BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.08.2023

Pronounced on : 19.10.2023

CORAM:

THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD)No.7569 of 2023
and
Crl.M.P(MD)No.6621 of 2023

Mala .. Petitioner/Accused No.2

Vs.

1. The State represented by,
The Inspector of Police,
Vigilance and Anti Corruption,
Kanyakumari Detachment @ Nagercoil,
Kanyakumari District.
(Crime No.3/2015) .. 1st Respondent/Complainant

2.C.Kipson .. 2nd Respondent/Defacto Complainant

PRAYER: Criminal Revision Petition has been filed under Section 482 of Cr.P.C., to call for the records pertaining to the Spl.S.C.No. 2 of 2023 on the file of Special Judge for Trial cases under Prevention of Corruption Cases, Tirunelveli and quash the same as far as this petitioner as illegal.

For Petitioner	:	Mr.M.Ajmal Khan Senior Counsel for M/s.Ajmal Associates
For Respondents	:	Mr.T.Senthil Kumar Additional Public Prosecutor for R1
	:	Ms.T.Seeni Syed Amma for M/s.Lajapathi Roy and Associates for R2

ORDER

The petitioner is A2 in the Spl.S.C.No.2 of 2023 on the file of the learned Special Judge, Special Court for Trial of cases under the Prevention of Corruption Act, Tirunelveli. She and other accused are said to have committed offence under Section 120B, 167 r/w 34 IPC and 13(2) r/w 13(1)(d)(i)(ii)(iii) of the Prevention of Corruption Act, 1988. She filed this quash petition to quash the above case.

2. Case of the prosecution:

There are three accused in this case. A1 is former District Elementary Educational Officer. A2 is former Assistant in the District Elementary Education Office, Tirunelveli. A3 is the former Superintendent of the said office. They are duty bound to prepare eligible candidates for *"Inter-District transfer*" and "*Intra-District transfer*" and *"spouse priority"*. Between the period 15.09.2009 and 22.01.2014, all the three accused conspired together and prepared transfer list with ineligible candidates namely, M.K.Bindhu, C.Sasi and A.Dhamodharan and thereby effected transfer in favour of the ineligible candidates affecting the right of transfer to the eligible candidate, namely, defacto complainant Kipson. In the said process, all the accused were alleged to have received huge bribe and effected transfer without following the Government Order in G.O.Ms.No.(1D) 131, School Education (E1) Department dated 28.04.2010 issued by the Government of Tamilnadu. It is further alleged by the prosecution that the petitioner was preparing the ineligible candidates list which would cause injury to the eligible candidates and thereby all the accused committed offences under Sections 120B, 167 r/w 34 IPC and 13(2) r/w 13 (1) (d) (i) (ii) (iii) of the Prevention of Corruption Act, 1988.

3. The investigating officer after examining the witnesses, and collecting the material documents, filed the final report before the Special Court. The learned Special Judge, Special Court for Trial of cases under the Prevention of Corruption Act, Tirunelveli, has taken the final report on file in Spl.S.C.No. 2 of 2023 and issued summons to the accused.

4. At this stage, the petitioner filed this quash petition to quash the Spl.S.C.No. 2 of 2023 on the file of the learned Special Judge, Special Court for Trial of cases under the Prevention of Corruption Act, Tirunelveli.

5. The learned Senior Counsel appearing for the petitioner made the following submission:

5.1. The petitioner is arrayed as A2 and she was working as

Assistant. As per the above stated Government Order, the petitioner has not prepared the transfer candidates list. The said Government Order has no statutory force and hence, the said violation does not amount to criminal offence and in order to sustain his submission, he heavily placed reliance on the judgment reported in **2011 SCC Online Madras 1114** and **1993 (4) SCC 537.**

5.2. No material was collected by the investigating agency to frame the charge of conspiracy against the petitioner. The material collected by the investigating agency does not show a shred of circumstance to presume the conspiracy among the accused A1 to A3. More particularly, no evidence is available to prove the conspiracy hatched by the petitioner with the remaining accused.

5.3. This is a luxurious litigation initiated by the respondent authority without any material to constitute the offence as stated above and on the available materials, the possibility of getting conviction is bleak and hence further continuation of the trial against the petitioner amounts to abuse of process of law.

5.4. The complainant is the leader of the association and he has no *locus standi* to agitate the issues.

6. The learned Additional Public Prosecutor submitted that this petitioner is duty bound to prepare the eligible candidates transfer list with her counter signature as per the District Office Manual. The same was forwarded to the Superintendent and finally to the District Elementary Education Officer. She, with intention to cause injury to the eligible candidates, prepared the list of ineligible candidates and hence, she committed offence under Section 167 IPC. To prove the said fact, the investigation agency examined number of witnesses and collected relevant documents. The said materials not only create a strong suspicion to frame the charges but also legally sufficient to warrant conviction. Therefore, according to the learned Additional Public Prosecutor, there is no merit in this quash petition.

6.1. The learned Additional Public Prosecutor further submitted that the conspiracy is proved through the circumstances. In this case, the preparation of the list with ineligible candidates itself is a strong circumstance apart from the other material available in the final report submitted by the investigation agency. To substantiate the same, the learned Additional Public Prosecutor relied the judgment reported in ***2021(11)SCC1 [Arvind Singh v. State of Maharashtra]*** and **2020(3)SCC317** ***[Rajeev Kourav v. Baisahab and Others].***

6.2. The learned Additional Public Prosecutor submitted that in this case, A2 intentionally prepared the ineligible candidates list which would cause injury to the eligible candidates is not only mere violation of the Government Order but also amounts to criminal misconduct as stated in the Prevention of Corruption Act. Therefore, the judgment relied by the learned Senior counsel for the petitioner is not applicable to the present case.

6.3. The learned Additional Public Prosecutor relied the judgment of the Hon'ble Supreme Court in **2013 (2) SCC 162** in which the Hon'ble Supreme Court held that Bank officials granted loan in violation of the guidelines amounts to offence. The said principle is applicable to the present case also. Therefore, the violation of the Government Order amounts to offence.

6.4. The learned Additional Public Prosecutor further submitted that the registration of the case on the basis of the serious allegation does not amount to luxurious litigation. Further, to proceed against the petitioner and other accused under the relevant penal provision also will not be abuse of process of law.

6.5. The learned Additional Public Prosecutor further relied the following judgments of the Hon'ble Supreme Court and argued that this Court has no jurisdiction to invoke the inherent power under Section 482 Cr.P.C by way of appreciation of the facts.

7. The learned counsel for the defacto complainant/second respondent reiterating the above submission made by the learned Additional Public Prosecutor and specifically submitted that the public duty cast upon A2 is to prepare eligible candidates list without causing injury to the eligible candidate. The preparation of the list with ineligible candidates is clearly spoken by number of witnesses, more particularly, two witnesses, namely, Muthukumaran and R.Sampathkumar. Therefore, the offence under Section 167 IPC is made out against A2. Hence, she seeks for dismissal of the quash petition. She also submitted that the second respondent has approached this Court to take action against the official involved in the above illegal activity and also he is one of the victims and hence, the second respondent is the competent person participate and carry forward the case.

8. This Court has considered the rival submissions made by both parties and perused the records and the precedents relied upon by them.

9. In view of the lengthy submission made by the learned Senior Counsel that no offence was made out against the petitioner, this Court is duty bound to discuss the submission of the learned Senior Counsel respecting each offence, namely, Sections 120B, 167 r/w 34 IPC and

13(2) r/w 13(1) (d) (i) (ii) (iii) of the Prevention of Corruption Act, 1988.

10. Before entering the discussion, this Court bears in mind the following principle laid down by the Hon'ble Supreme Court to entertain the quash petition under Section 482 Cr.P.C.

10.(i). State of Bihar v. Ramesh Singh, reported in **(1977) 4 SCC 39:**

> *"4. Under Section 226 of the Code while opening the case for the prosecution the Prosecutor has got to describe the charge against the accused and state by what evidence he proposes to prove the guilt of the accused. Thereafter comes at the initial stage the duty of the Court to consider the record of the case and the documents submitted therewith and to hear the submissions of the accused and the prosecution in that behalf. The Judge has to pass thereafter an order either under Section 227 or Section 228 of the Code. If "the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing", as enjoined by Section 227. If, on the other hand, "the Judge is of opinion that there is ground for presuming that the accused has committed an offence which-...(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused", as provided in Section 228. Reading the two provisions together in juxtaposition, as they have got to be, it would be clear that at the*

beginning and the initial stage of the trial the trut.h, veracity and effect of the evidence which the Prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused. It is not obligatory for the Judge at that stage of the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under Section 227 or Section 228 of the Code. At that stage the Court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused."

10.(ii). 2012(9)SCC460, Amit Kapoor vs. Ramesh Chander and Others:

27.1) Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care *and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.*

27.3) The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

27.9) Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction, the Court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

27.12) In exercise of its jurisdiction under Section 228 and/or under Section 482, the Court cannot take into consideration external materials given by an accused for reaching the conclusion that no offence was disclosed or that there was possibility of his acquittal. The Court has to consider the record and documents annexed with by the prosecution.

27.13) Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.

27.16) These are the principles which individually and preferably cumulatively (one or more) be taken into consideration as precepts to exercise of extraordinary and wide plenitude and jurisdiction under Section 482 of the Code by the High Court. Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the *proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied if there is substantial compliance to the requirements of the offence.*

***10.(iii)* 2015(14) SCC 559 [S.Krishnamoorthy v. Chellammal]:**

"5.The above defence of the respondent (the accused) before the High Court, in the petition filed under Section 482 of the Code, is nothing but absolutely factual in nature, which is neither admitted by the complainant, nor apparent on the face of the record. Such type of disputed factual defences could have been appreciated only by trial Court, after the parties led their evidence. In our opinion, the High Court committed grave error of law in examining the allegations and counter-allegations which are disputed and factual in nature in a proceeding under Section 482 of the Code.

7. In view of the position of law, we have no option but to set aside the order passed by the High Court as it has entered into highly disputed questions of fact and concluded that the material before it was sufficient to cause reasonable suspicion in the case of the complainant. That is not the ground on which powers under Section 482 of the Code can be exercised by the High Court."

10.(iv) (*2019)SCC Online SC 2058[M. Jayanthi v. K.R. Meenakshi]:*

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. ....

12. Unfortunately, the High Court put the cart before the horse and held that the appellant had not produced any evidence to prove the entry in the Government Gazette though it is a relevant fact under Section 35 of the Indian Evidence Act. Much before the case could reach the stage of trial, the High Court shut the door for the appellant and pre-concluded the issue as though there was no evidence at all. This is completely contrary to law."

10. (v) 2009(8)SCC617 [*State of M.P. v. Sheetla Sahai]* :

"51. There cannot be any doubt whatsoever that the tests for the purpose of framing of charge and the one for recording a judgment of conviction are different. A distinction must be borne in mind that whereas at the time of framing of the charge, the court may take into consideration the fact as to whether the accused might have committed the offence or not; at the time of recording a judgment of conviction, the prosecution is required to prove beyond reasonable doubt that the accused has committed the offence.

54. ....If upon perusal of the entire materials on record, the court arrives at an opinion that two views are possible, charges can be framed, but if only one and one view is possible to be taken, the court shall not put the accused to harassment by asking him to face a trial.

32. The aforesaid shows that if on the basis of materials on record, a court could come to the conclusion that commission of the offence is a probable consequence, a case for framing of charge exists. To put it differently, if the court were to think that the accused might have committed the offence it can frame the charge, though for conviction the conclusion is required to *be that the accused has committed the offence. It is apparent that at the stage of framing of a charge, probative value of the materials on record cannot be gone into; the materials brought on record by the prosecution has to be accepted as true at that stage."*

10.(vi) Arvind Singh v. State of Maharashtra, reported in 2021 (11)SCC1:

"It is not necessary that all conspirators should participate from the inception to the end of the conspiracy. Some may joint that conspiracy after the time when such intention was first entertained by any one of them."

10.1. <u>Offence under Section 167 IPC:</u>

The listed witness R.Muthukumaran is working as a Chief Educational Officer of the Cheranmahadevi District Education Office. He specifically stated that the petitioner was entrusted with the preparation of the transfer candidates list with eligible candidates. As per the statement of other witnesses, she prepared transfer candidates list with ineligible Teachers with intention to cause injury to the eligible Teachers. Hence, offence under Section 167 IPC is clearly made out. As per Section 167

IPC, the following ingredients have to be made out:

(i) The accused at the relevant time was a public servant.

(ii) The accused was entrusted with the duty of preparation of a document.

(iii) The accused had framed, prepared or translated the document incorrectly, and

(iv) The accused did so with the intent or knowledge that it would cause or likely to cause injury to any person.

10.1.1. In this case, the prosecution produced the relevant materials to prove the above ingredients. The admissibility and the probative value of the document and veracity of the statement have to be appreciated only at the time of trial. In this case, according to the investigating agency, she intentionally prepared the transfer candidates list with ineligible candidates to cause injury to the eligible candidates.

10.1.2. According to Section 44 IPC, injury denotes any harm whatsoever illegally caused to any person, in body, mind, reputation or property. According to the prosecution, spouse seniority is intended to redress the grievance of the working spouse to ensure the benefit of providing adequate care and protection to their children by availing transfer to the same station or the place situated in the same District. Further, according to the prosecution, number of guidelines are issued to give the transfer of *"inter District transfer"* and *"intra District transfer"*. In both cases, the transfer is having the effect of affecting the body and mind of the candidate. Hence, injury in this case is caused to the eligible candidates. The submission of the learned Senior Counsel that the petitioner has not been assigned the duty and she has not prepared the candidates list is a question of fact to be appreciated on evidence by the trial Court at the time of trial. Hence, this Court rejects the contention of the learned Senior Counsel that offence under Section 167 IPC is not made out.

10.2. Offence under Section 13(2) r/w 13(1)(d)(i)(ii)(iii) of the Prevention of Corruption Act, 1988.

The learned Senior Counsel submitted that no material is produced to prove the petitioner illegally obtained any gain or caused any loss and hence, no offence was made out. This Court cannot accept the said contention. As per Act, benefit either obtained for herself or to do favour to any person is an offence. In this case, as per allegation, the petitioner prepared the candidates list without inclusion of the eligible candidates and the same was acted upon by the remaining accused. Therefore, all the accused jointly acted together in illegal means in order to get the valuable thing to the ineligible candidates. Hence, the act of the petitioner and others clearly come under Section 13(2) r/w 13(1)(d)(i)(ii)(iii) of the Prevention of Corruption Act, 1988. In this aspect, the Hon'ble Constitution Bench of the Hon'ble Supreme Court reported in ***AIR 1963 SC 1116 [M. Narayanan Nambiar v. State of Kerala]*** interpreted Section 5(1)(d) of the Old Act with similar phraseology and held that the benefit either obtained for himself or to the third person comes under the Act. The relevant portion of the said judgment is as follows:

> *"10....In our view this passage, if we may say so, restates the rule of construction of a penal provision from a correct perspective. As we will presently show the case of the appellant on the facts found clearly falls not only within the words of clause (d) but also within its spirit.*

Indeed if his argument be accepted not only we will be doing violence to the language but also to the spirit of the enactment. First taking the phraseology used in the clause, the case of a public servant causing wrongful loss to the Government by benefiting a third party squarely falls within it. Let us look at the clause "by otherwise abusing the position of a public servant," for the argument mainly turns upon the said clause. The phraseology is very comprehensive. It covers acts done "otherwise" than by corrupt or illegal means by an officer abusing his position. The gist of the offence under this clause is, that a public officer abusing his position as a public servant obtains for himself or for any other person any valuable thing or pecuniary advantage. "Abuse" means misuse i.e. using his position for something for which it is not intended. That abuse may be by corrupt or illegal means or otherwise than those means. The word "otherwise" has wide connotation and if no limitation is placed on it, the words "corrupt", "illegal", and "otherwise" mentioned in the clause become surplusage, for on that construction every abuse of position is gathered by the clause. So some limitation will have to be put on that word and that limitation is that it takes colour from the preceding words along with *which it appears in the clause, that is to say something savouring of dishonest act on his part. The contention of the learned counsel that if the clause is widely construed even a recommendation made by a public servant for securing a job for another may come within the clause and that could not have been the intention of the Legislature. But in our view such innocuous acts will not be covered by the said clause. The just a position of the word "otherwise" with the words' corrupt or illegal means? and the dishonesty implicit in the word "abuse" indicate the necessity for a dishonest intention on his part to bring him within the meaning of the clause. Whether he abused his position or not depends upon the facts of each case nor can the word "obtains" be sought in aid to limit the express words of the section, "Obtain" means acquire or get. If a corrupt officer by the said means obtains a valuable thing or a pecuniary advantage, he can certainly be said to obtain the said thing or a pecuniary advantage but it is said that in clauses (a) & (c) the same word is used and in the context of those clauses it can only mean getting from a third party other than the Government and therefore the same meaning must be given to the said word in clause (d). 'Obtains' in clauses (a) & (b) in the context of those* *provisions may mean taking a bribe from a third party, but there is no reason why the same meaning shall be given to that word used in a different context when that word is comprehensive enough to fit in the scheme of that provision. Nor can we agree that as dishonest misappropriation has been provided for in clause (c), the other cases of wrongful loss caused to the Government by the deceit practised by a public officer should fall outside the section. There is no reason why when a comprehensive Statute was passed to prevent corruption this particular category of corruption should have been excluded therefrom because the consequences of such acts are equally harmful to the public as acts of bribery. On a plain reading of the express words used in the clause, we have no doubt that every benefit obtained by a public servant for himself, or for any other person by abusing his position as a public servant falls within the mischief of the said clause.*

***11.** Coming to the spirit of the provision, there cannot be two views. As we have expressed earlier, the object of the Act was to make more effective provision for the prevention of bribery and corruption. Bribery means the conferring of benefit by one upon another, in cash or in kind, to procure an illegal or dishonest action in favour* *of the giver. Corruption includes bribery but has a wider connotation. It may take in the use of all kind of corrupt practices. The Act was brought in to purify public administration. When the Legislature used comprehensive terminology in Section 5(1)(d) to achieve the said purpose, it would be appropriate not to limit the content by construction when particularly the spirit of the Statute is in accord with the word used therein.*

<u>10.3.Offence under Section 120 B and 34 IPC:</u>

The very acts of the preparation of the transfer list with ineligible candidates against the Government Order and issuance of the transfer order to the ineligible candidates itself a fortiori to constitute the offence of conspiracy and misconduct within the meaning of the Section 13(2)r/w 13(1)(d)(i)(ii)(iii) of the Prevention of Corruption Act, 1989.

10.3.1. Arvind Singh v. State of Maharashtra, reported in 2021 (11)SCC1:

"It is not necessary that all conspirators should participate from the inception to the end of the conspiracy. Some may joint that conspiracy after the time when such

intention was first entertained by any one of them.”

10.3.2. ***State of M.P. v. Yogendra Singh Jadon,*** **reported in (2020) 12 SCC**

> *“5. We find that the High Court has examined the entire issue as to whether the offence under Sections 420 and 120-B IPC is made out or not at pre-trial stage. The respondents are beneficiary of the grant of cash credit limit when their father was the President of the Bank. The power under Section 482 of the Code of Criminal Procedure, 1973 cannot be exercised where the allegations are required to be proved in court of law. The manner in which loan was advanced without any proper documents and the fact that the respondents are beneficiary of benevolence of their father prima facie disclose an offence under Sections 420 and 120-B IPC. It may be stated that other officials of the Bank have been charge-sheeted for an offence under Sections 13(1)(d) and 13(2) of the Act. The charge under Section 420 IPC is not an isolated offence but it has to be read along with the offences under the Act to which the respondents may be liable with the aid of Section 120-B IPC.”*

11. Apart from that the primordial argument of the learned Senior Counsel that the violation of the Government Order even assuming, the same will not amount to criminal offence, deserves to be rejected outright for the reason that the violation is not only caused injury to the eligible candidates but the conduct of the accused preparing the illegible candidates list amount to grave misconduct punishable under Section 13(2) r/w 13(1)(d)(i)(ii)(iii) of the Prevention of Corruption Act. In the case of ***N.V. Subba Rao v. State*****,** reported in **(2013) 2 SCC 162**, when a similar plea raised before the Hon'ble Supreme Court by a bank official that any violation of guidelines does not amount to offence, the Hon'ble Supreme Court refused to accept and held that violation caused loss to the bank and their conduct of preparation of incorrect documents amounts to misconduct punishable under Sections 13(2) r/w 13(1)(d)(i)(ii)(iii) of the Prevention of Corruption Act. The relevant portion is as follows:

> *"22. We have already noted and it was also brought to our notice that obtaining of the letters of undertaking was one of the important prerequisites for sanctioning of the loans. The claim of A-1 that it is only mere dereliction of duty cannot be accepted but as rightly argued by the counsel for CBI, it was a dishonest representation with the intention to cheat causing wrongful loss to the Bank and the borrowers/purchasers of the plot and obtaining the letters*

of undertaking was one of the precondition for sanctioning of loans, which A-1 has not fulfilled."

12. The submission of the learned Senior Counsel that the prosecution initiated luxurious litigation affecting the petitioner's entire career without any single charge cannot be countenanced on the ground that the petitioner is facing serious allegation of preparation of the false document in order to give benefit to the ineligible persons. The said charge was correctly registered by the investigating agency and they filed the final report and the same was taken on file in accordance with law. In the above circumstances, the submission of the learned Senior Counsel that the registration of the case is a luxurious litigation is a frivolous one.

13. To meet out the lengthy submission made by the learned Senior Counsel that the prosecution has failed to establish the factual foundation for the offences stated in the final report to frame the charges, this Court, on the basis of the guidelines issued by the Hon'ble Supreme Court in the above mentioned cases delved into the above factual verification, is of *prima facie* opinion that the materials adduced by the prosecution is sufficient to frame the charges.

14. In this largest democratic country, every department officer finds out the way to indulge in corruption in the discharge of their duty either by acting contrary to the guidelines or deviating the guidelines. Hence, administration of the Department is either directly or indirectly hampered. Thereby, eligible persons are deprived of their legitimate right of getting the benefit under the guidelines and consequently, ineligible person enjoyed the benefit without any legal right. Allowing the ineligible person enjoying the benefit by getting the order under corruptive practice has to be thwarted. Otherwise the administration will become mal-administration. The spectrum of mode of corruption spreads in various angles and dimensions. If one angle is closed, another angle sprouts. Therefore, the Hon'ble Supreme Court in the case of corruption always took different stand against what is applicable to the ordinary penal provisions and strictly issued direction to restrain the entertainment of the quash petition in the case of corruption. In the latest decision in ***State of Chhattisgarh v. Aman Kumar Singh*** reported in **(2023) 6 SCC 559**

reiterated the above stand:

> *"80. Having regard to what we have observed above in paras 47 to 50 (supra) and to maintain probity in the system of governance as well as to ensure that societal pollutants are weeded out at the earliest, it would be eminently desirable if the High Courts maintain a hands-off approach and not quash a first information report pertaining to "corruption" cases, specially at the stage of investigation, even though certain elements of strong-arm tactics of the ruling dispensation might be discernible. The considerations that could apply to quashing of first information reports pertaining to offences punishable under general penal statutes ex proprio vigore may not be applicable to a PC Act offence. Majorly, the proper course for the High Courts to follow, in cases under the PC Act, would be to permit the investigation to be taken to its logical conclusion and leave the aggrieved party to pursue the remedy made available by law at an appropriate stage. If at all interference in any case is considered necessary, the same should rest on the very special features of the case."*

15. The learned counsel appearing for the petitioner made elaborate argument and forced this Court to address their contentions. In order to meet their contentions, this Court considered the materials produced by the prosecution in order to find out whether sufficient materials are available to frame the charges. The learned trial Judge is hereby directed to decide the culpability or otherwise of the accused independently without getting influenced with the opinion of this Court expressed in this petition.

16. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

19.10.2023

NCC : Yes/No
Internet: Yes/No
Index : Yes/No

PJL

To
1.The Special Judge,
Special Court for trial of Cases
under the Prevention of Corruption Act,
Tirunelveli.

2.The Inspector of Police,
Vigilance and Anti Corruption,
Kanyakumari Detachment @ Nagercoil,
Kanyakumari District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

K.K.RAMAKRISHNAN,J.

PJL

Pre-delivery order made in Crl.O.P(MD)No.7569 of 2023

19.10.2023