



Crl.OP.No.2478 OF 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

Crl.OP.No.2478 of 2025
Crl.MP.Nos.1534 and 1404 of 2025

Dr.R.Balajinathan

Petitioner

Vs

The Deputy Superintendent of Police
Vigilance and Anti-Corruption,
Chennai City-V, Chennai 600016

Respondent

Prayer:- This Criminal Original Petition has been filed under Section 528 of BNSS, 2023, to call for the records in FIR No.1 of 2022, filed under Sections 120B, 420, 468, 471 of IPC read with Section 7(a) of the Prevention of Corruption Act, 1988, against the Petitioner/A4, Dr.R.Balajinathan, S/o.Ramasamy, pending on the file of the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Chennai City-V, Chennai 600016 and to quash the same and any further proceedings initiated pursuant to the aforesaid First Information Report may also be quashed.

For Petitioner : Mr.Sesubalan Raja, for Mr.A.Vinothraj

For Respondent : Mr.A.Gopinath, GA(Crl.Side)

ORDER

1. Heard Mr.Sesubalan Raja, assisted by Mr.A.Vinothraj, the learned counsel for the Petitioner and Mr.A.Gopinath, the Government Advocate (Criminal Side) for the Respondent.
2. This Criminal Original Petition has been filed under Section 528 of BNSS, 2023, to call for the records in FIR No.1 of 2022, filed under Sections



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120B, 420, 468, 471 of IPC read with Section 7(a) of the Prevention of Corruption Act, 1988, against the Petitioner/A4, Dr.R.Balajinathan, S/o.Ramasamy, pending on the file of the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Chennai City-V, Chennai 600016 and to quash the same. It was also prayed that any further proceedings initiated pursuant to the aforesaid First Information Report may also be quashed.

3. The learned counsel for the Petitioner submits that the Vels Institute of Science, Technology and Advanced Studies, Pallavaram, Chennai, a Deemed University, had made an application to the Government, seeking permission to start a Medical College with an annual intake of 150 MBBS students in the name of Vels Medical College and Hospital at Velan Nagar, Manjakaranai Village, Uthukkottai Taluk, Tiruvallur District. The Secretary, Health and Family Welfare Department, vide C.No.284/MCA-2/2020, dated 11.03.2020, sent a letter to the Director of Medical Education, Chennai to verify the functions of the Vels Medical College and Hospital as to whether the proposed Institution fulfils the norms laid down by the National Medical Commission for starting MBBS Course with an annual intake of 150 students. Based on the said letter of the Government, the Director of Medical Education, Chennai, vide his letter in Ref.No.019528/ME2/1/ 2020, dated 11.11.2020, nominated four doctors, including the Petitioner/A4, Dr.R.Balajinathan, from the Government Mohan Kumaramangalam College, Salem to inspect as to whether the



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Vels Medical College and Hospital fulfils the norms laid down by the National Medical Commission. During the relevant point of time, the Petitioner/A4 was working as a Dean of the Government Mohan Kumaramangalam Medical College, Salem.

4. The learned counsel for the Petitioner further submits that establishment of a Medical College is regulated by the Minimum Requirements for Annual MBBS Admissions Regulations, 2020. According to this regulation, there shall be a hospital that is capable of being developed into a teaching hospital with a fully functional minimum of 300 bedded one and the Hospital should be fully functional for a minimum period of two years. Hence, the Petitioner and his team members had inspected the premises of the Vels Medical College and Hospital to verify the following two aspects:-
 - i. To verify the functioning of blood banks, documents related to the land, operation theatres, visiting of outpatients and bed occupancy of the hospital.
 - ii. To verify the infrastructure facilities of the college and the minimum requirements for starting the MBBS course with an annual intake 150 students and other facilities of the college, besides the administrative staff, clinical and non clinical and nursing staff details of the hospital and college.
5. The learned counsel for the Petitioner further submits that the Petitioner/A4 and the other Doctors from the Government Mohan Kumaramangalam College, Salem, namely, A5, Dr.T.M.Manohar, Professor of Orthopedics, A6, Dr.Sujatha, Professor of Pathology and A7, Dr.J.A.Vasanthakumar, Professor of Medicine, had conducted the above



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inspection and after being satisfied, reports were submitted. For the reasons best known to the Respondent, without any direct involvement of the Petitioner and other team members, who inspected the above said Institution, the Respondent, with a mala fide intention, lodged the FIR.No.1 of 2022 under Sections 120B, 420, 468, 471 of IPC read with Section 7(a) of the Prevention of Corruption Act, 1988 on the ground that a surprise inspection was conducted on 02.11.2021 at the premises of the Vels Medical College and Hospital with a team of Government Doctors to ascertain the functional facilities of the Hospital and the surprise inspection team observed that the patient load of the Vels Medical College and Hospital was stage managed and the clinical materials of the Hospital were grossly inadequate. Hence, according to the surprise inspection report, the Vels Medical College and Hospital does not fulfil the norms laid down by the National Medical Commission Act to start a new medical college. Further, the Assistant Director of Town and Country Planning, Tiruvallur, vide his report dated 11.06.2020 has stated that the buildings of the Vels Medical College was under construction during the said period. It is further submitted that only on the basis of the above reports of the surprise inspection team and on the basis of the false report of the Assistant Director of Town and Country Planning, Tiruvallur, the Respondent has chosen to file the above First Information Report against the Petitioner and 6 other accused. The surprise inspection team has given a report that the patient load of the Vels Medical College and



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Hospital was stage managed and the clinical materials of the Hospital were grossly inadequate. As Doctors, the Petitioner and his team was not able to ascertain that the presence of the patients in the hospital was stage managed on the date of their inspection. The Petitioner and his team do not know on what basis, the surprise team had come to such a conclusion. Besides, during their inspection, they had inspected the operation theatres and also verified the functioning of blood banks and bed occupancy of the hospital and they are unable to understand by stating that “clinical materials of the hospital were grossly inadequate”, what the surprise inspection team wanted to point out.

6. It is further submitted by the learned counsel for the Petitioner that in the First Information Report, it is nowhere alleged that the Petitioner and his team members had entered into any conspiracy or agreement with the other accused to commit any illegal act. Besides they have not created any documents with an intention to cheat anyone or create any false document with an intention to deceive anybody. The Petitioner and his team inspected the premises of the college and filed a report regarding the presence of patients and the infrastructure. If the presence of the patients was stage managed, they cannot be blamed unless it is established that it was done with their connivance. Further, the report of the Assistant Director of Town and Country Planning says that the Vels Medical College was under construction. However, in his report, the Director has not denied the existence of the Hospital and other buildings. Therefore, since



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some other further construction activities were going on, it cannot be said that there is no building or infrastructure when the Petitioner along with his team inspected the college. Hence, it is obvious that the First Information Report filed by the Respondent was filed on the basis of mere presumption and assumptions, without any basis. There is no material to proceed further.

7. It is further argued by the learned counsel for the Petitioner that due to the pendency of the First Information Report, the Petitioner has lost his reputation in the Society and also facing humiliation and there is no allegation against the Petitioner except he was the member of the inspection team, who inspected the premises of the Institution. Thus, it is submitted by the learned counsel for the Petitioner that the entire Prosecution story is baseless and it is only with an intention to harass the Petitioner on baseless ground. The Prosecution has failed to establish any prima facie case against the Petitioner.
8. The learned counsel for the Petitioner further submits that in the counter affidavit filed by the Respondent, it is stated that in a Memorandum in RC.No.181/2022/PUB/HQ, dated 03.07.2024 from DVAC, the Investigating Officer has been instructed to file the closure report before the Competent Court of law in V&AC, Chennai City-V, in Cr.No.01/AC/2022/CC-V under Sections 120B, 420, 468, 471 of IPC and Section 7(a) of the Prevention of Corruption (Amended) Act, 2018.
9. The learned counsel for the Petitioner further submits that in the closure



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report filed under Section 173 of Cr.PC, it has been stated that the Tamil Nadu Vigilance Commission had accepted the report of the Director, DVAC to drop further proceedings against A1, Dr.C.Vijayabaskar, former Minister for Health and Family Welfare, A2, Ishari Ganesh and A3, Dr.K.Srinivasaraj and A4 to A7, who were involved in the inspection and certification process and alleged to have issued an inspection report favourable to the Vels Medical College and Hospital under influence of A1 is not substantiated and were recommended for departmental action due to some lapses. Thus, the learned counsel for the Petitioner submits that no case against the Petitioner was found by the Prosecution. Hence, on the basis of the above said closure report and the averments made in the counter affidavit filed by the Respondent, the First Information Report lodged against the Petitioner may be quashed and further proceedings in pursuance of the First Information Report may also be quashed.

10. In support of his arguments, the learned counsel for the Petitioner has relied on the judgement and order of the Coordinate Bench of this Court, dated 04.06.2024, in CrI.OP.Nos.10877 and 10892 of 2024 and submits that the case of the Petitioner is also similar and identical and submits that this Court was pleased to observe as under:-

“5. The learned Senior counsel appearing for the petitioners submitted that as per Section 245 I of the Income Tax Act, 1961, the order of the settlement commission is conclusive and highlighted the order passed by the Interim Board for Settlement dated 28.12.2023. He pointed out the fact that the Interim Board for Settlement has absolved the Company as regards the incidental expenses (alleged bribe amount) incurred with to the tune of Rs.50,00,86,125/- which is



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the supporting point of the alleged offence in the FIR. Furthermore, Section 245 I clearly mandates that the same shall be conclusive as to the matters stated therein and no matter covered by such order shall be reopened in any proceeding, which was reiterated by the Hon'ble Supreme Court in the cases of Jyotendrahinhji V. S.I. Tripathi & others [1993 Supp (3) SCC 389] and Ajmera Housing Corporation and Others Vs. CIT. Continuing his argument, he submitted that since the name of the public servants were not disclosed in the FIR as mandated under the PC Act, Section 13 of PC Act does not attract. Moreover, the learned Senior counsel contended that the investigation cannot be commenced against the petitioners on the basis of the statement of one T.Udayakumar, as per the dictum laid down by the Hon'ble Supreme Court in the case of CBI Vs. V.C. Shukla and Others[1998 (3) SCC 410]. Hence, registration of FIR in the absence of any corroboration or cross verification of the statements and records provided by the third party, is in violation to principles of law. He further submitted that as FIR do not disclose a cognizable offence and no evidence produced in support of the complaint, there is no sufficient ground to proceed against the petitioners.

6. After advancement of the arguments of the learned Senior counsel for the petitioners, the learned Government Advocate submitted that on investigation, it was revealed that there was no proof for cash payments received by the first accused from the second and third accused (petitioners herein) which in turn paid to any public servants, people representatives and unknown officials of various departments to the tune of Rs.50,00,86,125/- for executing the project at Binny Mill Campus. He further submitted that as there was no material evidence to substantiate the alleged offences of the FIR, recommendations were made for dropping further action against the accused/A1 to A3 in the final report. He continued that final report was forwarded to the Vigilance Commissioner and U.O. Note vide No.523/VC~III/2021~15 dated 19.02.2024 was received from the Secretary to take necessary action. The referred charge sheet filed on approval was now pending before the Hon'ble Special Court for the Cases under P.C. Act in Serial No.183 of 2024. He has also produced the status report of the respondent dated 04.06.2024 before this Court today.

7. Considering the submissions made by the learned Senior Counsel for the petitioners and perusing the status report and also taking into account dropping further action of the respondent against the accused/petitioners herein in their final report, FIR No.1 of 2024 pending on the file of the respondent, stands quashed.



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Consequently, the Criminal Original Petitions filed by the petitioners are allowed. Connected Miscellaneous Petition is closed."

11. Thus, the learned counsel for the Petitioner submits that in view of the paragraphs 5, 6 and 7 of the afore said order dated 04.06.2024, of the Coordinate Bench of this Court, in Crl.OP.Nos.10877 and 0892 of 2024, the case of the Petitioner herein also falls on the same identical footing and accordingly, the impugned First Information Report and the proceedings pursuant to the said First Information Report, against the Petitioner in the present case may be quashed.
12. The learned Government Advocate (Criminal Side) for the Respondent submits that in the counter affidavit filed by the Deputy Superintendent of Police, City Special Unit-I, V&AC, Alandur, Chennai, along with a closure report, the following averments are made in paragraphs 5, 6 and 7 and only departmental action was proposed against the Petitioner and other members, who inspected the Institution and the proceedings against the the co-accused, A1, A2 and A3 were dropped. The averments made in paragraphs 5, 6 and 7 of the counter affidavit are as under:-

"5. It is respectfully submitted that based on the investigation no incriminating evidence was found against the A1, A2 and A3 and accordingly, the case against them was closed. The investigation reveals that irregularities and deviations from established laws and regulations by the medical inspection team in the issuance of inspection report meant for granting Essentially Certificate to the Vels Medical College and Hospital in starting a new Medical College attached to this existing hospital. However, the allegation against A4 to A7 who were involved in the inspection an the certification process alleged to have issued an inspection report favourable to Vels Medical College and Hospital under the influence of A1 is not substantiated. However, being member of inspection team (A4 to



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A7) were found to have committed lapses in the process of verifying the documents and submitting their inspection report and the violation of the duties and responsibilities assigned to them for conducting inspection, as prescribed by the NMC norms, warranting departmental action.

6.It is further submitted that the Tamil Nadu Vigilance Commission had accepted the report of the Director, DVAC to drop further action against all the accused and has forwarded the same to the Public (SC) Department for taking action. The intimation of the DVAC to drop further action by the Directorate itself against A2 and A3 since they are private individuals has been issued by the Vigilance Commission in U.O.Note No.3111/VC-III/2024-1, Dated 25.06.2024 and further it is recommended that departmental disciplinary action be initiated against A4, A5, A6 and A7 and Vigilance Commission has forwarded this U.O.Note No.3111/VC-III/2024-2, dated 25.06.2024 to the Additional Chief Secretary to Government, Health and Family Welfare Department for taking action accordingly.

7. It is respectfully submitted that in a Memorandum in RC.No181/2022/PUB/HQ, dated 03.07.2024, from DVAC, the Investigating Officer has been instructed to file the closure report before the Competent Court of law in V&AC, Chennai City-V, Cr.No.01/AC/2022/CC-V under Section 120B, 420, 468, 471 of IPC and Section 7(a) of the Prevention of Corruption (Amended) Act, 2018. Accordingly, the referred charge sheet was E-filed before the Honourable Special Court for cases under the Prevention of Corruption Act, Chennai on 16.07.2024 in RCS.No.LTN20240002998C202400001 and the same is pending with the Honourable Special Court for Cases under the Prevention of Corruption Act, Chennai.”

13. The learned Government Advocate (Criminal Side) for the Respondent further submits that pursuant to the above, the criminal proceedings against the Petitioner had been dropped and only a departmental action is being proposed for initiation against the Petitioner.
14. Heard the learned counsel for the parties. After considering the arguments advanced by the learned counsel for the parties and after perusal of the records and the counter affidavit as well as the closure report, this Court is



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also of the view that the Petitioner/A4, who was a member of the inspection team, along with three Doctors, namely, A5, Dr.T.M.Manohar, Professor of Orthopedics, A6, Dr.Sujatha, Professor of Pathology and A7, Dr.J.A.Vasanthakumar, Professor of Medicine, Government Mohan Kumaramangalam College, Salem, had inspected Institution, namely, Vels Institute of Science, Technology and Advanced Studies, Pallavaram, Chennai for grant of permission to start a medical college with an annual intake of 150 MBBS students in the name of Vels Medical College and Hospital, Velan Nagar, Manjakaranai Village, Uthukottai Taluk, Tiruvallur District and they verified the documents and also considered the norms laid down by the National Medical Commission for starting a MBBS Course and conducted an enquiry and inspection in pursuance of the letter dated 11.11.2020 issued by the Director of Medical Education, Chennai. During the inspection of the said Institution, the Petitioner was working as a Dean of the Government Mohan Kumaramangalam Medical College, Salem. Establishment of a medical college is regulated by the “Minimum Requirements for Annual MBBS Admissions Regulations, 2020” and as per the said regulations, there shall be a hospital that is capable of being developed into a teaching hospital with a fully functional minimum of 300 bedded one and the Hospital should be fully functional for a minimum period of two years.

15. The Petitioner along with his team of Doctors further verified the functioning of blood banks, documents related to the land, operation



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theatres, visiting of outpatients and bed occupancy of the hospital.

Further, the Petitioner along with his team also verified the infrastructure facilities of the college and the minimum requirements for starting the MBBS course with an annual intake 150 students and other facilities of the college, besides the administrative staff, clinical and non clinical and nursing staff details of the hospital and college.

16. From the perusal of the records, this Court also finds that during the course of the inspection of the Institution, the Petitioner along with his Doctor team members found that there were some construction activities going on and the construction of the hospital and the college buildings were completed and there were 650 outpatients who were treated and 270 inpatients were under treatment in the hospital. Thus, the report by the inspection team was given, stating that the College fulfilled the requirements for the grant of permission for running a MBBS Course as they fulfilled all the requirements as per the norms laid down by the "Minimum Requirements for Annual MBBS Admissions Regulations, 2020".
17. From a perusal of the report filed under Section 173 of Cr.PC by the Investigating Officer, which is filed along with the counter affidavit, this Court also finds that there is no allegation levelled against the Petitioner and only it was mentioned that the Petitioner along with three other Doctors, namely, Dr.T.M.Manohar, Professor of Orthopedics, Dr.Sujatha, Professor of Pathology and Dr.J.A.Vasanthakumar, Professor of Medicine,



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Government Mohan Kumaramangalam College, Salem, who were the members of the inspection team made some oversight error, while submitting their report. There is no allegation of misappropriation of funds or any financial transaction against the Petitioner or any Members of the inspection team nor it is mentioned in the report of the police that gross irregularities were committed by the Petitioner. Even though recommendations were made for dropping proceedings against A1, A2 and A3, the Petitioner along with A5, A6 and A7, namely, Dr.T.M.Manohar, Professor of Orthopaedics, Dr.J.Sujatha, Professor of Pathology and Dr.J.A.Vasanthakumar, Professor of Medicine, Government Mohan Kumaramangalam Medical College and Hospital, Salem, were only recommended for departmental action for some negligence done by them. Thus, this Court do not find any irregularity committed by the Petitioner, for which the Petitioner be prosecuted. It appears that the present First Information Report has been lodged only with an intention to defame the image of the Petitioner and falsely implicate him in the present case.

18. From the averments made in paragraphs 5, 6 and 7 of the counter affidavit filed by R.Sharmu, the Deputy Superintendent of Police, City Special Unit-I, V&AC, Alandur, Chennai, this Court finds that no case has been made out against the other co-accused and in the investigation, no incriminating evidence was found against the A1, A2 and A3, namely, Dr.C.Vijayabaskar, former Minister for Health and Family Welfare, Tr.Ishari Ganesh, Trustee of Vels Institute of Science and Technology,



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Manjakaranai, Thiruvallur District and Dr.K.Srinivasaraj, Dean Vels Medical College and Hospital, Manjakaranai, Thiruvallur District and accordingly, the case against them was closed. However, the allegation against the Petitioner and other Doctors, A5, A6 and A7, namely, Dr.T.M.Manohar, Professor of Orthopedics, Dr.Sujatha, Professor of Pathology and Dr.J.A.Vasanthakumar, Professor of Medicine, Government Mohan Kumaramangalam College, Salem, who were involved in the inspection and the certification process alleged to have issued an inspection report favourable to the Vels Medical College and Hospital under the influence of A1, is not substantiated. However, being member of the inspection team, A4 to A7 were found to have committed lapses in the process of verifying the documents and submitting their inspection report and the violation of the duties and responsibilities assigned to them for conducting inspection, as prescribed by the NMC norms, warranting departmental action. Thus, no Prosecution case is made out against the Petitioner.

19. It is also stated in the counter affidavit that the Tamil Nadu Vigilance Commission had accepted the report of the Director, DVAC to drop further action against all the accused and has forwarded the same to the Public (SC) Department for taking action. The intimation of the DVAC to drop further action by the Directorate itself against A2 and A3 since they are private individuals, has been issued by the Vigilance Commission in U.O.Note No.3111/VC-III/2024-1, dated 25.06.2024 and further it is



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recommended that departmental disciplinary action be initiated against A4, A5, A6 and A7 and Vigilance Commission has forwarded this U.O.Note No.3111/VC-III/2024-2, dated 25.06.2024 to the Additional Chief Secretary to Government, Health and Family Welfare Department for taking action accordingly.

20. From the above facts and circumstances and the averments made in the counter affidavit as well as in the closure report, this has to be seen whether prima facie cognizable offence is disclosed or not. The Apex Court has also laid down the guidelines where the criminal proceedings could be interfered and quashed in exercise of its power by the High Court in the following cases:-

(i) R.P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866,

(ii) State of Haryana Vs. Bhajanlal, 1992 SCC (Cri.)426,

(iii) State of Bihar Vs. P.P. Sharma, 1992 SCC (Cri.)192,

(iv) Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq & Anr., (Para-10) 2005 SCC (Cri.) 283

(iv) M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra, AIR 2021 SC 1918.

21. From the aforesaid decisions the Apex Court has settled the legal position for quashing of the proceedings at the initial stage. The test to be applied by the court is whether uncontroverted allegation as made prima facie establishes the offence and whether chances of ultimate conviction are bleak and no useful purpose is likely to be served by allowing criminal proceedings to be continue. In **S.W. Palankattkar & others Vs. State of**



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Bihar, 2002 (44) ACC 168, it has been held by the Hon'ble Apex Court that quashing of the criminal proceedings is an exception than a rule. The inherent powers of the High Court under Section 482 Cr.P.C itself envisages three circumstances under which the inherent jurisdiction may be exercised:-(i) to give effect an order under the Code, (ii) to prevent abuse of the process of the court ; (iii) to otherwise secure the ends of justice. The power of High Court is very wide but should be exercised very cautiously to do real and substantial justice for which the court alone exists.

22. In view of the aforesaid submissions made by the learned counsel for the parties and the discussions made by this Court and the averments made in the counter affidavit and the final report submitted in pursuance of the FIR No.1 of 2022, filed under Sections 120B, 420, 468, 471 of IPC read with Section 7(a) of the Prevention of Corruption Act, 1988 and also considering the judgement and order passed by the Coordinate Bench of this Court, dated 04.06.2024, in CrI.OP.Nos.10877 and 10892 of 2024 and the judgement of the Honourable Supreme Court referred to above, the impugned FIR No.1 of 2022, filed under Sections 120B, 420, 468, 471 of IPC read with Section 7(a) of the Prevention of Corruption Act, 1988 and further proceedings pursuant to the aforesaid First Information Report are hereby **quashed**. Accordingly, this Criminal Original Petition is **allowed**, as prayed for. Consequently, the connected CrI.MPs are disposed of and closed. No order as to costs.



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Speaking/Non Speaking
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To

1. The Deputy Superintendent of Police ,Vigilance and Anti-Corruption,
Chennai City-V, Chennai 600016
2. The Public Prosecutor, Madras High Court



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SHAMIM AHMED, J.

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