



Crl.R.C.(MD)Nos.1415 and 1416 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 10.11.2025

Pronounced on : 28.11.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)Nos.1415 and 1416 of 2025
and
Crl.M.P.(MD)Nos.16546, 16547, 16555 and 16556 of 2025

A.Muthukumar

... Petitioner in
both the petitions

Vs.

State of Tamil Nadu represented by
Deputy Superintendent of Police,
Special Branch of Vigilance and Anti-Corruption,
Tirunelveli Detachment,
Tirunelveli.
(Crime No.4 of 2014)

... Respondent in both
the petitions

Common Prayer : These Criminal Revision Cases filed under Sections 438 r/w 442 B.N.S.S., to call for the records and to set aside the orders passed in Crl.M.P.No.243 of 2021 in Spl.C.No.8 of 2019 dated 09.04.2025 and Crl.M.P.No.244 of 2021 in Spl.C.No.9 of 2019 dated 05.04.2025 on the file of the Special Court for the Exclusive Trial of Prevention of Corruption Act cases, Tirunelveli in respect of the petitioner alone.



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For Petitioner : Mr.P.P.Alwin Balan

For Respondent : Mr.S.Ravi
Additional Public Prosecutor

COMMON ORDER

These Criminal Revisions are directed against the orders passed in Crl.M.P.No.243 of 2021 in Spl.C.No.8 of 2019 dated 09.04.2025 and Crl.M.P.No.244 of 2021 in Spl.C.No.9 of 2019 dated 05.04.2025 on the file of the Special Court for the Exclusive Trial of Prevention of Corruption Act cases, Tirunelveli, in dismissing the petitions for discharge filed under Section 227 of the Code of Criminal Procedure.

2. The case of the prosecution is as follows;

(a) One MCDA.Rajan / second accused (hereinafter referred as 'second accused') doing a real estate business, purchased a land in Vadakku Valliyoor Village in Survey No.1708/1B measuring 4.18 acres, out of which, the second accused developed plots layout for 2.71 acres and applied for layout approval in the name of Raja Malli Nagar on 16.04.1990 to the Director of Town and Country Planning, Chennai



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through the Executive Officer, Valliyoor Special Grade Town Panchayat providing more than 10% (13,620 sq.ft) of the total area for park and streets for public utility purpose. The Director of Town and Country Planning issued technical approval vide letter dated 17.09.1991 imposing certain conditions.

(b) After getting technical approval, the second accused executed a gift deed in the name of the then Executive Officer on behalf of Vadakku Valliyoor Special Grade Town Panchayat vide document No.991/1991 dated 18.11.1991 for handing over the lands for streets for public utility purpose and on 30.12.1991, the second accused executed another gift deed to the same Executive Officer vide document No.1079/1991 for handing over the lands for park for public utility purpose. Thereafter, the Executive Officer issued layout approval imposing certain conditions vide proceedings dated 06.01.1992 including the condition that each and every land which was gifted and documented in favour of the local body should be sub divided immediately after registration of that land and should make the transaction entered in the village revenue records like A-Register, 10/1, Adangal and Field Measurement Book (FMB) and should be handed over to the concerned local body authority.



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(c) After the registration of lands for park and streets, the then Executive Officer and their successors of Vadakku Valliyoor Town Panchayat had not taken any steps to apply for the sub-division and the same were not entered in the village revenue records. Hence, the ownership of the property remained in the name of the second accused himself. Some of the purchasers of plots from the second accused made sub-division and some of them had not made sub-divisions but arranged to enter their name in the joint patta and in the village revenue records. The said Panchayat authorities have not taken any steps to take possession of the land gifted for streets and park which remained in the name of the second accused.

(d) During 2004 – 2007, land acquisition process was carried out for the formation of Quadrilateral 4-way National Highway Road NH7 and the land acquisition authorities had acquired 4117 sq.mtr area from the approved layout land of the second accused in Survey No.1708/1B and whole area of the 12 plots, partly park and streets areas and also some unsold plot area of the second accused. Since the lands gifted for park and streets were not revealed to NH land acquisition authorities, compensation amount for the park and street areas were paid to the second accused



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instead of Vadakku Valliyoor Panchayat. The Panchayat authorities have also not taken any steps to take possession of the park and streets lands or to take steps to get the compensation and thereby caused pecuniary loss to the Government.

(e) After receiving the compensation, the second accused executed a settlement deed for the remaining portion of park and streets to his wife Tmt.Mallika Rajan vide document No.2161/2009 dated 02.07.2009. The said Mallika Rajan applied for plan approval without patta and EC for the settlement area and the Executive Officer (petitioner herein) had received her application on 12.05.2010 and directed the Sanitary Inspector to make spot inspection and report, who accordingly submitted his report endorsed that the site was verified. The petitioner granted plan approval without verifying the approved layout of the site available at the office to the said Mallika Rajan by imposing certain conditions, which includes that if any false document is submitted, then the building approval is not valid. The petitioner knows very well that the park and streets lands were already handed over by the second accused to the Panchayat.

(f) After construction of the building in the public utility area, the general public of Valliyoor Panchayat have awaken and after coming to



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know about the encroachment of the Panchayat park land, started to send petitions. The second accused, on coming to know about the said complaints, submitted petitions to the District Collector and the Assistant Director of Town Panchayat, Tirunelveli stating that he misunderstood that the park land belonging to Valliyoor Town Panchayat as his land and executed the settlement deed and sought permission to cancel the settlement deed. He also requested that since his wife had already constructed building and bore well with huge expenses in the gifted park land, he may be allowed to exchange a land of 4539 sq.ft of his own land in lieu of the park land. The Assistant Director of Town Panchayat issued a memo to the petitioner to take necessary action in this regard vide letter dated 19.08.2011.

(g) On receiving the said letter, the petitioner and the second accused had entered into an agreement to do an illegal act of grabbing the land belonging to Vadakku Valliyoor Special Grade Town Panchayat and had convened a ordinary council meeting and placed a resolution. In pursuance of the above criminal conspiracy, on the next council meeting on 27.04.2012, the petitioner placed council resolution. Subsequently, the second accused had cancelled the settlement deed and executed an



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exchange deed vide document No.1881/12 dated 20.04.2012 for exchanging another land of 4539 sq.ft of park land in his utilization. On 27.04.2012, the above subject had been accepted unanimously and resolution was passed and signed by the President Lawrence. The petitioner intentionally colluded and criminally conspired with the second accused with an intention to obtain pecuniary advantages acted in favour of the said Mallika Rajan (wife of the second accused) and thereby, he cheated the Government. The petitioner, by abusing his official position of Executive Officer for his pecuniary advantage and without public interest, entered into exchange deed with the second accused and thereby, the accused 1 and 2 had committed the offences under Sections 120B, 420, 409 r/w 34 IPC and Sections 13(2) r/w 13(1)(c), 13(1)(d) and 13(1)(d)(iii) of the Prevention of Corruption Act.

3. A case was registered by Valliyoor Police as Crime No.201 of 2014 based on a complaint by the former President of Vadakku Valliyoor Town Panchayat. In Crl.O.P.(MD)No.7439 of 2014, filed by Subha, this Court directed the Vigilance and Anti Corruption authorities to conduct a preliminary enquiry. Following this, the case was transferred to Vigilance



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and Anti Corruption, reassigned as Crime No.4 of 2014, and they proceeded with investigation.

4. After investigation, final reports were laid and the same were taken on file in Spl.C.Nos.8 of 2019 and 9 of 2019, one for granting building plan approval in respect of the park land and the other for exchanging the land with the second accused by the first accused without recovering the park land. Pending framing of charges, the petitioner / first accused invoking Section 227 Cr.P.C. filed petitions seeking discharge in Crl.M.P.No.243 of 2021 in Spl.C.No.8 of 2019 and Crl.M.P.No.244 of 2021 in Spl.C.No.9 of 2019. The respondent filed counter statements raising serious objections. The learned Special Judge, after enquiry, passed separate orders dated 09.04.2025 and 05.04.2025 dismissing the petitions for discharge. Aggrieved by the order of dismissal, the first accused has filed the present revisions.

5. The grounds for discharge raised by the petitioner are that the Executive Officers during the period of 1992 – 2004 of Vadakku Valliyoor Special Grade Town Panchayat had not properly maintained the records



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such as patta register, land records, FMB, etc., and caused loss to the Government, that the second accused had intentionally and dishonestly planned to swindle the remaining portion of the park land and executed a settlement deed in favour of his wife, who in turn applied for building approval, that the petitioner forwarded the approval application to the Sanitary Inspector for proper spot inspection and verify the records furnished by the applicant but the Sanitary Inspector, without proper inspection of the documents and the spot, issued a report as if it is fit for building approval and on such a Sanitary Inspector's approval report and other documents, the petitioner approved for the constructions, that the petitioner had acted only on the basis of the letter sent by the Assistant Director of Town Panchayat and the petitioner had never abused his official position, that the petitioner was working as an Executive Officer at Ervadi Town Panchayat in the period of 2009 to 2011 and was holding additional charge of Executive Officer of Vadakku Valliyoor Town Panchayat for the period from 11.11.2009 to 02.03.2011, that the charge sheet and the statements recorded during investigation does not disclose any of the ingredients for the offences charged, that the allegations do not make out a case for the prosecution against the petitioner, that due to



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previous enmity, the former President Thiru.Sankaranarayanan lodged the complaint, that the petitioner is innocent and he has not committed any offence as alleged in the charge sheet and that since there is no sufficient ground to proceed against the petitioner, he is entitled to be discharged from the above cases.

6. The objections of the respondent, as evident from their counter statement, are that the Town Panchayat authorities had not taken any steps to sub divide the lands given for park and streets nor taken any steps to get the possession of the said lands nor taken any steps to get compensation amount at the time of land acquisition proceedings, that the proposal of the second accused to execute an exchange deed was accepted by the Valliyoor Town Panchayat by passing resolution, that the petitioner intentionally entered into an exchange agreement with the second accused with an intention to obtain pecuniary advantages from the second accused, that the collected documents would reveal that the petitioner had intentionally colluded and criminally conspired with the former President of Town Panchayat and the second accused with an intention to obtain pecuniary advantage and acted in favour of the said Mallika Rajan (wife of



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the second accused), that there are ample documentary evidence available to prove the charges against the petitioner, that the prosecution cited 52 witnesses and relied 111 documents in support of their case, that there are strong grounds to proceed with the case against the petitioner and that therefore, the discharge petitions are liable to be dismissed.

7. The learned counsel appearing for the petitioner would rely on a decision of the Hon'ble Supreme Court in ***Union of India Vs. Prafulla Kumar Samal and another*** reported in ***(1979) 3 SCC 4***, wherein, the Hon'ble Apex Court, considering various authorities, while explaining the scope of Section 227 Cr.P.C., summarized the principles, which are as follows;

“(1) That the Judge while considering the question of framing the charges under section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be, fully justified in framing a charge and proceeding with the trial.



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(3) *The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.*

(4) *That in exercising his jurisdiction under section 227 of the Code the Judge which under the present Code is a senior and experienced Judge cannot act merely as a Post office or a mouth-piece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.”*

8. The learned Additional Public Prosecutor appearing for the respondent would rely on a decision of the Hon'ble Supreme Court in ***P.Vijayan Vs. State of Kerala and another*** reported in (2010) 2 SCC 398, wherein, the Hon'ble Apex Court has specifically held that at the stage of



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Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused and the relevant passages are extracted hereunder;

“11. At the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. In other words, the sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the Court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him.

.....

25. As discussed earlier, Section 227 in the new Code confers special power on the Judge to discharge an accused at the threshold if upon consideration of the records and documents, he find that "there is not sufficient ground" for proceeding against the accused. In other words, his consideration of the record and document at that stage is for the limited purpose of ascertaining whether or not there is sufficient ground for proceeding against the accused. If the Judge comes to a conclusion that there is sufficient ground to proceed, he will frame a charge under Section 228, if not, he will discharge the accused. This provision was introduced in the Code to



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avoid wastage of public time which did not disclose a prima facie case and to save the accused from avoidable harassment and expenditure.”

9. The learned Additional Public Prosecutor appearing for the respondent would also rely on a decision in ***State of Rajasthan Vs. Ashok Kumar Kashyap*** reported in ***(2021) 11 SCC 191***, wherein, the Hon'ble Supreme Court has observed,

“As observed hereinabove, the High Court was required to consider whether a prima facie case has been made out or not and whether the accused is required to be further tried or not. At the stage of framing of the charge and/or considering the discharge application, the mini trial is not permissible. At this stage, it is to be noted that even as per Section 7 of the PC Act, even an attempt constitutes an offence. Therefore, the High Court has erred and/or exceeded in virtually holding a mini trial at the stage of discharge application.”

10. Bearing the above legal position on mind, let us proceed with the case on hand.



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11. The learned counsel appearing for the petitioner would mainly contend that the entire transaction took place only because of non mutation of revenue records and nearly 54 Executive Officers, who were working earlier in Valliyoor Town Panchayat, did nothing and hence, fixing criminal liability upon the petitioner alone for the mistake which happened due to the failure of the previous Executive Officers, is not proper and at the most it can only be termed as negligence and disciplinary proceedings can alone be initiated.

12. The learned counsel appearing for the petitioner would further submit that the entire charge sheets does not disclose about any benefit accrued to the petitioner, that except for the bare averments that there is a conspiracy, no witness speaks about the same or evidence has been produced to prove the same, that the entire case is only an outcome of political vendetta by one Subha against the newly elected body, that there is no direct or circumstantial evidence placed on record inferring that the petitioner had prior association with the second accused and thus, conspired to cheat the exchequer, that there is no chain of links or facts establishing that the petitioner had connived with the second accused and



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planned everything facilitating him to get building plan approval, that there is no single averment or evidence to show that the petitioner has from the beginning had a dishonest intention and as a result, he chose to favour the second accused, that Sections 13(1)(c), 13(1)(d) and 13(1)(d) (iii) of the Prevention of Corruption Act can be applied only when there is a dishonest intention to convert a property for own use or any other person to do so and that the learned trial Judge, without considering the above aspects in proper perspective, has proceeded to dismiss the petitions mechanically.

13. The learned Additional Public Prosecutor appearing for the respondent would submit that the final reports and the statement of witnesses and documents filed along with the final reports would disclose a *prima facie* case against the petitioner for the offences under Sections 409 and 420 IPC and criminal misconduct as contemplated under the Prevention of Corruption Act, that the main contention is that the petitioner, while he was holding the office of the Executive Officer, granted building plan approval for construction of house in the site gifted to Panchayat for the purpose of park, that the petitioner, without perusing



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the approved layout to verify whether the site proposed for construction is allotted as house site or commercial site or public utility places, granted building plan approval, that the circumstances relied on by the prosecution would clearly establish that there was a clear case of conspiracy existed between the petitioner and the other accused, that the application for approval was submitted on 12.05.2010 and the same was granted on 19.05.2010 within a week by the petitioner, that the petitioner ought to have taken steps to retrieve the land allotted for public purpose and cancelled the building plan approval and instead of doing so, he colluded with the second accused and the President and approved exchange of lands by passing resolutions, that the prosecution has produced ample material and evidence to prove the case against the petitioner and that the learned trial Judge, considering the charge sheet and other materials, has rightly dismissed the petitions.

14. Admittedly, the petitioner was working as an Executive Officer between 11.11.2009 and 02.03.2011 and again between 27.03.2012 and 06.05.2012. No doubt, as rightly pointed out by the learned counsel appearing for the petitioner, the petitioner was holding additional incharge



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of North Valliyoor Town Panchayat along with Ervadi and Panagudi Town Panchayats.

15. It is the specific case of the prosecution that during the tenure of the petitioner, Tmt.Mallika Rajan (wife of the second accused) applied for building plan approval and the same was granted by the petitioner. It is the further case of the prosecution that the second accused sent a requisition permitting him to execute an exchange deed exchanging the land allotted for park but was given settlement in favour of his wife with the land available with him and the Town Panchayat passed a resolution and in pursuance of the same, the second accused entered into an exchange deed with the petitioner and that the petitioner alone was responsible for the same. As rightly contended by the learned Additional Public Prosecutor, the factum of granting building plan approval to the wife of the second accused and subsequently entering into an exchange deed with the second accused are not specifically disputed by the petitioner but according to the petitioner, after the registration of lands for park and streets by the second accused, the then Executive Officers of Town Panchayat had not taken steps to sub divide the lands or to enter the same in the land revenue



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records and despite the same, they were not touched by the respondent.

Even if previous Executive Officers were at fault, it does not absolve the petitioner.

16. The learned counsel appearing for the petitioner would then contend that there is no specific material or evidence to show that there was a conspiracy. As rightly contended by the learned Additional Public Prosecutor, conspiracy can be inferred from facts and circumstances and it is a matter for trial. The learned Additional Public Prosecutor would submit that the prosecution cited 52 witnesses and produced 111 documents in support of their case.

17. The second accused filed a writ petition in W.P.(MD)No.8525 of 2018 seeking a writ of mandamus directing the District Collector, Tirunelveli, the Assistant Director of Panchayats, Tirunelveli and the Executive Officer of Vadakku Valliyoor Town Panchayat to ascertain the actual compensation amount paid to the second accused in respect of the park land acquired for National Highways as per the records of the Land Acquisition Officer and collect the said compensation amount along with



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interest, considering his representation. In the said writ petition, this Court passed an order dated 23.12.2020, wherein, it was observed that Criminal Court, which is going to try the matter, will have to go in the question on the actual facts and do not decide the issue on the ground that the money has been paid and there is no criminal intention and further observed,

“17. This Court has not compromised and convinced at any stage, and a criminal will have to be brought to book. Hence, this Court is of the view that a logical conclusion needs to be arrived, more so, to come out on technicalities on the ground that the amount is going to be paid only pursuant to the order of this Court. This Court reiterates that the payment of money is acceptable by the third respondent with regard to the incident in question and the petitioner has to face the trial, and payment and acceptance cannot be a ground to hold 'not guilty'.”

Thereafter, this Court, while disposing the writ petition, expressed its view that criminal case need to be taken to the logical end and hence, speedy progress is expected. This Court, in the writ petition considering the commission and omission on the part of the second accused and also the Town Panchayat, has specifically observed that the criminal proceedings to be proceeded till it reaches its logical conclusion.



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18. A cursory perusal of the charge sheets and the materials filed along with the charge sheets would reveal that there existed a *prima facie* case against the petitioner and hence, there is sufficient ground to proceed further.

19. The learned trial Judge, by rightly observing that there are sufficient grounds to frame charges against the petitioner, dismissed the discharge petitions and the same cannot be found fault with. Consequently, this Court concludes that the revisions are devoid of merits and the same are liable to be dismissed.

20. In the result, these Criminal Revision Cases are dismissed. Since the cases are pending from 2019 onwards, the learned Special Judge, Special Court for the Exclusive Trial of Prevention of Corruption Act cases, Tirunelveli, is directed to proceed with the trial in Spl.C.Nos.8 of 2019 and 9 of 2019 and dispose of the same as expeditiously as possible. Consequently, connected Miscellaneous Petitions are closed.

28.11.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
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K.MURALI SHANKAR,J.

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To

1. The Special Judge,
Special Court for the Exclusive Trial of Prevention of Corruption Act
cases, Tirunelveli.
- 2.The Deputy Superintendent of Police,
Special Branch of Vigilance and Anti-Corruption,
Tirunelveli Detachment,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pre-Delivery Common Order made in
Crl.R.C.(MD)Nos.1415 and 1416 of 2025
and
Crl.M.P.(MD)Nos.16546, 16547, 16555 and 16556 of 2025

Dated : 28.11.2025