the revenue officers and at best it can be said that there were certain irregularities while passing the diversion orders.

(iii) That no financial loss has been caused to the State Government and only in few cases there was a calculation mistake which has subsequently been rectified either by some of the petitioners or their successors.

(iv) Referring to the report submitted by the State Government dated 27.1.2015 it has been argued by the counsel for the petitioners that no financial loss has been caused to the State Government and whatever irregularities have been found they can be rectified through appeal, revision or review as is stated in circular dated 27.1.2015.

(v) According to the counsel for the petitioners till today not even a single order passed by the revenue officers has been upset or altered by the higher authorities and this clearly shows that there was no illegality in the diversion orders passed by the revenue officers.

(vi) That the orders impugned dated 14.2.2012 and 30.3.2012 have been passed by the Court below in a mechanical manner without application of mind and the Court below has simply reproduced certain paragraphs of the complaint and passed the order without ascertaining the fact that allegation levelled against the petitioners are correct or not or whether in the inquiry report any such finding has been given against the petitioners as mentioned in the complaint. In support of this contention, reliance is placed on the decision of Apex Court in the matter of **Maksud Saiyed v. State of Gujrat and others** reported in **(2008) 5 SCC 668**, in the matter of **Anil Kumar and others v. MK Aiyappa and another** reported in **(2013) 10 SCC 705** and in the matter of **Sakiri Vasu v. State of Uttar Pradesh and others** reported in **(2008) 2 SCC 409**.

(vii) That the orders impugned have been passed without there being any previous sanction of the State Government as required under Section 19 of the Prevention of Corruption Act, 1988 and Section 197 of the Code of Criminal Procedure. Counsel for the petitioners submit that even at the stage of pre-cognizance, sanction of the State Government is necessary because all the petitioners are the Government employees. In support of this contention reliance is placed on the decision of the Apex Court in the matter

of *Anil Kumar and others v. MK Aiyappa and another* (supra).

(viii) That there is total non compliance of Section 154 (1) and 154 (3) of the Code of Criminal Procedure as the complainant was first required to lodge the report before the SHO of the concerned police station which (in the present case would be SHO, Police Station ACB, Raipur) and in case of dissatisfaction he was required to approach the SP as per the procedure prescribed in the Code of Criminal Procedure. According to the counsel for the petitioners even if no action was taken by the SP, complainant was required to proceed under Section 36 of the Code of Criminal Procedure to the higher authorities and then only the application under Section 156 (3) could have been filed. In support of this contention reliance is placed on the decision of the Apex Court in the matter of *Sakiri Vasu v. State of Uttar Pradesh and others* (supra).

(ix) That the complaint in its present form filed under Section 156 (3) of the Code of Criminal Procedure is not maintainable as the alleged offence relates to corruption said to have been committed sometime in between the year 2003 and 2008 and therefore the Court was under obligation to direct for preliminary inquiry because the straightaway direction for registration of FIR cannot be issued. To support this contention, reliance is placed on the decision of the Apex Court in the matter of **Lalita Kumari v. Government of Uttar Pradesh and others** reported in **(2014) 2 SCC 1**

(x) Placing reliance on the decision of the Apex Court in the matter of **Miss. Priyanka Shrivastava and another v. State of UP and others (2015 (6) SCC 287)** it has been argued that the Court should have been cautious while passing the impugned order because the power under Section 156 (3) of the Code of Criminal Procedure warrants application of judicial mind as the Court of law is involved compared to Section 154 (1) of the Code of Criminal Procedure where FIR is registered by a police officer.

(xi) That while passing the orders of diversion the revenue officers have presided over the Court as contemplated under Section 31 of the MP Land Revenue Code and passed the order in the capacity of quasi judicial authority and being so the petitioners are protected under Section 3 of the Judges' Protection Act, 1985. Counsel for the petitioners submit that considering this aspect of the case circular dated 4.1.2010 has been issued by the State Government adopting the previous circular issued by the erstwhile State of Madhya Pradesh clearly stating therein that such orders are passed by the revenue officers being a court and in some cases when the parties are not satisfied they file FIR before the police because if the case is registered, not only the officers would be demoralized but they will find it difficult to decide the cases and therefore it was ordered that criminal case be not registered against any such officer till it is specifically directed by the State Government. In support of this submission, reliance is placed on the decision of the MP High Court in the matter of **Om Prakash v. Surjan Singh** reported in **(2004) 1 CRN (MPHC) 22**.

(xii) That initiation of criminal proceedings against any officer is a very serious matter and such procedure cannot be allowed to be adopted in a routine manner. In support of this submission reliance is placed on the decision of the Apex Court in the matter of **Pepsi Foods Ltd. And another v. Special Judicial Magistrate and others** reported in **(1998) 5 SCC 749**.

(xiii) Placing reliance on the decision of Apex Court in the matter of **Cherukuri Mani W/o Narendra Chowdari v. Chief Secretary, Government of Andhra Pradesh and others** reported in **2014 AIR SCW 2811** it has been argued by the counsel for the petitioners that where law prescribes a thing to be done in a particular manner following a particular procedure, it shall be done in the same manner following the provision of law without deviating from that procedure.

(xiv) Referring to letter dated 27.1.2015 issued by the State Government addressed to the Commissioner Bilaspur counsel for the petitioners submit that as per the recommendation of the inquiry committee and the Lokayukta it was felt by the Government that though without opinion of the Town and Country Planning Department diversion orders have been passed but as no financial loss has been suffered by the Government and further considering the fact that all matters relate to judicial proceedings, they can be corrected by appeal, revision or review and therefore the Commissioner Bilaspur was directed to review the matters and rectify the mistake and if in a particular case some mistake is found, the departmental action may also be proposed. They further submit that the tenor of this letter shows that the Government has not accepted the finding recorded by the Committee and likewise the recommendation of the Lokayukta as it is. They further submit that if after reviewing the matter the higher authorities come to the conclusion that any mistake has been committed by the revenue officers, they would proceed in accordance with law.

(xv) Counsel for the petitioners further submit that so far as the point of alternative remedy of revision against the order impugned as raised by the private respondent in his return is concerned, in the case of **Amarnath Agrawal v. Jai Singh Agrawal and others** reported in **(2015) 2 CGLJ 261** this Court has held that the accused has no right to file a revision against the order passed under Section 156 (3) of the Code of Criminal Procedure and thus the petitioners have the other remedy to approach this Court.

(xvi) According to the counsel for the petitioners, from the enquiry report it is apparent that the State Government has not found anything regarding commission of any criminal offence by the petitioners.

(xvii) That in the applications filed under Section 156 (3) of the Code of Criminal Procedure no individual act of the petitioners has been shown and

merely on the basis of report submitted by the inquiry committee criminal action cannot be initiated against the petitioners and as such the application filed by the complainant is as vague as it could be.

(xviii) That the complaint was made to the Dy. SP on 7.2.2012 and the applications under Section 156 (3) of the Code of Criminal Procedure have been filed on 14.2.2012 and 16.2.2012 which shows that there is total non compliance of the provisions of Code of Criminal Procedure.

(xix) Referring to paragraph 120.6 D & E of **Lalita Kumari** case it is submitted that a preliminary inquiry is needed in a corruption case as well as in the cases where there is abnormal delay and laches in initiating the criminal prosecution.

(xx) That the complainant had allegedly demanded money from the petitioner of WPCR 46/2012 while he was posted at Pamgarh for which the report was lodged in the police station.

8. Replying to the arguments advanced on behalf of the petitioners, it has been submitted by the counsel for the complainant Rajnish Sahu that initially the complaint was made to the Anti Corruption Bureau and other authorities but when the said authorities refused to take any action against the revenue officers, the complainant filed an application under Section 156 (3) of the Code of Criminal Procedure before the Special Court. He submits that as the complaint was addressed to Dy. SP (ACB) Bilaspur of which headquarters is at Raipur, the complainant was not required to further approach SP (ACB) as provided under Section 154 (3) of the Code of Criminal Procedure and likewise he was also not under obligation to approach the other higher authorities as contemplated under Section 36 of the Code of Criminal Procedure. Referring to the applications made by the complainant under section 156 (3) of the Code of Criminal Procedure to the Court it has been argued that the manner in which the offence has been

committed by the revenue officers was duly explained and the said applications have also been duly supported by various documents including the inquiry report. Counsel for the complainant submits that no harm would be caused if the investigation is carried out by the police authorities after registering the FIR against the petitioners. He submits that the impugned orders dated 14.2.2012 and 30.3.2012 have been passed by the trial Court after due application of mind and considering the allegations made by the complainant in his applications under Section 156 (3) of the Code of Criminal Procedure. According to the counsel for the complainant, the circular dated 4.1.2010 issued by the General Administration Department cannot be treated as law. On the point of sanction counsel for the complainant submits that before passing the orders impugned no sanction of the Government was required and at least at the pre-cognizance stage it is not at all necessary. In support of this submission reliance is placed on the decisions of the Apex Court in the matter of **N.Bhargavan Pillai (dead) by LRS. & Another Vs. State of Kerala** reported in **AIR 2004 SC 2317**, in the matter of **Punjab National, Bank Vs. R.L. Vaid and Others** reported in **AIR 2004 SC 4269** and in the matter of **Ramesh Singh @ Photti Vs. State of A.P.** reported in **AIR 2004 SC 4545**. He submits that the judgments cited on behalf of the petitioners have to be read and applied on the basis of facts of cases concerned and in the present case none of the judgments so relied is applicable. As example counsel for the complainant submits that since the case of **Anil Kumar** and that of **Om Prakash** were the complaint cases, they are not of any help to the petitioners herein. In relation to the decision in the case of **Priynaka Shrivastava** counsel for the complainant submits that as it was a case of SARFAESI Act, it cannot be applied in general in the cases like the present ones. Likewise, the decision in the matter of **Ramdev Food Products** is not applicable because the same relates to a complaint under

Section 202 of the Code of Criminal Procedure. He submits that writ petition filed under Article 226/227 of the Constitution of India is not maintainable as the petitioners have an alternative remedy of revision against the impugned orders. According to him, even if the revision was not maintainable, the petitioners could have filed a petition under Section 482 of the Code of Criminal Procedure. In support of this submission reliance is placed on the decision of the Apex Court in the matter of **Shyam Kishore and Others Vs. Municipal Corporation of Delhi & Another** reported in **AIR 1992 SC 2279**. According to the counsel for the complainant delay in lodging the report is no ground for quashing the orders impugned and in support of this contention reliance is placed on the decision of the Apex Court in the matter of **Gangabhavani Vs. Rajapati Venkat Reddi and Ors.** reported in **AIR 2013 SC 3681**. According to him, applications under Section 156 (3) of the Code of Criminal Procedure are duly supported by the affidavit of the complainant and therefore it cannot be said that the same have been filed by him by adopting a casual approach. Lastly it is submitted that the corrupt officers like the petitioners cannot be granted any shelter by applying the provisions of the Judges Protection Act.

9. Counsel appearing for the State while assisting the Court submits that at the State level various inquiries were conducted where Shri Pramod Sharma enquired into one case whereas Dr. Santosh Dewangan enquired into 11 cases and on account of the act of the revenue officers deficit in calculation was noticed but subsequently it was recovered by the officers who succeeded the petitioners.

10. In the rejoinder to the arguments advanced by the counsel for the private respondent counsel for the petitioners have reiterated that there is total non compliance of the provision of Section 154 (1) and 154 (3) of the Code of Criminal Procedure. They submit that the complainant was under

obligation to first exhaust the remedy under Section 154 (1) and then he could have availed the remedy under Section 154 (3) and an application under Section 156 (3) can only be filed as a last recourse. They submit that complaint was never made to the SHO which was one of the mandatory requirements of law. They further submit that if the SHO had not entertained the complaint, then the complainant was at liberty to approach the SP also by sending the complaint by post and even thereafter he could have approached the other higher authorities, but all this has not been done in the present cases. According to the counsel for the petitioners the judgments relied on behalf of the petitioners cannot be termed as *per incurium* because the private respondent has failed to establish that to which case or law, those judgments are *per incurium*. It is further submitted that even if the petitioners have approached this Court under Articles 226 or 227 of the Constitution of India, the nomenclature will hardly make a difference and even if the petitioners filed the petition under section 482 of the Code of Criminal Procedure or under Article 227 of the Constitution of India, the Court possesses power to exercise its jurisdiction. Counsel for the petitioners submit that for every revenue loss no criminal action can be taken against the revenue officers and the circular issued by the Government has to be read with law. Referring to the orders impugned it is submitted that the case of ***Sakiri Vasu*** (*supra*) has not been correctly understood by the Court while passing the orders impugned.

11. Heard counsel for the parties and perused the documents on record.

12. Before advertng to the rival submissions of the counsel for the respective parties, this Court feels it proper to refer to the provisions of Sections 154 (1), 154 (3) and 36 of the Code of Criminal Procedure, which reads as under:

“154. Information in cognizable cases.- (1) Every

information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

(2)

(3) Any person, aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station to that offence.”

“156: Police officer's power to investigate cognizable case.-

(1)

(2)

(3) Any Magistrate empowered under Section 190 may order such an investigation as above-mentioned.”

“Section 36 – Powers of superior officers of police.- Police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.”

13. So far as the point raised by the petitioners that the applications filed by the complainant namely Rajnish Sahu are vague in nature is concerned, if the language of those applications dated 14.2.2012 and 16.2.2012 is seen, it appears that they are entirely based on the report submitted by Pramod

Sharma and Dr. Santosh Dewangan, and the committee headed by GP Choudhary Dy. Collector Bilaspur as well as the Lokayog. The complainant has nowhere elaborated in his applications as to in what manner and in which cases the revenue authorities have committed any such act which falls within the purview of Prevention of Corruption Act or that they have committed any crime in relation to the provisions of Indian Penal Code. It may be true that in such applications the complainant is not supposed to give details of each case but to prima facie establish the case the complainant was required to state as to in which case and in what manner the act of the revenue officers comes within the definition of crime under the Indian Penal Code or the Prevention of Corruption Act. In fact the complainant has merely reproduced the report submitted by certain revenue officers. Thus this Court finds substance in the arguments of the petitioners that the nature of the complaint is vague and does not disclose any offence inasmuch as the cognizable offence against a revenue officer.

Yet another important point required to be noticed is that number of revenue officers have been joined as proposed accused but in the applications the complainant has not assigned any individual role to any officer as to which officer in which case has committed an offence and what is the nature of that crime. Summoning of an accused in a criminal case is a serious matter. It is not expected from a Court to issue any direction for investigation without looking into the nature of the complaint and without being satisfied as to what exactly the complainant wants. If nature of the complaint is so vague, the Magistrate is not obliged to accept the contention and issue any direction. As stated earlier, though number of revenue officers have been joined as proposed accused but there is no allegation against them except for reproduction of certain reports submitted by the revenue officers. A bare perusal of the impugned orders dated 14.2.2012 and

30.3.2012 would reflect that the learned Court below has also reproduced some of the contents of the applications and directed by order dated 14.2.2012 for registration of FIR against the proposed accused and then submit the *challan* whereas by order dated 30.3.2012 after accepting the application it has directed for investigation, registration of FIR and then filing the *challan*. It is nowhere reflected in the orders impugned that the learned trial Judge has applied its mind and as the orders impugned appear to have been passed in a mechanical manner, they are not sustainable under the law. In the case of *Maksud Saiyed v. State of Gujrat and others* (supra) after considering its several earlier decisions it has been held by the Apex Court as under:

13. Where a jurisdiction is exercised on a complaint petition filed in terms of Section 156 (3) or Section 200 of the Code of Criminal Procedure, the Magistrate is required to apply his mind. The Indian Penal Code does not contain any provision for attaching vicarious liability on the part of the Managing Director or the Directors of the Company when the accused is the Company. The learned Magistrate failed to pose unto himself the correct question viz. as to whether the complaint petition, even if given face value and taken to be correct in its entirety, would lead to the conclusion that the respondents herein were personally liable for any offence. The Bank is a body corporate. Vicarious liability of the Managing Director and Director would arise provided any provision exists in that behalf in the statute. Statutes indisputably must contain provision fixing such vicarious liabilities. Even for the said purpose, it is obligatory on the part of the complainant to make requisite allegations which would attract the provisions constituting vicarious liability.

14. It will bear repetition to state that throughout the complaint petition, no allegation had been made as against any of the respondents herein that they had anything to deal with personally either in discharge of their statutory or official duty. As indicated hereinbefore, in the prospectus, a bona fide mistake had been

committed. The fact that such a mistake had been committed stands accepted. In any event, the statement that the matter was pending before the DRT in stead and place of the City Civil Court, Ahmedabad, per se, cannot be said to be defamatory as the fact that a suit was pending for recovery of the huge amount is neither denied nor disputed. Whether such a suit was maintainable and/or is ultimately to be decreed or disposed of is a question which has to be gone into in the suit itself. A criminal court cannot even take that factor into consideration. The High Court considered the matter at some great details. Having analysed the materials placed before it, it was held:

"...It was, therefore, stated that there was no suppression or concealment of any facts and it did not amount to criminal breach of trust and cheating on the part of the Bank as alleged by the complainant. The said export bills under L/C were negotiated by the Bank under the provisions of UCPDC 500 1995 Revision. The Bank has also informed vide its letter dated 8.2.2005 to M/s. SBI Capital Markets Ltd. It was stated therein that the Bank has not concealed or suppressed any material fact against the interest of the public at large and investors in particular. The bonafide mis-description in setting out the nature of claim was unintentional. It was further stated that the material particulars like the amount of claim, date of filing and name of the company was correctly mentioned. The mis-description did not materially influence/affect the decision of the investors/public..."

It was furthermore opined:

"It appears to the Court that the learned Chief Judicial Magistrate has not applied his mind while passing the order under [Section 156\(3\)](#) of the Criminal Procedure Code directing the police to investigate in the matter. The impugned order, on the face of it, reveals that he has not gone through the complaint. He has stated in the order that the accused 1 to 10 are Manager and Branch Manager of Dena Bank. As a matter of fact, the accused 1 was the Ex-

Chairman and Managing Director of Dena Bank, and accused 2 was the Executive Director. Accused 3 to 10 are Directors of Dena Bank. None of these persons are Managers or Branch Manager. Despite this, the learned Chief Judicial Magistrate has mentioned in his order that they are Managers or Branch Managers. With regard to the prospectus he has simply stated that the Bank has issued prospectus for its public issue and at p. 87 false informations were given so as to cause damage to the Company and to jeopardize the reputation of the Company. Despite the fact that the litigations are pending before the Civil Court he has mentioned about non-returning of export bills etc. On these facts he has passed order under Section 156(3) of the Criminal Procedure Code, directing PSI, Sayajiganj Police Station to make inquiry in the matter."

The approach of the High Court, with respect, is entirely correct.

15. This Court in *Pepsi Foods Ltd. and Another v. Special Judicial Magistrate and Others* [(1998) 5 SCC 749], held as under:

"28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is

prima facie committed by all or any of the accused."

14. So far as the point raised by the petitioners that the Court below could not have passed the orders impugned without previous sanction of the State Government is concerned, it would be relevant to reproduce the provisions of Section 19 of the Prevention of Corruption Act as well as Section 197 of the Code of Criminal Procedure which read as under:

"19. Previous sanction necessary for prosecution.—

(1) No court shall take cognizance of an offence punishable under sections 7, 10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction [save as otherwise provided in the Lokpal and Lokayuktas Act, 2013] -

(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office.

(2) Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section (1) should be given by the Central Government or the State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) no finding, sentence or order passed by a special Judge shall be reversed or altered by a court in appeal, confirmation or revision on the ground of the absence of, or any error, omission or irregularity in, the sanction required under sub-section (1), unless in the opinion of that court, a failure of justice has in fact been occasioned thereby;

(b) no court shall stay the proceedings under this Act on the ground of any error, omission or irregularity in the sanction granted by the authority, unless it is satisfied that such error, omission or irregularity has resulted in a failure of justice;

(c) no court shall stay the proceedings under this Act on any other ground and no court shall exercise the powers of revision in relation to any interlocutory order passed in any inquiry, trial, appeal or other proceedings.

(4) In determining under sub-section (3) whether the absence of, or any error, omission or irregularity in, such sanction has occasioned or resulted in a failure of justice the court shall have regard to the fact whether the objection could and should have been raised at any earlier stage in the proceedings.

Explanation.—For the purposes of this section,—

(a) error includes competency of the authority to grant sanction;

(b) a sanction required for prosecution includes reference to any requirement that the prosecution shall be at the instance of a specified authority or with the sanction of a specified person or any requirement of a similar nature.

“197. Prosecution of Judges and public servants.- (1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction-

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government;

[Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a

Proclamation issued under clause (1) of Article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression “state Government” occurring therein, the expression “Central Government” were substituted].

(2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section will apply as if for the expression “Central Government” occurring therein, the expression “state government” were substituted.

[(3A) Notwithstanding anything contained in sub-section (3), no Court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of the article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government.]

[(3B) Notwithstanding anything to the contrary contained in this Code or any other law, it is hereby declared that any sanction accorded by the State Government or any cognizance taken by a Court upon such sanction, during the period commencing on the 20th day of August, 1991 and ending with the date immediately preceding the date on which the Code of Criminal Procedure (Amendment) Act, 1991, receives the assent of the President, with respect to an offence alleged to have been committed during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in the State, shall be invalid and it shall be competent for the Central Government in such matter to accord sanction and for the Court to take cognizance thereon.]

(4) The Central Government or the State Government, as the case may be, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held.”

15. In the case of **Anil Kumar (supra)** the Supreme Court emphasized the need for previous sanction for ordering investigation under Section 156 (3) CrPC and held as under:

'ORDER

The complaint is referred to Deputy Superintendent of Police – 3 Karnataka Lokayukta, Bangalore Urban, under Section 156 (3) CrPC for investigation and to report.'

“11. The scope of Section 156(3) CrPC came up for consideration before this Court in several cases. This Court in Maksud Saiyed case (supra) examined the requirement of the application of mind by the Magistrate before exercising jurisdiction under Section 156(3) and held that where a jurisdiction is exercised on a complaint filed in terms of Section 156(3) or Section 200 Cr.P.C., the Magistrate is required to apply his mind, in such a case, the Special Judge/Magistrate cannot refer the matter under Section 156(3) against a public servant without a valid sanction order. The application of mind by the Magistrate should be reflected in the order. The mere statement that he has gone through the complaint, documents and heard the complainant, as such, as reflected in the order, will not be sufficient. After going through the complaint, documents and hearing the complainant, what weighed with the Magistrate to order investigation under Section 156(3) Cr.P.C., should be reflected in the order, though a detailed expression of his views is neither required nor warranted. We have already extracted the order passed by the learned Special Judge which, in our view, has stated no reasons for ordering investigation.”

“12. We will now examine whether the order directing investigation under Section 156(3) Cr.P.C. would amount to taking cognizance of the offence, since a contention was raised that the expression

“cognizance” appearing in Section 19(1) of the PC Act will have to be construed as post-cognizance stage, not pre-cognizance stage and, therefore, the requirement of sanction does not arise prior to taking cognizance of the offences punishable under the provisions of the PC Act.”

“13. The expression “cognizance” which appears in Section 197 Cr.P.C. came up for consideration before a three-Judge Bench of this Court in *State of Uttar Pradesh v. Paras Nath Singh* (2009) 6 SCC 372, and this Court expressed the following view:

“6. ...'10.....And the jurisdiction of a Magistrate to take cognizance of any offence is provided by Section 190 of the Code, either on receipt of a complaint, or upon a police report or upon information received from any person other than a police officer, or upon his knowledge that such offence has been committed. So far as public servants are concerned, the cognizance of any offence, by any court, is barred by Section 197 of the Code unless sanction is obtained from the appropriate authority, if the offence, alleged to have been committed, was in discharge of the official duty. The section not only specifies the persons to whom the protection is afforded but it also specifies the conditions and circumstances in which it shall be available and the effect in law if the conditions are satisfied. The mandatory character of the protection afforded to a public servant is brought out by the expression, ‘no court shall take cognizance of such offence except with the previous sanction’. Use of the words ‘no’ and ‘shall’ makes it abundantly clear that the bar on the exercise of power of the court to take cognizance of any offence is absolute and complete. The very cognizance is barred. That is, the complaint cannot be taken notice of. According to Black’s Law Dictionary the word ‘cognizance’ means ‘jurisdiction’ or ‘the exercise of jurisdiction’ or ‘power to try and determine causes’. In common parlance, it means taking notice of. A court, therefore, is precluded from entertaining a complaint or taking notice of it or exercising jurisdiction if it is in respect of a public servant who is accused of an offence alleged to have been committed during discharge of his official duty.’ “

“14. In *State of West Bengal and Another v. Mohd. Khalid and Others* (1995) 1 SCC 684, this Court has observed as follows:

“13. It is necessary to mention here that taking cognizance of an offence is not the same thing as issuance of process. Cognizance is taken at the initial stage when the Magistrate applies his judicial mind to the facts mentioned in a complaint or to a police report or upon information received from any other person that an offence has been committed. The issuance of process is at a subsequent stage when after considering the material placed before it the court decides to proceed against the offenders against whom a prima facie case is made out.”

“15. The judgments referred to herein above clearly indicate that the word “cognizance” has a wider connotation and not merely confined to the stage of taking cognizance of the offence. When a Special Judge refers a complaint for investigation under Section 156(3) Cr.P.C., obviously, he has not taken cognizance of the offence and, therefore, it is a pre-cognizance stage and cannot be equated with post-cognizance stage. When a Special Judge takes cognizance of the offence on a complaint presented under Section 200 Cr.P.C. and the next step to be taken is to follow up under Section 202 Cr.P.C. Consequently, a Special Judge referring the case for investigation under Section 156(3) is at pre-cognizance stage.”

“16. A Special Judge is deemed to be a Magistrate under Section 5(4) of the PC Act and, therefore, clothed with all the magisterial powers provided under the Code of Criminal Procedure. When a private complaint is filed before the Magistrate, he has two options. He may take cognizance of the offence under Section 190 Cr.P.C. or proceed further in enquiry or trial. A Magistrate, who is otherwise competent to take cognizance, without taking cognizance under Section 190, may direct an investigation under Section 156(3) Cr.P.C. The Magistrate, who is empowered under Section 190 to take cognizance, alone has the power to refer a private complaint for police investigation under Section 156(3) Cr.P.C.”

“17. We may now examine whether, in the above mentioned legal situation, the requirement of sanction is a pre-condition for ordering investigation under Section 156(3) Cr.P.C., even at a pre-cognizance stage.”

“18. Section 2(c) of the PC Act deals with the definition of the expression “public servant” and provides under Clauses (viii) and (xii) as under:

“2.(c)(viii) any person who holds an office by virtue of which he is authorised or required to perform any public duty;

... ..

(xii) any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or any State Government, or local or other public authority.”

“19. The relevant provision for sanction is given in Section 19(1) of the PC Act, which reads as under:

“19. Previous sanction necessary for prosecution.—(1)
No court shall take cognizance of an offence punishable under Sections 7,10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction—

a) in the case of a person who is employed in connection with

the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

b) in the case of a person who is employed in connection with the affairs of a State and is not removeable from his office save by or with the sanction of the State Government, of that Government;

c) in the case of any other person, of the authority competent to remove him from his office.”

“20. Section 19(3) of the PC Act also has some relevance; the operative portion of the same is extracted hereunder:

“19(3)– Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)-

a) no finding, sentence or order passed by a special judge shall be reversed or altered by a court in appeal, confirmation or revision on the ground of absence of, or any error, omission or irregularity in the sanction required under sub-section (1), unless in the opinion of that Court, a failure of justice has in fact been occasioned thereby;”

(b)-(c) * * *

“21.Learned senior counsel appearing for the appellants raised the contention that the requirement of sanction is only procedural in nature and hence, directory or else Section 19(3) would be rendered otiose. We find it difficult to accept that contention. Sub-section (3) of Section 19 has an object to achieve, which applies in circumstances where a Special Judge has already rendered a finding, sentence or order. In such an event, it shall not be reversed or altered by a court in appeal, confirmation or revision on the ground of absence of sanction. That does not mean that the requirement to obtain sanction is not a mandatory requirement. Once it is noticed that there was no previous sanction, as already indicated in various judgments referred to hereinabove, the Magistrate cannot order investigation against a public servant while invoking powers under Section 156(3) Cr.P.C. The above legal position, as already indicated, has been clearly spelt out in Paras Nath Singh and Subramaniam Swamy cases.”

“22. Further, this Court in Army Headquarter Vs. CBI opined as follows :

“82. Thus, in view of the above, the law on the issue of sanction can be summarized to the effect that the question of sanction is of paramount importance for protecting a public servant who has acted in good faith while performing his duty. In order that the public servant may not be unnecessarily harassed on a complaint of an unscrupulous person, it is obligatory on the part of the executive authority to protect him.....

83. If the law requires sanction, and the court proceeds against a public servant without sanction, the public servant has a right to raise the issue of jurisdiction as the entire action may be rendered void ab-initio....”

“23 .We are of the view that the principles laid down by this Court in the above referred judgments squarely apply to the facts of the present case. We, therefore, find no error in the order passed by the High Court. The appeals lack merit and are accordingly dismissed.”

16. Recently while dealing with the provisions of Section 156 (3) of the code of Criminal Procedure in the case of **Miss. Priyanka Shrivastava and another v. State of UP and others** (supra) it has been held by the Apex Court as under:

27. Regard being had to the aforesaid enunciation of law, it needs to be reiterated that the learned Magistrate has to remain vigilant with regard to the allegations made and the nature of allegations and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he may pass the requisite order. The present is a case where the accused persons are serving in high positions in the bank. We are absolutely conscious that the position does not matter, for nobody is above the law. But, the learned Magistrate should take note of the allegations in entirety, the date of incident and whether any cognizable case is remotely made out. It is also to be noted that when a borrower of the financial institution covered under the SARFAESI Act, invokes the jurisdiction under Section 156(3) Cr.P.C. and also there is a separate procedure under the Recovery of Debts due to Banks and Financial Institutions Act, 1993, an attitude of more care, caution and circumspection has to be adhered to.

28. Issuing a direction stating “as per the application” to lodge an FIR creates a very unhealthy situation in society and also reflects the erroneous approach of the learned Magistrate. It also encourages unscrupulous and unprincipled litigants, like Respondent No.3, namely, Prakash Kumar Bajaj, to take adventurous steps with courts to bring the financial institutions on their knees. As the factual exposition would reveal, Respondent 3 had prosecuted the earlier authorities and after

the matter is dealt with by the High Court in a writ petition recording a settlement, he does not withdraw the criminal case and waits for some kind of situation where he can take vengeance as if he is the emperor of all he surveys. It is interesting to note that during the tenure of the appellant 1, who is presently occupying the position of Vice-President, neither was the loan taken, nor was the default made, nor was any action under the SARFAESI Act taken. However, the action under the SARFAESI Act was taken on the second time at the instance of the present appellant 1. We are only stating about the devilish design of Respondent 3 to harass the appellants with the sole intent to avoid the payment of loan. When a citizen avails a loan from a financial institution, it is his obligation to pay back and not play truant or for that matter play possum. As we have noticed, he has been able to do such adventurous acts as he has the embedded conviction that he will not be taken to task because an application under Section 156(3) Cr.P.C. is a simple application to the court for issue of a direction to the investigating agency. We have been apprised that a carbon copy of a document is filed to show the compliance of Section 154(3), indicating it has been sent to the Superintendent of Police concerned.

29. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellow citizens, efforts are to be made to scuttle and curb the same.

30. In our considered opinion, a stage has come in this country where Section 156(3) Cr.P.C. applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up

people who are passing orders under a statutory provision which can be challenged under the framework of the said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores.

31. We have already indicated that there has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an application under Section 156(3) be supported by an affidavit so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in ***Lalita Kumari*** are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR.

32. The present lis can be perceived from another angle. We are slightly surprised that the financial institution has been compelled to settle the dispute and we are also disposed to think that it has so happened because the complaint cases were filed. Such a situation should not happen.”

17. Likewise, in the case of **Ramdev Food Products Private Limited v. State of Gujrat** reported in (2015) 6 SCC 439, it has been held by the Apex Court as under:-

5. We have heard learned counsel for the parties. When the matter came up for hearing on 11th April, 2007, this Court framed the question as follows:

“The question involved in the instant Special Leave Petition is as to the extent of power that may be exercised by a police officer while making an inquiry under Section 202(1) of the Code of Criminal Procedure particularly, whether he has power to arrest in course of the inquiry entrusted to him by the Magistrate. Reliance is placed on Sub-Section 3 of Section 202 to contend that the power to arrest without warrant cannot be exercised by a person not being a police officer. Impliedly it is contended that so far as the police officer is concerned that constraint is not there.”

6. However, in the light of submissions made during the hearing, we frame following questions for consideration:

“(6.1) Whether discretion of the Magistrate to call for a report under Section 202 instead of directing investigation under Section 156(3) is controlled by any defined parameters?

(6.2) Whether in the course of investigation in pursuance of a direction under Section 202, the police Officer is entitled to arrest an accused?

(6.3) Whether in the present case, the Magistrate erred in seeking report under Section 202 instead of directing investigation under Section 156(3) ?”

13. We may first deal with the question as to whether the Magistrate ought to have proceeded under Section 156(3) or was justified in proceeding under Section 202(1) and what are the parameters for exercise of power under the two provisions.

19. Thus, this Court has laid down that while prompt registration of FIR is mandatory, checks and balances on power of police are equally important. Power of arrest or of investigation is not mechanical. It requires application of mind in the manner provided. Existence of power and its exercise are different. Delicate balance had to be maintained between the interest of society and liberty of an individual.

Commercial offences have been put in the category of cases where FIR may not be warranted without enquiry.

20. It has been held, for the same reasons, the direction by the Magistrate for investigation under Section 156(3) cannot be given mechanically. In **Anil Kumar** Vs. **M.K. Aiyappa**, it was observed:

“11. The scope of Section 156(3) CrPC came up for consideration before this Court in several cases. This Court in Maksud Saiyed case [(2008) 5 SCC 668] examined the requirement of the application of mind by the Magistrate before exercising jurisdiction under Section 156(3) and held that where jurisdiction is exercised on a complaint filed in terms of Section 156(3) or Section 200 CrPC, the Magistrate is required to apply his mind, in such a case, the Special Judge/Magistrate cannot refer the matter under Section 156(3) against a public servant without a valid sanction order. The application of mind by the Magistrate should be reflected in the order. The mere statement that he has gone through the complaint, documents and heard the complainant, as such, as reflected in the order, will not be sufficient. After going through the complaint, documents and hearing the complainant, what weighed with the Magistrate to order investigation under Section 153(3) CrPC, should be reflected in the order, though a detailed expression of his views is neither required nor warranted. We have already extracted the order passed by the learned Special Judge which, in our view, has stated no reasons for ordering investigation.”

The above observations apply to category of cases mentioned in Para 120.6 in ***Lalita Kumari (supra)***.

22. Thus, we answer the first question by holding that :

22.1 The direction under Section 156(3) is to be issued, only after application of mind by the Magistrate. When the magistrate does not take cognizance and does not find it necessary to postpone the

issuance of process and finds a case made out to proceed forthwith, direction under the said provision is issued. In other words, where on account of credibility of information available, or weighing the interest of justice it is considered appropriate to straightaway direct investigation, such a direction is issued.

22.2 The cases where Magistrate takes cognizance and postpones issuance of process are cases where the Magistrate has yet to determine “existence of sufficient ground to proceed”. Category of cases falling under para 120.6 in ***Lalita Kumari (supra)*** may fall under Section 202.

22.3 Subject to these broad guidelines available from the scheme of the Code, exercise of discretion by the magistrate is guided by interest of justice from case to case.

18. In the case of **Lalita Kumari v. Government of Uttar Pradesh and others reported in (2014) 2 SCC 1** it has been held by the Apex Court that if in a given case there is necessity of any inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not. Relevant portion of the said judicial pronouncement reads as under:-

“120.6 As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

- (a) Matrimonial disputes/family disputes
- (b) commercial offences
- (c) *Medical* negligence cases
- (d) Corruption cases
- (e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.”

19. While dealing with the provisions In the case of Section 154 (1) of the Code of Criminal Procedure in the matter of ***Sakiri Vasu (supra)*** it has been held by the Apex Court as under:-

“25. We have elaborated on the above matter because we often find that when someone has a grievance that his FIR has not been registered at the police station and/or a proper investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under Section 482 Cr.P.C. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters and relegate the petitioner to his alternating remedy, first under Section 154(3) and Section 36 Cr.P.C. before the police officers concerned, and if that is of no avail, by approaching the magistrate concerned under Section 156(3).

26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?”

20. If the above position of law is taken into consideration in the present case, as already held the order impugned has been passed by the Court below in a mechanical manner without application of mind and without going through the contents of the application filed under Section 156 (3) of the Code of Criminal Procedure and even ignoring the fact that on the basis of allegations and the inquiry report what offence has been committed by the petitioner. It is a settled legal position that where a law prescribes a thing to be done in a particular manner following a particular procedure, it has to be

done in the same manner following the procedure of law without deviating therefrom. Unfortunately, in the present case the settled position of law and the procedure prescribed have not been strictly adhered to.

21. Summoning of accused and setting the criminal law in motion is a serious matter and the same cannot be permitted on the vague allegation made in the application filed under Section 156 (3) of the Code of Criminal Procedure as has been done in the present case, and the criminal Court has to be very careful while summoning the accused.

22. This Court finds no substance in the arguments advanced on behalf of the private respondent Rajnish Sahu that as the complaint made by him before the Anti Corruption Bureau and other authorities was not considered, he was justified in filing the application under Section 156 (3) of the Code of Criminal Procedure. During argument it has been informed to this Court that no complaint was made to the Station House Officer, Anti Corruption Bureau by the private respondent and without following the procedure as laid down under Section 154 (1) and 154 (3) and 36 of the Code of Criminal Procedure, directly an application under Section 156 (3) of the Code of Criminal Procedure has been filed. Most importantly, the complaint is alleged to have been made to Anti Corruption Bureau on 4.1.2011 and without waiting for sufficient period applications under Section 156 (3) of the Code of Criminal Procedure were filed before the Court on 14.2.2012 and 16.2.2012. Thus it cannot be said that the complainant was justified in approaching the Court under Section 156 (3) of the Code of Criminal Procedure and similarly the Court has completely ignored this aspect of the case.

23. This Court further finds no substance in the argument of the counsel for the private respondent that sanction is not required at the precognizance stage. In the matter of **Anil Kumar and others v. MK Aiyappa and another (supra)** it has been specifically held by the Apex Court that even at the

precognizance stage sanction of the government is required.

24. This Court finds no substance in the argument of the counsel for the private respondent that the cases cited by the counsel for the petitioners are not applicable in the present case as they are in relation to some other offence and not the ones covered by the Indian Penal Code because the Apex Court has already dealt with in the cases cited above as to in which matters which law would be applicable. True it is that the judgment of the higher Courts are to be applied on the basis of factual matrix of each case but when after considering certain provisions of law the higher Courts decide the matter, the ratio decidendi has to be seen and applied in its proper perspective and the judgments of the Supreme court cannot be brushed aside simply by saying that facts of the present cases are entirely different from the ones cited by the parties because when the incident is different, facts are bound to be different and ultimately what principle of law has been laid down by the apex Court has to be applied.

25. This Court further finds no substance in the argument advanced by the counsel for the private respondent that the order impugned is revisable and therefore the petitions are not maintainable. This point has already been decided by this Court in the case of **Amarnath reported in 2015 (2) CGLJ 261** where it has been held that against such order revision is not maintainable. Further, there is no substance in the argument advanced on behalf of private respondent that in case the revision is not maintainable, petitioners were required to file the petition under Section 482 of the Code of Criminal Procedure. While dealing with this aspect of the matter in the case of **Pepsi Foods Ltd. And another v. Special Judicial Magistrate and others** reported in **(1998) 5 SCC 749** it has been held by the Apex Court as under:

“26. Nomenclature under which petition is filed is not quite relevant and that does not debar the court from exercising its jurisdiction which otherwise it possesses unless there is special procedure prescribed which procedure is mandatory. If in a case like the present one the Court finds that the appellants could not invoke its jurisdiction under Article 226, the court can certainly treat the petition as one under Article 227 of Section 482 of the Code. It may not however, be lost sight of that provisions exist in the Code of revision and appeal but some time for immediate relief Section 482 of the Code or Article 227 may have to be resorted to for correcting some grave errors that might be committed by the subordinate courts. The present petition though filed in the High Court as one under Articles 226 and 227 could well be treated under Article 227 of the Constitution.

28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set in to motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning the accused. The Magistrate has to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.

29. No doubt the magistrate can discharge the accused at any stage of the trial if he considers the charge to be groundless, but that does not mean that the accused cannot approach the High Court under Section 482 of the Code or Article 227 of the

Constitution to have the proceeding quashed against him when the complaint does not make out any case against him and still he must undergo the agony of a criminal trial. It was submitted before us on behalf of the State that in case we find that the High Court failed to exercise its jurisdiction the matter should be remanded back to it to consider if the complaint and the evidence on record did not make out any case against the appellants. If, however, we refer to the impugned judgment of the High Court it has come to the conclusion, though without referring to any material on record, that "in the present case it cannot be said at this stage that the allegations in the complaint are so absurd and inherently improbable on the basis of which no prudent man can ever reach a just conclusion that there exists no sufficient ground for proceedings against the accused." We do not think that the High Court was correct in coming to such a conclusion and in coming to that it has also foreclosed the matter for the magistrate as well, as the magistrate will not give any different conclusion on an application filed under section 245 of the code. The High Court says that the appellants could very well appear before the court and move an application under Section 245(2) of the Code and that the magistrate could discharge them if he found the charge to be groundless and at the same time it has itself returned the finding that there are sufficient grounds for proceeding against the appellants. If we now refer to the facts of the case before us it is clear to us that not only that allegation against the appellants do not make out any case for an offence under Section 7 of the Act and also that there is no basis for the complainant to make such allegation. The allegations in the complaint merely show that the appellants have given their brand name to "Residency Foods and Beverages Ltd." for bottling the beverage "Lehar Pepsi". The complaint does not show what is the role of the appellants in the manufacture of the beverage which is said to be adulterated. The only allegation is that the appellants are the manufacturer of bottle. There is no averment as to how the complainant could say so and also if the appellants manufactured the alleged bottle or its contents. His sole information is from A.K. Jain who is impleaded as accused 3. The preliminary evidence on which the 1st respondent relied in issuing summon to the appellants also does

not show as to how it could be said that the appellants are manufacturers of either the bottle or the beverage or both. There is another aspect of the matter. The Central Government in the exercise of their powers under Section 3 of the Essential Commodities Act, 1955 made the Fruit Products Order, 1955 (for short, the "Fruit Order"). It is not disputed that the beverage in question is a "fruit product" within the meaning of clause (2)(b) of the Fruit Order and that for the manufacture thereof certain licence is required. The fruit Order defines the manufacturer and also sets out as to what the manufacturer is required to do in regard to the packaging, marking and labeling of containers of fruit products. One of such requirement is that when a bottle is used in packing any fruit products, it shall be so sealed that it cannot be opened without destroying the licence number and the special identification mark of the manufacturer to be displayed on the top or neck of the bottle. The licence number of manufacturer shall also be exhibited prominently on the side label on such bottle [clause (8)(1)(b)]. Admittedly, the name of the first appellant is not mentioned as a manufacturer on the top cap of the bottle. It is not necessary to refer in detail to other requirements of the Fruit Order and the consequences of infringement of the Order and to the penalty to which the manufacturer would be exposed under the provisions of the Essential Commodities Act, 1955. We may, however, note that in *The Hamdard Dawakhana (WAKF) vs. Union of India* [AIR 1965 SC 1167 : (1965) 2 SCR 192], an argument was raised that the Fruit Order was invalid because its provision indicated that it was an Order which could have been appropriately issued under the Prevention of Food Adulteration Act, 1954. This Court negatived this plea and said that the Fruit Order was validly issued under the Essential Commodities Act, What we find in the present case is that there was nothing on record to show if the appellants held the licence for the manufacture of the offending beverage and if, as noted above, the first appellant was the manufacturer thereof.

30. It is no comfortable thought for the appellants to be told that they could appear before the court which is at a far off place in Ghazipur in the State of Uttar Pradesh, seek their release on bail

and then to either move an application under Section 245(2) of the Code or to face trial when the complaint and the preliminary evidence recorded makes out no case against them. It is certainly one of those cases where there is an abuse of the process of the law and the courts and the High Court should not have shied away in exercising its jurisdiction. Provisions of Articles 226 and 227 of the Constitution and Section 482 of the Code are devised to advance justice and not to frustrate it. In our view High Court should not have adopted such a rigid approach which certainly has led to miscarriage of justice in the case. Power of judicial review is discretionary but this was a case where the High Court should have exercised it.”

26. Thus in view of the aforesaid factual and legal discussion this Court is of the considered view that the complaint made by the private respondent is as vague as it could be because it does not disclose commission of a cognizable offence by a particular individual. While passing the orders impugned, learned Court below has not applied its mind and has resorted to proceed with the case in a mechanical manner simply by reproducing the contents of the applications and without even looking into the decision of the Apex Court in the case of Lalita Kumari (supra). The Court below ought to have kept in mind the fact that initiation of a criminal proceeding against an officer is a very serious matter and such procedure cannot be allowed to be adopted in a routine manner. More importantly, as the petitioners are public servant, no criminal proceedings can be initiated against them without obtaining prior sanction from the competent authority. The Court below has committed another error of law while passing the orders impugned and has ignored the fact that before invoking the provisions of Section 156 (3) of Code of Criminal Procedure, the private respondent should have availed the remedy provided under section 154 (1), 154 (3) and 36 of the Code of Criminal Procedure which unfortunately has not been done in the case in hand.

27. Thus as a consequence of the analysis made above it is held that the impugned order dated 14.2.2012 passed in an un-registered case and the order dated 30.3.2012 passed in MJC No. 15/2012 are liable to be quashed and accordingly they are hereby quashed. The writ petitions mentioned above stand allowed.

Sd/-

(Pritinker Diwaker)

Judge

Jyotishi

