IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.2247 OF 2025

BETWEEN:

SHRI MADHAVRAO
S/O LATE SIDRAM JHADAV,
AGED ABOUT 42 YEARS,
ASSISTANT EXECUTIVE ENGINEER,
HEBBAL, BBMP,
RESIDING AT NO.42,
VISHNU NILAYA
HESARGATTA MAIN ROAD
OPP.NAGAPPA HADLLI HOSPITAL
BHARATH NAGAR, M.S.PALYA,
VIDYARANYAPURA,
BENGALURU - 590 097.

... PETITIONER

(BY SRI SHIVAPRASAD SHANTANAGOUDAR, ADVOCATE)

Digitally signed by PADMAVATHI B K
Location: High Court of Karnataka

AND:

STATE OF KARNATAKA
BY LOKAYUKTA POLICE, BENGALURU,
RERESENTED BY
SPECIAL PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
PRINCIPAL BENCH,
BENGALURU - 580 011.

... RESPONDENT

(BY SRI VENKATESH S. ARBATTI, SPL.PP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 528 OF BNSS., PRAYING TO QUASH THE (i) SOURCE INFORMATION REPORT DATED 15.01.2025 (ANNEXURE-A), (ii) FIR BEARING CR.NO.09/2025 REGISTERED BY THE RESPONDENT LOKAYUKTA POLICE FOR THE OFFENCE P/U/S 13(1)(b) R/W 13(2) OF P.C. ACT, 1988 (AMENDMENT ACT, 2018) DATED 30.01.2025 AGAINST THE PETITIONER, PENDING ON THE FILE OF 23RD ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU (ANNEXURE-B), (iii) ORDER BEARING NO.KLA/BLR/CITY SP-2/CR-09/2025 DATED 30.01.2025 PASSED BY THE SUPERINTENDENT OF POLICE, KARNATAKA LOKAYUKTA, BENGALURU CITY-2 UNDER SECTION 17 OF THE PREVENTION OF CORRUPTION ACT, 1988 (AMENDMENT ACT, 2018) (ANNEXURE-C) AND ALL FURTHER INVESTIGATION ARISING THEREFROM THAT HAS BEEN INITIATED AGAINST THE PETITIONER.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner is before the Court seeking the following prayer:

> I. Quash the (i) Source Information Report dated 15.01.2025 (Annexure-A), (ii) FIR bearing Crime No.09 of 2025 registered by the respondent Lokayukta Police for the offence punishable under Section 13(1)(b) r/w 13(2) of the Prevention of Corruption Act, 1988 (Amendment Act, 2018) dated 30-01-2025 against the petitioner, pending on the file of 23rd Additional City Civil and Sessions Judge, Bengaluru (Annexure-B), (iii) Order bearing No.KLA/BLR/City SP-2/Cr-09/2025 dated 30-01-2025 passed by the Superintendent of Police, Karnataka Lokayukta, Bengaluru City-2 under Section 17 of the Prevention of Corruption Act, 1988 (Amendment Act, 2018) (Annexure-C) and all further investigation arising therefrom that has been initiated against the petitioner.
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> II. Further this Hon'ble Court may be pleased to grant such other reliefs as deemed fit in the interest of justice and equity."

2. Heard Sri **Shivaprasad Shantanagoudar**, learned counsel appearing for the petitioner and Sri **Venkatesh S. Arbatti**, learned Special Public Prosecutor appearing for the respondent.

3. Facts, in brief, germane are as follows:

The petitioner, at the relevant point in time, was working as Assistant Engineer at the Bruhat Bengaluru Mahanagara Palike. A source report is drawn against him on 15-01-2025 and by an order dated 30-01-2025 the Superintendent of Police of the Karnataka Lokayukta passes an order permitting registration of crime in Crime No.9 of 2025 for offences punishable under Section 13(1)(b) r/w Section 13(2) of the Prevention of Corruption Act, 1988 ('the Act' for short). Pursuant to registration of crime, search and seizure proceedings take place on 31-01-2025 in the house and office of the petitioner and the search party took custody of several documents. The registration of crime is what drives the petitioner to this Court in the subject petition.

4. The learned counsel Sri **Shivaprasad Shantanagoudar** appearing for the petitioner submits that there is no preliminary enquiry conducted in the case at hand. In the event of conduct of preliminary enquiry, the case itself could not have been registered, as source report draws 278% as disproportionate asset and if the

source of income as declared is taken note of, it is zero percent to sources of income and a fancy figure is projected by the Lokayukta only for the purpose of registration of crime. Therefore, he would submit that preliminary enquiry in the case at hand was imperative. He seeks to place reliance upon the judgment of the coordinate Bench of this Court in the case of **N. SATISH BABU v. STATE OF KARNATAKA LOKAYUKTA PS** in **Writ Petition No.3107 of 2024** decided on **23-04-2026,** in which according to the learned counsel the coordinate Bench has considered all the cases hitherto decided on the issue and has laid down the law. He would seek quashment of the crime on the said score.

5. The learned counsel Sri **Venkatesh S. Arbatti**, appearing for the Lokayukta would contend that the proceedings are at the nascent stage. The source report is drawn on 15-01-2025 for the check period from 2010 to 2025. Based upon the source report authorization under Section 17(c) of the Act is granted. All the contentions that are now sought to be urged can be urged at the stage of trial before the concerned Court, as they are in the realm of seriously disputed questions of fact. He would submit that

investigation, into the cases of corruption, should be at best left to be tried before the concerned Court and not to be interfered under Section 482 of the Cr.P.C. The learned counsel would submit that all the calculations can always be submitted by the petitioner to the concerned Investigating Officer during the course of investigation.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

7. The afore-narrated facts are not in dispute. The legality or correctness in initiation of proceedings, registration of crime, conduct of search and seizure or authorization granted under Section 17(c) of the Act, the contentions of the learned counsel for the petitioner or its refuting at the hands of the learned counsel appearing for the Lokayukta have all been considered by the coordinate Benches of this Court in **CHANNAKESHAVA H.D. v. STATE OF KARNATAKA** in **Writ Petition No.28052 of 2023** and in the case of **N.SATISH BABU** *supra.* Therefore, it is not necessary for this Court to delve into the matter, except noticing

the law as declared by the coordinate Bench. The coordinate Bench in **N.SATISH BABU** *supra* has held as follows:

"…. …. ….

10. Based on the rival contentions of the petitioner and respondents, the following points arise for consideration in the present petition;

(i) Whether the judgment of the Apex Court dated ***06.05.2025*** passed in case of ***Karnataka Lokayuktha Police vs. K.L.Gangadharaiah – Crl.A.No.2444/2025 (SLP(Crl.)No.12156/2023)*** along with connected matters including the present ***Crl.A.No.2460/2025 (SLP(Crl.)No.14325/2024),*** would come in the way or have the effect of precluding the petitioner from contending that conducting of preliminary enquiry prior to registration of the impugned FIR was desirable / warranted / required / necessary in the facts and circumstances obtaining in the instant case?

(ii) Whether the source report dated 18.11.2023 submitted by the 2nd respondent requires or warrants or makes it desirable for conducting of preliminary enquiry by the respondents before proceeding further in the matter?

(iii) Whether the impugned FIR is valid and sustainable in law?

(iv) Whether the order dated 08.01.2024 passed by the Superintendent of Police – Lokayuktha under the second proviso to Section 17 of the P.C.Act is valid and sustainable in law?

Re-Point No.1:-

11. At the outset, learned counsel for the respondents – Lokayuktha contended that having regard to the fact that the earlier order dated 01.03.2024 passed by this Court in the present petition was set aside by the Apex Court in ***Crl.A.No.2460/2025 (SLP(Crl.)No.14325/2024) dated 06.05.2025,*** wherein it was held that it was not necessary / essential for the respondents to have conducted any preliminary enquiry prior to registration of the impugned FIR, the petitioner

is precluded from re-agitating the very same issue / question once again; per contra, learned Senior counsel for the petitioner would submit that in its aforesaid order dated 06.05.2025, the Apex Court has come to the conclusion that conducting of preliminary enquiry was not mandatory and the question / issue as to whether preliminary enquiry ought to be conducted or not would be dependent on the facts and circumstances of a particular / given case and as such, it was open for the petitioner to assail the FIR on the ground that preliminary enquiry was warranted / required / desirable in the instant case having regard to the incomplete, inadequate, defective and sketchy source report submitted by the 2nd respondent. In order to appreciate the rival contentions, it would be apposite to extract the earlier order passed by this Court in the present petition dated ***01.03.2024***, which is as hereunder:-

> *"This petition is filed by the petitioner/accused under Articles 226 and 227 of Constitution of India, read with 482 of Cr.P.C for quashing the FIR in Crime No.3/2024 registered by the Karnataka Lokayuktha police, Bengaluru, for the offences punishable under Section 13(1) (b), read with 13(2) of Prevention of Corruption Act, 1988 (Amendment Act 2018) (hereinafter referred to as 'PC Act').*
>
> *2. Heard the learned counsel for the petitioner and learned special counsel for the respondent Nos.1 and 2.*
>
> *3. The case of the prosecution is that on the suo-motu complaint registered by the Lokayuktha police, Bengaluru, against the petitioner alleging that the petitioner was appointed as Industrial Extension Officer, Shikaripura Industries and Commerce Department on 24.10.1994. Then he was appointed as Junior Engineer in 2002 and worked in various departments of Public Works Department (for short 'PWD'). Now he is Executive Engineer in PWD. As per the source report collected by the police on 18.11.2023, FIR has been registered, alleging that during his tenure as public servant he has amassed wealth to the tune of Rs.3,62,50,000/- about 110% disproportionate to his known source of income in his name, from check period 24.10.1994 till date. Accordingly, the investigation has taken up which is under challenge. Learned counsel for the petitioner has vehemently challenged the proceedings/investigation mainly on the ground, that the DySP of Lokayuktha filed a source report against the*

*petitioner without conducting preliminary enquiry as mandated under the law by the **Lalita Kumari vs. Government of Uttar Pradesh and others** reported in **(2014) 2 SCC 1,** passed by Hon'ble Supreme Court. Further contended that the superintendent of police without conducting preliminary enquiry/verification and without satisfying himself of the genuineness of the source report and without application of mind, in contravention of the proviso to Section 17 of the PC Act, had permitted the respondent No.1 to register the FIR and conduct the investigation which is bad in law.*

4. Learned counsel further contended, while according the permission, the Superintendent of Police (SP), had not at all considered that there is no preliminary enquiry or registering the FIR and he should verify the preliminary enquiry and FIR, then only accord the permission under Section 17 of the PC Act. But the alleged permission reveals he has not verified any FIR and no FIR was registered based upon the source report, the permission has been granted. Therefore, conducting investigation is bad in law and hence prayed for quashing investigation. In support of his case, learned counsel for the petitioner relied upon the judgments of the Hon'ble Supreme Court as under:-

1. ***1992 Supp (1) SCC 335*** *in case of State of Haryana & Ors. V. Bhajan Lal & Ors.*
2. ***WP No. 16028/2023*** *in case of Shri. Pramod Kumar NG V. State of Karnataka dated 14.12.2023.*
3. ***(2021) 5 SCC 469,*** *in case of Charansingh V. State of Maharashtra & Ors.*
4. ***W.P. No. 43817/2018 (GM-RES)*** *in case of Navaneeth Mohan N Vs. SHO, ACB, Bengaluru dated 21.04.2021.*
5. ***W.P. No. 15886/2022 (GM-RES)*** *in case of Balakrishna H.N. V. State of Karnataka by ACB, Mysuru, dated: 03.01.2023.*

5. Per contra, learned counsel for the respondent Lokayuktha filed statement of objection contending that the petitioner amassed wealth disproportionate to the known source of income to the tune of Rs.3,62,50,000/- i.e., 110%. The accused has purchased various properties and

*is leading lavish life and purchased benami property in name of his wife, mother-in-law and daughters. The matter is under investigation. The SP after verifying the source report and then passed the order as per proviso to Section 17 of the PC Act. He further contended section 17 (a) of the PC Act, was amended on 26.7.2017. Therefore, it is not applicable to the case. The petitioner cannot seek relief under Section 482 of Cr.P.C. Therefore, prayed for dismissing the petition. In support of his contention learned counsel relied upon the judgment of the Hon'ble Supreme Court in case of '**CBI Vs Thommandru Hannah Vijayalakshmi alias Vijayalakshmi** reported in **AIR (2021) 18 SCC 135 : 2021 SCC OnLine SC 923 court 5041** and contended that this court cannot verify and sit as a chartered accountant. The petitioner is having right to file his documents and explanation. Therefore, prayed for dismissing the petition.*

*6. Having heard the arguments, perused the records. The main contention of the learned counsel for the petitioner is that the Section 17, proviso 2 of the PC Act, was not followed, which is mandatory in nature. Prior to according permission, the SP is required to verify the source report and should make preliminary enquiry and to register FIR. Thereafter, shall pass the order under Section 17 of PC Act, for investigating the matter. But here in this case, no FIR was registered and based upon the source report, he has accorded the permission under Section 17 proviso 2 of the PC Act. In support of his case, learned counsel relied upon the judgment of the Hon'ble Supreme Court in **Bhajan lal's case stated supra**. Hon'ble Supreme Court has held at paragraph 128 as under;*

> *"128. The conspectus of the above decisions clearly shows that the granting of permission under Section 5-A authorising an officer of lower rank to conduct the investigation is not to be treated by a Magistrate as a mere matter of routine, but it is an exercise of his judicial discretion having regard to the policy underlying and the order giving the permission should, on the face of it, disclose the reasons for granting such permission. It is, therefore, clear in the light of the above principle of law that the Superintendent of Police or any police officer of above rank while granting permission to a non-designated police officer in exercise of his power under the second proviso to Section 5-A(1), should satisfy himself*

that there are good and sufficient reasons to entrust the investigation with such police officer of a lower rank and record his reasons for doing so; because the very object of the legislature in enacting Section 5-A is to see that the investigation of offences punishable under Section 161, 165 or 165-A of Indian Penal Code as well as those under Section 5 of the Act should be done ordinarily by the officers designated in clauses (a) to (d) of Section 5-A(1). The exception should be for adequate reasons which should be disclosed on the face of the order. In this connection, it is worthy to note that the strict compliance with Section 5-A(1) becomes absolutely necessary, because Section 5- A(1) expressly prohibits police officers, below certain ranks, from investigating into offences under Sections 161, 165 and 165-A, IPC and under Section 5 of the Act without orders of Magistrates specified there- in or without authorisation of the State Government in this behalf and from effecting arrests for those offences without a warrant. See also A.C. Sharma v. Delhi Administration".

7. Learned counsel also relied upon the judgment of the Hon'ble Supreme Court in ***Charansingh v. State of Maharashtra & Ors,*** *Hon'ble Supreme Court held in paragraph Nos. 15 and 15.1 are as under;*

"15. While expressing the need for a preliminary enquiry before proceeding against public servants who are charged with the allegation of corruption, it is observed in P. Sirajuddin³ that: (SCC p. 601, para 17),

"before a public servant, whatever be his status, is publicly charged with acts of dishonesty which amount to serious misdemeanour or misconduct of indulging into corrupt practice and a first information is lodged against him, there must be some suitable preliminary enquiry into the allegations by a responsible officer. The lodging of such a report against a person who is occupying the top position in a department, even if baseless, would do incalculable harm not only to the officer in particular but to the department he belonged to in general. If the Government had set up a Vigilance and Anti-Corruption Department as was done in the

State of Madras and the said department was entrusted with enquiries of this kind, no exception can be taken to an enquiry by officers of this Department.

It is further observed that: (P. Sirajuddin case³, SCC p. 601, para 17)

"when such an enquiry is to be held for the purpose of finding out whether criminal proceedings are to be initiated and the scope thereof must be limited to the examination of persons who have knowledge of the affairs of the person against whom the allegations are made and documents bearing on the same to find out whether there is a prima facie evidence of guilt of the officer, thereafter, the ordinary law of the land must take its course and further enquiry be proceeded with in terms of the Code of Criminal Procedure by lodging a first information report."

15.1. Thus, an enquiry at pre-FIR stage is held to be permissible and not only permissible but desirable, more particularly in cases where the allegations are of misconduct of corrupt practice acquiring the assets/properties disproportionate to his known sources of income. After the enquiry/enquiry at pre-registration of FIR stage/preliminary enquiry, if, on the basis of the material collected during such enquiry, it is found that the complaint is vexatious and/ or there is no substance at all in the complaint, the FIR shall not be lodged. However, if the material discloses prima facie a commission of the offence alleged, the FIR will be lodged and the criminal proceedings will be put in motion and the further investigation will be carried out in terms of the Code of Criminal Procedure. Therefore, such a preliminary enquiry would be permissible only to ascertain whether cognizable offence is disclosed or not and only thereafter FIR would be registered. Therefore, such a preliminary enquiry would be in the interest of the alleged accused also against whom the complaint is made.

*8. Learned counsel also relied upon the coordinate bench in **Navaneeth Mohan's case** stated supra at paragraph Nos.15 and 16 as under;*

> *"15. The source report which is part of Annexure-A submitted before Superintendent of Police, ACB, Bengaluru, the note of Superintendent of Police, ACB do not indicate that along with the said report any material was placed before him to grant permission to register the FIR and investigate the matter. In the order of Superintendent Police absolutely, there is no reference to submission of any documents along with the source report. In one stroke the Superintendent of Police says that he is convinced that it is a fit case to register the FIR and investigate the case. He does not even say that any preliminary enquiry was conducted prior to placing source report before him. Therefore, there is clear violation of the direction issued by the Hon'ble Supreme Court in Lalitha Kumari's case in registering the FIR.*
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> *16. In the judgment of the Hon'ble Supreme Court in Charansingh Vs. State of Maharashtra and others in Crl.A.No.363/2021 dated 24.03.2021 relied upon by the learned Spl. Public Prosecutor himself, in para 12 it was held that before registering the FIR a preliminary enquiry shall be conducted either confidential or open enquiry."*

*9. Another coordinate bench in **Balakrishna's case** stated supra also taken similar view and has held at paragraph 12 as under;*

> *"12. If the reasons rendered by Apex Court are noticed, two factors would emerge one, that the prosecution is required to draw up source report after conducting some sort of a preliminary enquiry to know the assets of the Government servant and two, after the source information report is placed before the Superior Officer - Superintendent of Police, he has to verify as to whether a crime should be registered or otherwise. If these principles that would emerge from the judgment of the Apex Court are considered qua the facts obtaining in the case at hand, the registration of the crime would fall foul of the principles laid down by the Apex Court and that of this Court in the afore-quoted judgment. Therefore, on this short ground that the source information report disclosed blatant non-application of mind and non-conduct of preliminary inquiry as is necessary in*

law only in cases concerning disproportionate assets.

10. In view of the judgment rendered by Hon'ble Supreme Court as well as coordinate benches of this court and looking to the fact of the case, where the superintendent of police have granted permission on 8.1.2024 and directed the Dy.SP to investigate the matter. The said order has been passed just based upon the source report submitted by one Ramakrishna Dy.SP -06. On perusal of the order it does not reveal the application of mind by the SP directing to register and investigate the matter. Just that he has passed the order as per the source report of the Dy.SP-06 and he has authorised to register and investigate the case. But learned SP has not at all applied his mind as to how the said figure was required to be investigated and registered the FIR. The coordinate bench has held in the ***Balakrishna's case*** *stated supra, the source report, if makes out a cognizable offence, the police officer can register the FIR by making a preliminary enquiry then forward the FIR as well as preliminary enquiry report, along with the source report to the SP for according permission to investigate the matter. However, herein this case, it is a clear violation of the mandatory provision of Section 17 (proviso 2) of PC Act. In the* ***Charan Singh's*** *case stated supra, has considered the same. Here in this case, even if there is no preliminary enquiry to be conducted by the police in order to know the veracity of the source report and if the cognizable offence is made out, they have registered FIR and then forwarded the same to SP for according the permission to investigate the matter. In this case, after according permission by the SP, the FIR has been registered. Absolutely there is no preliminary enquiry conducted by police. FIR was also not registered prior to order of SP. The coordinate bench of this court while considering the* ***Lalita Kumari's case*** *in* ***Balakrishna's case*** *stated supra had quashed the criminal proceeding and another coordinate bench in WP.No.43817/2018 in* ***Navaneeth Mohan's case*** *also had quashed the criminal proceedings based upon the non-compliance of the guidance issued by the Hon'ble Supreme Court in the* ***Lalita Kumari's case*** *and* ***Charan Singh's case*** *stated supra.*

> *Therefore, considering the facts and circumstances of the case, there is clear violation of guidelines issued in **Lalita Kumari's** case and **Charan Singh's** case and in view of the judgment of the Hon'ble Supreme Court in **Bhajan Lal's case,** the prosecution launched by the respondent is abuse of process of law. It is not a fit case for investigating the matter and FIR is liable to be quashed.*
>
> *Accordingly, this petition is **allowed**.*
>
> *Consequently, the FIR filed against the petitioner/accused in Crime No.3/2024 registered by the Karnataka Lokayuktha police, Bengaluru, is hereby quashed."*

11.1 As stated supra, various Benches of this Court quashed FIRs and proceedings arising out of alleged offences punishable under Section 13(1)(b) r/w 13(2) of the P.C.Act as against various accused persons, aggrieved by which, the respondents – Lokayuktha approached the Apex Court which tagged / linked all the matters together with the lead case being the case of ***Karnataka Lokayuktha Police vs. K.L.Gangadharaiah – Crl.A.No.2444/2025 (SLP(Crl.)No.12156/2023)*** and the present proceedings in ***Crl.A.No.2460/2025 (SLP(Crl.)No.14325/2024),*** was tagged / linked along with the said matters and culminated in a final order dated ***06.05.2025*** as hereunder:-

> ***O R D E R***
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> 1. *Heard.*
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> 2. *Delay condoned.*
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> 3. *Leave granted.*
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> 4. *These appeals by special leave involve common questions of facts and law and hence, the same are being decided analogously by this order.*
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> ***5.*** *The appellants have challenged the orders passed by the High Court of Karnataka at Bengaluru (For short, "High Court") in writ petitions preferred by the*

respondents herein, [the original writ-petitioners (Hereinafter, being referred to as "respondents".)], assailing the FIRs registered against them by the Karnataka Lokayuktha Police under the provisions of the Prevention of Corruption Act, 1988 (For short, "PC Act".)

5. *In the writ petitions, filed before the High Court, the primary grounds laying challenge to the registration of the FIRs were twofold: -*

> i. *That no preliminary enquiry whatsoever was conducted in accordance with Section 9 of the Karnataka Lokayukta Act, 1984 and hence, the direction given by the Superintendent of Police, Karnataka Lokayuktha to register the FIRs against the respondents for the offence/s punishable under the PC Act, were illegal and without jurisdiction.*
>
> ii. *That the direction given by the Superintendent of Police to the Deputy Superintendent of Police, for investigating the cases pursuant to registration of the FIRs, was contrary to the mandate of Section 17 of the PC Act.*

6. *The High Court allowed the said writ petitions and accepted the challenge laid by the respondents against registration of the FIRs and further investigation on both grounds referred to supra and quashed the said FIRs having been registered without jurisdiction. One such similar order was assailed by the State of Karnataka and the Karnataka Lokayuktha Police by way of Criminal Appeal No. 5001 of 2024 titled as* ***State of Karnataka v. T.N. Sudhakar Reddy*** *- 2025 SCC OnLine SC 382, wherein this Court reversed the judgment of the High Court and affirmed the action of the Superintendent of Police, Karnataka Lokayuktha, in directing the registration of the FIR and investigation thereof by the Deputy Superintendent of Police without conducting any preliminary inquiry.*

7. *During the course of hearing of the present appeals, learned counsel representing*

the respondents, candidly conceded that so far as the two pivotal issues pertaining to the registration of the FIRs without a preliminary inquiry being conducted and the power of the Superintendent of Police, Karnataka Lokayuktha to authorize investigation by the Deputy Superintendent of Police are concerned, the same are no longer res integra and stand concluded against the respondents by the judgment of this Court in ***T.N. Sudhakar Reddy*** *(supra) wherein, it was held as below:-*

> ***"51.*** *In view of the above discussion, we conclude that: -*
>
> a. *The High Court erred in coming to the conclusion that the order dated 4th December, 2023, passed by the Superintendent of Police, was directly passed under Section 17 of the PC Act, thereby violating the mandatory provisions of the PC Act.*
>
> b. ***The preliminary inquiry is not mandatory in every case under the PC Act. If a superior officer is in seisin of a source information report which is both detailed and well-reasoned and such that any reasonable person would be of the view that it prima facie discloses the commission of a cognizable offence, the preliminary inquiry may be avoided****.*
>
> c. *Section 17 of the PC Act relates specifically to the investigation process, and not the initial act of registering the FIR, for which it relies on the provisions of the CrPC. Hence, it places limitations on only the investigation; it does not impede the fundamental duty of the law enforcement agency to record and register an FIR for cognizable offences.*
>
> d. ***On a harmonious reading of the provisions of the PC Act and the CrPC, it is manifest that the Superintendent of Police is competent to direct the registration of an FIR if he has information about the commission of a cognizable offence, punishable under the***

> ***PC Act. The former is also competent to simultaneously direct the Deputy Superintendent of Police to register an FIR for the offences under the PC Act, with the understanding that the subsequent investigation will be subject to the restrictions outlined in Section 17 of the PC Act****. A composite order to register the FIR and conduct investigation aligns with the statutory framework of the CrPC and the PC Act."*
>
> *(**Emphasis Supplied**)*

8. *Without prejudice to the above, the respondents' counsel have asserted before us that in addition to the above two grounds, relating to jurisdiction, numerous other grounds touching upon the merits were raised by the writ petitioners in their respective writ petitions which were not adverted to by the High Court because the said writ petitions were allowed on the above two preliminary grounds only, finding the action of the Superintendent of Police, Karnataka Lokayuktha to be in teeth of the provisions contained under the Karnataka Lokayukta Act, 1984 and Section 17 of the PC Act.*

9. *They fervently urged that there was no foundational material available with the Superintendent of Police, Karnataka Lokayuktha so as to justify direct registration of the FIRs, particularly those pertaining to the allegations of amassing disproportionate assets punishable under Sections 13(1)(b) and 13(2) of the PC Act.*

10. *The writ petitions came to be allowed on the preliminary issues of jurisdiction and hence, various other grounds raised by the respondents in their writ petitions which touched upon the merits of the matter were not dealt with by the High Court, thereby, causing grave prejudice to the respondents. Hence, they prayed that the matters should be remitted to the High Court for fresh consideration of the writ petitions on the issues and grounds not adverted to by the High Court while deciding the writ petitions.*

11. *To this submission, learned counsel appearing for the appellant has no objection.*

12. *We have given our thoughtful consideration to the submissions advanced at bar and have gone through the material placed on record.*

13. *Learned counsel representing the respondents have fairly conceded to the position that the High Court erred in quashing the FIRs on the ground of lack of jurisdiction of the Superintendent of Police to direct registration of the FIR without a preliminary inquiry and in authorizing the Deputy Superintendent of Police to conduct investigation. Undeniably, these issues stand concluded, and the reasoning assigned by the High Court has been reversed by this Court in the case of* ***T.N. Sudhakar Reddy*** *(supra) and which has been followed by a co-ordinate Bench of this Court in* ***State of Karnataka v. Channakeshava H.D.-*** *2025 SCC OnLine SC 753.*

14. *However, this Court is conscious of the fact that the grounds taken by the respondents touching upon the merits were not adverted to by the High Court because the writ petitions were decided on the preliminary issues of jurisdiction only. Hence, the respondents, [original writ petitioners], were deprived of adjudication of other grounds raised in the writ petitions which has left them remediless in view of the judgment in* ***T.N. Sudhakar Reddy*** *(supra).*

15. *In view of the discussion made above, we hereby quash the orders passed by the High Court and remit the matters back to the High Court for fresh adjudication of the writ petitions on merits. This consideration upon remand shall be restricted to the grounds though taken but not adjudicated by the High Court while deciding the writ petitions.*

16. *Learned counsel for the respondents have brought to the notice of this Court that owing to the orders passed by this Court, permitting the Investigating Agency to continue the investigation, chargesheets have been filed against the respondents in some matters. They, thus, urged that the respondents may be permitted to assail the chargesheets in the writ petitions received post-remand.*

> 17. *We, therefore, provide that in whichever cases where the chargesheets have been submitted during pendency of these appeals, the respondent/s (writ petitioners before the High Court) concerned shall be at liberty to assail the chargesheets in their respective writ petitions, which shall stand revived pursuant to this order. However, this liberty is limited to the extent of assailing the chargesheets, if any, filed during pendency of these appeals and shall not be taken as expanding the scope of the writ petitions any further. Needless to state that the Code of Criminal Procedure, 1973/Bharatiya Nagarik Suraksha Sanhita, 2023 do provide ample remedies to an accused to challenge the orders passed by the trial Court whether interim, interlocutory or final and thus, the aggrieved persons would not be rendered remediless in any situation.*
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> 18. *As the respondents were enjoying interim protection, while the writ petitions were pending before the High Court, we hereby direct that no coercive steps shall be taken against the respondents for a period of six weeks from today.*
>
> 19. *Accordingly, it is directed that the writ petitions filed by the respondents before the High Court of Karnataka at Bengaluru shall stand restored to their original numbers. We request the High Court to take up and decide the writ petitions post remand expeditiously.*
>
> 20. *The impugned orders are set aside, and the appeals are allowed in the above terms.*
>
> 21. *Pending application(s), if any, shall stand disposed of.*

11.2 In pursuance of the aforesaid judgment of the Apex Court, the present petition has been remitted back to this Court for reconsideration afresh in accordance with law. A perusal of the aforesaid judgment passed by the Apex Court will indicate that two primary grounds laying challenge to the registration of FIR viz., non-conducting of preliminary enquiry in accordance with Section 9 of the Karnataka Lokayuktha Act, 1984 and the direction given to the Dy.S.P. by the S.P. for investigating the

cases pursuant to registration of the FIRs was contrary to the mandate of Section 17 of the P.C.Act were taken note of by the Apex Court which placed reliance upon its earlier judgment in ***T.N.Sudhakar Reddy's case and Channakeshava's case supra,*** in order to come to the conclusion that it was not mandatory to conduct a preliminary enquiry before registration of the FIR and authorizing the Dy.S.P. to conduct investigation; in fact, at paragraph-14 of its judgment, the Apex Court took note of the concession made by the learned counsel for the accused that as held in ***Sudhakar Reddy's case and Channakeshava's case supra,*** conducting of preliminary enquiry was not mandatory and accordingly, Ground No.1 extracted in paragraph-6 of its judgment was answered in favour of the Lokayuktha; however, in the entire judgment, the Apex Court did not address or deal with or record any finding as regards the desirability or requirement of conducting preliminary enquiry and merely held that conducting of preliminary enquiry was not mandatory in every case and the question / issue as to whether a source information report is both detailed and well reasoned and such that any reasonable person would be of the view that it *prima facie* discloses the commission of a cognizable offence, preliminary enquiry may be avoided, would necessarily have to be decided on the basis of facts and circumstances which are case – specific and dependent on the factual matrix obtaining in a particular case; in other words, rather than laying down any proposition / rule of absolute / universal application that a preliminary enquiry was not required to be conducted in relation to the offences punishable under Section 13(1)(b) r/w 13(2) of the P.C.Act, the Apex Court categorically held that preliminary enquiry was not mandatory and the requirement / desirability of conducting such a preliminary enquiry would be completely and totally dependent on the facts of each case.

11.3 Further, the Apex Court has specifically directed that the matters be remitted back to this Court for fresh adjudication on merits and the consideration upon remand shall be restricted to grounds taken but not adjudicated upon by this Court while deciding the present petition in its order dated 01.03.2024; in this context, as stated supra, while allowing the present petition and quashing the impugned FIR and proceedings, this Court came to the conclusion that **conducting of preliminary enquiry was mandatory and non-conducting of the same would vitiate the impugned FIR**

and proceedings; however, this Court did not record any finding that conducting of preliminary enquiry was desirable / not desirable or warranted / not warranted or required / not required and the said issue was not considered by the Apex Court in its remand order and was accordingly, remitted back to this Court for reconsideration afresh on all grounds including the said issue / question as regards desirability / requirement of conducting a preliminary enquiry. It follows therefrom that in the absence of any finding recorded by the Apex Court while remitting the matter back to this Court to the effect that conducting of preliminary enquiry was not desirable / warranted / required, it cannot be said that the petitioner is precluded from raising the said question / issue in the present petition after remand and consequently, the said contention urged by the learned counsel for the respondents cannot be accepted; to put it differently, in the light of the unequivocal / unambiguous directions issued by the Apex Court permitting the petitioner to raise all grounds on merits without putting / imposing any restriction as to the question / issue regarding desirability / requirement of preliminary enquiry, I am of the considered opinion that the petitioner is not precluded from contending that conducting of preliminary enquiry was required / warranted / desirable in the facts and circumstances of the instant case.

11.4 Learned counsel for the respondents also alternatively contended that in the light of the judgments of the Apex Court in ***Vijayalakshmi's case supra, Sudhakar Reddy's case supra*** and ***Channakeshava's case supra,*** conducting of preliminary enquiry was neither desirable nor warranted or required to be done by the respondent – Lokayuktha; in order to appreciate this contention, it would be necessary to refer to the aforesaid judgments of the Apex Court; in ***Vijayalakshmi's case supra*****,** the Apex Court held as under:-

> ***"14.*** *The rival submissions now fall for our consideration. Based on the submissions, this Court is called upon to decide two questions:*

14.1. *(i) Whether CBI is mandatorily required to conduct a preliminary enquiry before the registration of an FIR in every case involving claims of alleged corruption against public servants; and*

14.2. *(ii) Independent of the first question, whether the judgment of the High Court to quash the FIR can be sustained in the present case.*

D. Whether a preliminary inquiry is mandatory before registering an FIR
D.1. Precedents of this Court

15. *Before proceeding with our analysis of the issue, it is important to understand what previous judgments of this Court have stated on the issue of whether CBI is required to conduct a preliminary enquiry before the registration of an FIR, especially in cases of alleged corruption against public servants.*

16. *The first of these is a judgment of a two-Judge Bench in P. Sirajuddin [P. Sirajuddin v. State of Madras, (1970) 1 SCC 595 : 1970 SCC (Cri) 240] , in which it was observed that before a public servant is charged with acts of dishonesty amounting to serious misdemeanour, some suitable preliminary enquiry must be conducted in order to obviate incalculable harm to the reputation of that person. G.K. Mitter, J. held that : (SCC p. 601, para 17)*

> *"17. … Before a public servant, whatever be his status, is publicly charged with acts of dishonesty which amount to serious misdemeanour or misconduct of the type alleged in this case and a first information is lodged against him, there must be some suitable preliminary enquiry into the allegations by a responsible officer. The lodging of such a report against a person, specially one who like the appellant occupied the top position in a department, even if baseless, would do incalculable harm not only to the officer in particular but to the department he belonged to, in general."*
>
> *(emphasis supplied)*

17. *The above decision was followed by another two-Judge Bench in Nirmal Singh Kahlon [Nirmal Singh Kahlon v. State of Punjab, (2009) 1 SCC 441 : (2009) 1 SCC (Cri) 523] , wherein it was observed that in accordance with the CBI Manual, CBI may only be held to have established a prima facie case upon the completion of a preliminary enquiry. S.B. Sinha, J. held thus : (SCC p. 456, para 30)*

> *"30. Lodging of a first information report by CBI is governed by a manual. It may hold a preliminary inquiry; it has been given the said power in Chapter VI of the CBI Manual. A prima facie case may be held to have been established only on completion of a preliminary enquiry."*

18. *The most authoritative pronouncement of law emerges from the decision of a Constitution Bench in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] . The issue before the Court was whether*

> *"a police officer is bound to register a first information report ("FIR") upon receiving any information relating to commission of a cognizable offence under Section 154 of the Code of Criminal Procedure, 1973 … or the police officer has the power to conduct a "preliminary inquiry" in order to test the veracity of such information before registering the same" (SCC p. 17, para 1).*

Answering this question on behalf of the Bench, P. Sathasivam, C.J. held that under Section 154 of the Code of Criminal Procedure, 1973 ("CrPC"), a police officer need not conduct a preliminary enquiry and must register an FIR when the information received discloses the commission of a cognizable offence.

19. *Specifically with reference to the provisions of the CBI Manual, the decision noted : (Lalita Kumari case [Lalita Kumari v. State of U.P., (2014) 2 SCC 1, paras 31-35, 37-39, 83-86, 89-92, 93-96, 101-105, 106-107, 111-112, 114-119 and 120 : (2014) 1 SCC (Cri) 524] , SCC pp. 50-51, para 89)*

"89. Besides, the learned Senior Counsel relied on the special procedures prescribed under the CBI Manual to be read into Section 154. It is true that the concept of "preliminary inquiry" is contained in Chapter IX of the Crime Manual of CBI. However, this Crime Manual is not a statute and has not been enacted by the legislature. It is a set of administrative orders issued for internal guidance of CBI officers. It cannot supersede the Code. Moreover, in the absence of any indication to the contrary in the Code itself, the provisions of the CBI Crime Manual cannot be relied upon to import the concept of holding of preliminary inquiry in the scheme of the Code of Criminal Procedure. At this juncture, it is also pertinent to submit that CBI is constituted under a special Act, namely, the Delhi Special Police Establishment Act, 1946 and it derives its power to investigate from this Act."

(emphasis supplied)

20. *However, the Court was also cognizant of the possible misuse of the powers under criminal law resulting in the registration of frivolous FIRs. Hence, it formulated "exceptions" to the general rule that an FIR must be registered immediately upon the receipt of information disclosing the commission of a cognizable offence. The Constitution Bench held : (Lalita Kumari case [Lalita Kumari v. State of U.P., (2014) 2 SCC 1, paras 31-35, 37-39, 83-86, 89-92, 93-96, 101-105, 106-107, 111-112, 114-119 and 120 : (2014) 1 SCC (Cri) 524] , SCC pp. 59-60, paras 115, 117 & 119)*

"115. Although, we, in unequivocal terms, hold that Section 154 of the Code postulates the mandatory registration of FIRs on receipt of all cognizable offences, yet, there may be instances where preliminary inquiry may be required owing to the change in genesis and novelty of crimes with the passage of time. …

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117. In the context of offences relating to corruption, this Court inP. Sirajuddin [P. Sirajuddin v. State of Madras, (1970) 1 SCC 595 : 1970 SCC (Cri) 240] expressed the need for a preliminary inquiry before proceeding against public servants.

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119. Therefore, in view of various counterclaims regarding registration or non-registration, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. However, if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose

of ascertaining as to whether a cognizable offence has been committed. But, if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith. Other considerations are not relevant at the stage of registration of FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible, etc. These are the issues that have to be verified during the investigation of the FIR. At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence. If, after investigation, the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR."

(emphasis supplied)

21. *The judgment provides the following conclusions : (Lalita Kumari case [Lalita Kumari v. State of U.P., (2014) 2 SCC 1, paras 31-35, 37-39, 83-86, 89-92, 93-96, 101-105, 106-107, 111-112, 114-119 and 120 : (2014) 1 SCC (Cri) 524] , SCC p. 61, para 120)*

"120. In view of the aforesaid discussion, we hold:

120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

***

120.5. The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

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:

***

(d) Corruption cases

***

> *The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry."*
>
> *(emphasis supplied)*

22. *The Constitution Bench in Lalita Kumari case [Lalita Kumari v. State of U.P., (2014) 2 SCC 1, paras 31-35, 37-39, 83-86, 89-92, 93-96, 101-105, 106-107, 111-112, 114-119 and 120 : (2014) 1 SCC (Cri) 524] thus held that a preliminary enquiry is not mandatory when the information received discloses the commission of a cognizable offence. Even when it is conducted, the scope of a preliminary enquiry is not to ascertain the veracity of the information, but only whether it reveals the commission of a cognizable offence. The need for a preliminary enquiry will depend on the facts and circumstances of each case. As an illustration, "corruption cases" fall in that category of cases where a preliminary enquiry "may be made". The use of the expression "may be made" goes to emphasise that holding a preliminary enquiry is not mandatory. Dwelling on the CBI Manual, the Constitution Bench held that : (i) it is not a statute enacted by the legislature; and (ii) it is a compendium of administrative orders for the internal guidance of CBI.*

23. *The judgment in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] was analysed by a three-Judge Bench of this Court in Yashwant Sinha [Yashwant Sinha v. CBI, (2020) 2 SCC 338] where the Court refused to grant the relief of registration of an FIR based on information submitted by the appellant-informant. In his concurring opinion, K.M. Joseph, J. described that a barrier to granting the relief of registration of an FIR against a public figure would be the observations of this Court in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] noting that a preliminary enquiry may be desirable before doing so. Joseph, J. observed : (Yashwant Sinha case [Yashwant Sinha v. CBI, (2020) 2 SCC 338, paras 114-115 and 117] , SCC pp. 385 & 387-89, paras 108, 110, 112 & 114)*

> *"108. Para 120.6 [of Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524]] deals with the type of cases in which preliminary inquiry may be made. Corruption cases are one of the categories of cases where a preliminary inquiry may be conducted. …*
>
> ***
>
> *110. In para 117 of Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] , this Court referred to the decision in P. Sirajuddin v. State of Madras [P. Sirajuddin v. State of Madras, (1970) 1 SCC 595*

: 1970 SCC (Cri) 240] and took the view that in the context of offences related to corruption in the said decision, the Court has expressed a need for a preliminary inquiry before proceeding against public servants.

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112. In Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] , one of the contentions which was pressed before the Court was that in certain situations, preliminary inquiry is necessary. In this regard, attention of the Court was drawn to CBI Crime Manual. …

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114. The Constitution Bench inLalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] , had before it, the CBI Crime Manual. It also considered the decision of this Court inP. Sirajuddin [P. Sirajuddin v. State of Madras, (1970) 1 SCC 595 : 1970 SCC (Cri) 240] which declared the necessity for preliminary inquiry in offences relating to corruption. Therefore, the petitioners may not be justified in approaching this Court seeking the relief of registration of an FIR and investigation on the same as such. This is for the reason that one of the exceptions where immediate registration of FIR may not be resorted to, would be a case pointing fingers at a public figure and raising the allegation of corruption. This Court also has permitted preliminary inquiry when there is delay, laches in initiating criminal prosecution, for example, over three months. A preliminary inquiry, it is to be noticed in para 120.7 of Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] , is to be completed within seven days."

(emphasis supplied)

24. *The decision of a two-Judge Bench in Managipet [State of Telangana v. Managipet, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] thereafter has noted that while the decision in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] held that a preliminary enquiry was desirable in cases of alleged corruption, that does not vest a right in the accused to demand a preliminary enquiry. Whether a preliminary enquiry is required or not will depend on the facts and circumstances of each case, and it cannot be said to be mandatory requirement without which a case cannot be registered against the accused in corruption cases. Hemant Gupta, J. held thus : (Managipet case [State of Telangana v. Managipet, (2019) 19 SCC 87, paras 33-34 : (2020) 3 SCC (Cri) 702] , SCC pp. 103-105, paras 28-30 & 32-34)*

"28. In Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] the Court has laid down the cases in which a preliminary inquiry is warranted, more so, to avoid an abuse of the process of law rather than vesting any right in favour of an accused. Herein, the argument made was that if a police officer is doubtful about the veracity of an accusation, he has to conduct a preliminary inquiry and that in certain appropriate cases, it would be proper for such officer, on the receipt of a complaint of a cognizable offence, to satisfy himself that prima facie, the allegations levelled against the accused in the complaint are credible. …

29. The Court concluded that the registration of an FIR is mandatory under Section 154 of the Code if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation. …

30. It must be pointed out that this Court has not held that a preliminary inquiry is a must in all cases. A preliminary enquiry may be conducted pertaining to matrimonial disputes/family disputes, commercial offences, medical negligence cases, corruption cases, etc. The judgment of this Court in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] does not state that proceedings cannot be initiated against an accused without conducting a preliminary inquiry.

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32. … The scope and ambit of a preliminary inquiry being necessary before lodging an FIR would depend upon the facts of each case. There is no set format or manner in which a preliminary inquiry is to be conducted. The objective of the same is only to ensure that a criminal investigation process is not initiated on a frivolous and untenable complaint. That is the test laid down inLalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524].

33. In the present case, the FIR itself shows that the information collected is in respect of disproportionate assets of the accused officer. The purpose of a preliminary inquiry is to screen wholly frivolous and motivated complaints, in furtherance of acting fairly and objectively. Herein, relevant information was available with the informant in respect of prima facie allegations disclosing a cognizable offence. Therefore, once the officer recording the FIR is satisfied with such disclosure, he can proceed against the accused even without conducting any inquiry or by any other manner on the basis of the credible information received by him. It cannot be said that the FIR

is liable to be quashed for the reason that the preliminary inquiry was not conducted. The same can only be done if upon a reading of the entirety of an FIR, no offence is disclosed. Reference in this regard, is made to a judgment of this Court in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] wherein, this Court held inter alia that where the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused and also where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

34. Therefore, we hold that the preliminary inquiry warranted in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] is not required to be mandatorily conducted in all corruption cases. It has been reiterated by this Court in multiple instances that the type of preliminary inquiry to be conducted will depend on the facts and circumstances of each case. There are no fixed parameters on which such inquiry can be said to be conducted. Therefore, any formal and informal collection of information disclosing a cognizable offence to the satisfaction of the person recording the FIR is sufficient."

(emphasis supplied)

25. *In Charansingh [Charansingh v. State of Maharashtra, (2021) 5 SCC 469 : (2021) 2 SCC (Cri) 617 : (2021) 2 SCC (L&S) 52] , the two-Judge Bench was confronted with a challenge to a decision to hold a preliminary enquiry. The Court adverted to the ACB Manual in Maharashtra and held that a statement provided by an individual in an "open inquiry" in the nature of a preliminary enquiry would not be confessional in nature and hence, the individual cannot refuse to appear in such an inquiry on that basis. M.R. Shah, J. writing for the two-Judge Bench consisting also of one of us (D.Y. Chandrachud, J.) held : (SCC pp. 479-82, paras 11, 14 & 15)*

"11. However, whether in a case of a complaint against a public servant regarding accumulating the assets disproportionate to his known sources of income, which can be said to be an offence under Section 13(1)(e) of the Prevention of Corruption Act, 1988, an enquiry at pre-FIR stage is permissible or not and/or it is desirable or not, if any decision is required, the same is governed by the

decision of this Court in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524].

11.1. While considering the larger question, whether police is duty-bound to register an FIR and/or it is mandatory for registration of FIR on receipt of information disclosing a cognizable offence and whether it is mandatory or the police officer has option, discretion or latitude of conducting preliminary enquiry before registering FIR, this Court in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] has observed that it is mandatory to register an FIR on receipt of information disclosing a cognizable offence and it is the general rule. However, while holding so, this Court has also considered the situations/cases in which preliminary enquiry is permissible/desirable. While holding that the registration of FIR is mandatory under Section 154, if the information discloses commission of a cognizable offence and no preliminary enquiry is permissible in such a situation and the same is the general rule and must be strictly complied with, this Court has carved out certain situations/cases in which the preliminary enquiry is held to be permissible/desirable before registering/lodging of an FIR. It is further observed that if the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary enquiry may be conducted to ascertain whether cognizable offence is disclosed or not. It is observed that as to what type and in which cases the preliminary enquiry is to be conducted will depend upon the facts and circumstances of each case.

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14. In the context of offences relating to corruption, in para 117 in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] , this Court also took note of the decision of this Court in P. Sirajuddin v. State of Madras [P. Sirajuddin v. State of Madras, (1970) 1 SCC 595 : 1970 SCC (Cri) 240] in which case this Court expressed the need for a preliminary enquiry before proceeding against public servants.

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15.1. Thus, an enquiry at pre-FIR stage is held to be permissible and not only permissible but desirable, more particularly in cases where the allegations are of misconduct of corrupt practice acquiring the assets/properties disproportionate to his known sources of income. After the enquiry/enquiry at pre-registration of FIR stage/preliminary enquiry, if, on the basis of the material collected during such enquiry, it is found that the complaint is vexatious and/or there is no substance at all in the complaint, the FIR shall not be lodged. However, if the material discloses prima facie a commission of the

offence alleged, the FIR will be lodged and the criminal proceedings will be put in motion and the further investigation will be carried out in terms of the Code of Criminal Procedure. Therefore, such a preliminary enquiry would be permissible only to ascertain whether cognizable offence is disclosed or not and only thereafter FIR would be registered. Therefore, such a preliminary enquiry would be in the interest of the alleged accused also against whom the complaint is made.

15.2. Even as held by this Court in CBI v. Tapan Kumar Singh [CBI v. Tapan Kumar Singh, (2003) 6 SCC 175 : 2003 SCC (Cri) 1305] , a GD entry recording the information by the informant disclosing the commission of a cognizable offence can be treated as FIR in a given case and the police has the power and jurisdiction to investigate the same. However, in an appropriate case, such as allegations of misconduct of corrupt practice by a public servant, before lodging the first information report and further conducting the investigation, if the preliminary enquiry is conducted to ascertain whether a cognizable offence is disclosed or not, no fault can be found. Even at the stage of registering the FIR, what is required to be considered is whether the information given discloses the commission of a cognizable offence and the information so lodged must provide a basis for the police officer to suspect the commission of a cognizable offence. At this stage, it is enough if the police officer on the basis of the information given suspects the commission of a cognizable offence, and not that he must be convinced or satisfied that a cognizable offence has been committed. Despite the proposition of law laid down by this Court in a catena of decisions that at the stage of lodging the first information report, the police officer need not be satisfied or convinced that a cognizable offence has been committed, considering the observations made by this Court in P. Sirajuddin [P. Sirajuddin v. State of Madras, (1970) 1 SCC 595 : 1970 SCC (Cri) 240] and considering the observations by this Court inLalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] before lodging the FIR, an enquiry is held and/or conducted after following the procedure as per Maharashtra State Anti-Corruption & Prohibition Intelligence Bureau Manual, it cannot be said that the same is illegal and/or the police officer, Anti-Corruption Bureau has no jurisdiction and/or authority and/or power at all to conduct such an enquiry at pre-registration of FIR stage."

(emphasis supplied)

26. *Hence, all these decisions do not mandate that a preliminary enquiry must be conducted before the registration of*

an FIR in corruption cases. An FIR will not stand vitiated because a preliminary enquiry has not been conducted. The decision in Managipet [State of Telangana v. Managipet, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] dealt specifically with a case of disproportionate assets. In that context, the judgment holds that where relevant information regarding prima facie allegations disclosing a cognizable offence is available, the officer recording the FIR can proceed against the accused on the basis of the information without conducting a preliminary enquiry.

27. *This conclusion is also supported by the judgment of another Constitution Bench in K. Veeraswami [K. Veeraswami v. Union of India, (1991) 3 SCC 655 : 1991 SCC (Cri) 734] . The judgment was in context of Section 5(1)(e) of the old Prevention of Corruption Act, 1947, which is similar to Section 13(1)(e) of the PC Act. It was argued that : (i) a public servant must be afforded an opportunity to explain the alleged disproportionate assets before an investigating officer; (ii) this must then be included and explained by the investigating officer while filing the charge-sheet; and (iii) the failure to do so would render the charge-sheet invalid. Rejecting this submission, the Constitution Bench held that doing so would elevate the investigating officer to the role of an enquiry officer or a Judge and that their role was limited only to collect material in order to ascertain whether the alleged offence has been committed by the public servant.*

28. *In his opinion for himself and Venkatachaliah, J., K. Jagannatha Shetty, J. held thus : (K. Veeraswami [K. Veeraswami v. Union of India, (1991) 3 SCC 655, para 75 : 1991 SCC (Cri) 734] , SCC p. 715, para 75)*

> *"75. … since the legality of the charge-sheet has been impeached, we will deal with that contention also. The counsel laid great emphasis on the expression "for which he cannot satisfactorily account" used in clause (e) of Section 5(1) of the Act. He argued that that term means that the public servant is entitled to an opportunity before the investigating officer to explain the alleged disproportionality between assets and the known sources of income. The investigating officer is required to consider his explanation and the charge-sheet filed by him must contain such averment. The failure to mention that requirement would vitiate the charge-sheet and renders it invalid. This submission, if we may say so, completely overlooks the powers of the investigating officer. The investigating officer is only required to collect material to find out whether the offence alleged appears to have been committed. In the course of the investigation, he may*

> *examine the accused. He may seek his clarification and if necessary he may cross check with him about his known sources of income and assets possessed by him. Indeed, fair investigation requires as rightly stated by Mr A.D. Giri, learned Solicitor General, that the accused should not be kept in darkness. He should be taken into confidence if he is willing to cooperate. But to state that after collection of all material the investigating officer must give an opportunity to the accused and call upon him to account for the excess of the assets over the known sources of income and then decide whether the accounting is satisfactory or not, would be elevating the investigating officer to the position of an enquiry officer or a Judge. The investigating officer is not holding an enquiry against the conduct of the public servant or determining the disputed issues regarding the disproportionality between the assets and the income of the accused. He just collects material from all sides and prepares a report which he files in the court as charge-sheet."*
>
> *(emphasis supplied)*

29. *Therefore, since an accused public servant does not have a right to be afforded a chance to explain the alleged disproportionate assets to the investigating officer before the filing of a charge-sheet, a similar right cannot be granted to the accused before the filing of an FIR by making a preliminary enquiry mandatory.*

30. *Having revisited the precedents of this Court, it is now necessary to consider the provisions of the CBI Manual.*

D.2. CBI Manual

31. *In the judgment in Vineet Narain [Vineet Narain v. Union of India, (1998) 1 SCC 226 : 1998 SCC (Cri) 307] , as three-Judge Bench of this Court noted that the provisions of the CBI Manual must be followed by the officers of CBI strictly, and disciplinary action should be taken against those who deviate from them. J.S. Verma, C.J. noted : (SCC pp. 269-70, para 58)*

> *"58. As a result of the aforesaid discussion, we hereby direct as under:*
>
> *I. Central Bureau of Investigation ("CBI") and Central Vigilance Commission ("CVC")*
>
> ***
>
> *12. The CBI Manual based on statutory provisions of CrPC provides essential guidelines for CBI's functioning. It is imperative that CBI adheres scrupulously to the*

provisions in the Manual in relation to its investigative functions, like raids, seizure and arrests. Any deviation from the established procedure should be viewed seriously and severe disciplinary action taken against the officials concerned."

32. In the later judgment of a two-Judge Bench in Shashikant [Shashikant v. CBI, (2007) 1 SCC 630 : (2007) 1 SCC (Cri) 406] , it was held that CBI cannot be faulted for conducting a preliminary enquiry in accordance with the CBI Manual. S.B. Sinha, J. held : (SCC pp. 635-37 & 639, paras 9, 11, 19 & 25)

"9. … It is also not disputed that the CBI Manual was made by the Central Government providing for detailed procedure as regards the mode and manner in which complaints against public servants are to be dealt with.

***

11. The CBI Manual provides for a preliminary inquiry. By reason thereof a distinction has been made between a preliminary inquiry and a regular case. A preliminary inquiry in terms of Para 9.1 of the CBI Manual may be converted into a regular case as soon as sufficient material becomes available to show that prima facie there has been commission of a cognizable offence.

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19. When an anonymous complaint is received, no investigating officer would initiate investigative process immediately thereupon. It may for good reasons carry out a preliminary enquiry to find out the truth or otherwise of the allegations contained therein.

***

25. … The procedure laid down in the CBI Manual and in particular when it was required to inquire into the allegation of the corruption on the part of some public servants, recourse to the provisions of the Manual cannot be said to be unfair."

(emphasis supplied)

33. In Ashok Kumar Aggarwal [CBI v. Ashok Kumar Aggarwal, (2014) 14 SCC 295 : (2015) 1 SCC (Cri) 344 : (2015) 3 SCC (L&S) 475] , a two-Judge Bench observed that the provisions of the CBI Manual require strict compliance. B.S. Chauhan, J. held : (SCC p. 309, para 24)

"24. … the CBI Manual, being based on statutory provisions of CrPC, provides for guidelines which require strict compliance. More so, in view of the fact that the ratio of the judgment of this Court in M.M. Rajendran [State of T.N. v. M.M. Rajendran, (1998) 9 SCC 268 : 1998 SCC (Cri) 1000] has been incorporated in the CBI Manual, the

CBI Manual itself is the best authority to determine the issue at hand. The court has to read the relevant provisions of the CBI Manual alone and no judgment of this Court can be a better guiding factor under such a scenario."

34. *Hence, it is necessary to scrutinise the provisions of the CBI Manual. Chapter 8 of the CBI Manual is titled "Complaints and Source Information". Para 8.1 notes that CBI must register every complaint it receives, whatever be its source, before it starts verifying it. Para 8.6(ii) provides that verification can be undertaken for "[c]omplaints containing specific and definite allegations involving corruption or serious misconduct against public servants, etc. falling within the ambit of CBI, which can be verified". Paras 8.8-8.9 describe the process of verification where the officers are to examine records informally and discreetly without making written requisitions, and that this process ordinarily should not take more than three months but can take up to four months for complicated cases. Para 8.24 indicates that the officer entrusted with verification must submit a detailed report at the end of the process with specific recommendations, including whether a preliminary enquiry is required or if a regular case should be registered directly.*

35. *The FIR in the present case has been registered on the basis of "Source Information". Both during the course of the hearing and in the affidavit filed by CBI, it has been explained that CBI found information and documents while investigating another case. Para 8.26 of the CBI Manual notes that every officer of CBI can develop source information "regarding graft, misuse of official position, possession of disproportionate assets, fraud, embezzlement, serious economic offences, illegal trading in narcotics and psychotropic substances, counterfeiting of currency, smuggling of antiques, acts endangering wildlife and environment, cybercrimes, serious frauds of banking/financial institutions, smuggling of arms and ammunition, forgery of passports, etc. and other matters falling within the purview of CBI and verify the same to ascertain whether any prima facie material is available to undertake an open probe". However, while doing so, they are to keep their superior officer "well informed".*

36. Further, Para 8.27 describes the process once such "source information" is developed and submitted to the superior officer. It reads as follows:

"8.27. *The source information once developed must be submitted in writing giving all available details*

with specific acts of omissions and commissions and copies of documents collected discreetly. The internal vigilance enquiries or departmental enquiry reports should normally not be used as basis for submitting the source information. The SP concerned after satisfying himself that there is prima facie material meriting action by CBI and further verification is likely to result in registration of a regular case, would order verification if it falls within his competence. In the cases which are within the competence of higher officers, he will forward his detailed comments to the DIG and obtain orders from superior officer competent to order registration. The verification of SIRs must begin only after the competent authority has approved its registration. At this stage a regular SIR number will be assigned to the SIR which will also be entered in the source information sub-module of Crimes Module with all other details."

The superior officer thus has to verify whether the developed "source information" prima facie would result in the registration of a case by CBI; if yes, they then have to direct the verification of such information. Verification is governed by Para 8.29, which speaks of a process similar to Para 8.9. Para 8.32 provides that verification of "source information" shall be completed within three months and approval of the competent authority is required to carry out verification beyond that period. Similar to Para 8.24, under Para 8.33, the officer entrusted with verification has to submit a report with specific recommendations on whether a preliminary enquiry is required or if a regular case should be registered directly.

37. *If a preliminary enquiry is necessary, it is covered by Chapter 9 of the CBI Manual. Para 9.1 notes:*

*"**9.1.** When, a complaint is received or information is available which may, after verification as enjoined in this Manual, indicate serious misconduct on the part of a public servant but is not adequate to justify registration of a regular case under the provisions of Section 154CrPC, a preliminary enquiry may be registered after obtaining approval of the competent authority…When the verification of a complaint and source information reveals commission of a prima facie cognizable offence, a regular case is to be registered as is enjoined by law. A PE may be converted into RC as soon as sufficient material becomes available to show that prima facie there has been commission of a cognizable offence. When information available is adequate to indicate commission of cognizable offence or its discreet verification leads to similar conclusion, a regular case must be registered instead of a*

preliminary enquiry. It is, therefore, necessary that the SP must carefully analyse material available at the time of evaluating the verification report submitted by Verifying Officer so that registration of PE is not resorted to where a regular case can be registered…"

(emphasis supplied)

Hence, two distinct principles emerge from the above : (i) a preliminary enquiry is registered when information (received from a complaint or "source information") after verification indicates serious misconduct on part of a public servant but is not enough to justify the registration of a regular case; and (ii) when the information available or after its secret verification reveals the commission of a cognizable offence, a regular case has to be registered instead of a preliminary enquiry being resorted to necessarily.

38. *Paras 9.7-9.8 note that once it is decided that a preliminary enquiry is required, a "PE Registration Report" is required to be prepared. Para 9.10 specifies that in cases of corruption, the preliminary enquiry should be limited to a scrutiny of records and talking to the bare minimum persons. Para 9.11 notes that the records should be collected under a proper receipt memo (unlike the process of verification) and that the statements herein should be collected in the same manner as they would be at the investigation stage. However, it is clarified that notices under Sections 91 and 160CrPC shall not be resorted to during a preliminary enquiry. Paras 9.12-9.14 then discuss the procedure for converting a preliminary enquiry into a regular case, which has to happen the moment sufficient material is available which discloses the commission of a cognizable offence which could result in prosecution. Finally, Para 9.16 provides that a preliminary enquiry must be completed within three months.*

D.3. Analysis

39. *The precedents of this Court and the provisions of the CBI Manual make it abundantly clear that a preliminary enquiry is not mandatory in all cases which involve allegations of corruption. The decision of the Constitution Bench in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] holds that if the information received discloses the commission of a cognizable offence at the outset, no preliminary enquiry would be required. It also clarified that the scope of a preliminary enquiry is not to check the veracity of the information received, but only to scrutinise whether it discloses the commission of a cognizable offence. Similarly, Para 9.1 of the CBI Manual notes that a*

preliminary enquiry is required only if the information (whether verified or unverified) does not disclose the commission of a cognizable offence. Even when a preliminary enquiry is initiated, it has to stop as soon as the officer ascertains that enough material has been collected which discloses the commission of a cognizable offence. A similar conclusion has been reached by a two-Judge Bench in Managipet [State of Telangana v. Managipet, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] as well. Hence, the proposition that a preliminary enquiry is mandatory is plainly contrary to law, for it is not only contrary to the decision of the Constitution Bench in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] but would also tear apart the framework created by the CBI Manual.

40. *This view is also supported by the decision of a three-Judge Bench of this Court in Union of India v. State of Maharashtra [Union of India v. State of Maharashtra, (2020) 4 SCC 761 : (2020) 2 SCC (Cri) 686] , which reversed the decision of a two-Judge Bench in Subhash Kashinath Mahajan v. Stateof Maharashtra [Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454 : (2018) 3 SCC (Cri) 124] which had, inter alia, held that "a preliminary enquiry may be conducted by the DSP concerned to find out whether the allegations make out a case under the [Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("the Atrocities Act")] and that the allegations are not frivolous or motivated". However, in the three-Judge Bench decision, it was held that such a direction was impermissible since neither CrPC nor the Atrocities Act mandate a preliminary inquiry. Arun Mishra, J. held : (Union of India case [Union of India v. State of Maharashtra, (2020) 4 SCC 761 : (2020) 2 SCC (Cri) 686] , SCC p. 801, para 68)*

> *"68. The direction has also been issued that the DSP should conduct a preliminary inquiry to find out whether the allegations make out a case under the Atrocities Act, and that the allegations are not frivolous or motivated. In case a cognizable offence is made out, the FIR has to be outrightly registered, and no preliminary inquiry has to be made as held inLalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] by a Constitution Bench. There is no such provision in the Code of Criminal Procedure for preliminary inquiry or under the SC/ST Act, as such direction is impermissible. Moreover, it is ordered to be conducted by the person of the rank of DSP. The number of DSP as per stand of the Union of India required for such an exercise of preliminary inquiry is not available. The direction would mean that even if a complaint made out a cognizable*

offence, an FIR would not be registered until the preliminary inquiry is held. In case a preliminary inquiry concludes that allegations are false or motivated, FIR is not to be registered, in such a case how a final report has to be filed in the Court. Direction 79.4 cannot survive for the other reasons as it puts the members of the Scheduled Castes and Scheduled Tribes in a disadvantageous position in the matter of procedure vis-à-vis to the complaints lodged by members of upper caste, for latter no such preliminary investigation is necessary. In that view of the matter it should not be necessary to hold preliminary inquiry for registering an offence under the Atrocities Act, 1989."

(emphasis supplied)

41. *In a recent decision of a two-Judge Bench in Vinod Dua v. Union of India [Vinod Dua v. Union of India, (2023) 14 SCC 286 : 2021 SCC OnLine SC 414] , a direction of the Court was sought for requiring "that henceforth FIRs against persons belonging to the media with at least 10 years standing be not registered unless cleared by a committee…". In refusing such a prayer, the Court observed that doing so would be akin to instituting a preliminary inquiry which was not mandated by the statutory framework. U.U. Lalit, J. speaking for the Bench held : (Vinod Dua case [Vinod Dua v. Union of India, (2023) 14 SCC 286 : 2021 SCC OnLine SC 414] , SCC para 86)*

"86. … the directions issued in Subhash Kashinath Mahajan [Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454 : (2018) 3 SCC (Cri) 124] regarding holding of a preliminary inquiry were not found consistent with the statutory framework. The second prayer made in the writ petition is asking for the constitution of the Committee completely outside the scope of the statutory framework. Similar such exercise of directing constitution of a Committee was found inconsistent with the statutory framework in the decisions discussed above. … Any relief granted in terms of second prayer would certainly, in our view, amount to encroachment upon the field reserved for the legislature. We have, therefore, no hesitation in rejecting the prayer and dismissing the writ petition to that extent."

42. *In view of the above discussion, we hold that since the institution of a preliminary enquiry in cases of corruption is not made mandatory before the registration of an FIR under CrPC, the PC Act or even the CBI Manual, for this Court to issue a direction to that effect will be tantamount to stepping into the legislative domain. Hence, we hold that in case the information received by CBI, through a complaint or a "source information" under Chapter 8, discloses the commission of a cognizable*

offence, it can directly register a regular case instead of conducting a preliminary enquiry, where the officer is satisfied that the information discloses the commission of a cognizable offence.

43. *The above formulation does not take away from the value of conducting a preliminary enquiry in an appropriate case. This has been acknowledged by the decisions of this Court in P. Sirajuddin [P. Sirajuddin v. State of Madras, (1970) 1 SCC 595 : 1970 SCC (Cri) 240] , Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] and Charansingh [Charansingh v. State of Maharashtra, (2021) 5 SCC 469 : (2021) 2 SCC (Cri) 617 : (2021) 2 SCC (L&S) 52] . Even in Vinod Dua [Vinod Dua v. Union of India, (2023) 14 SCC 286 : 2021 SCC OnLine SC 414] , this Court noted that "[a]s a matter of fact, the accepted norm — be it in the form of the CBI Manual or like instruments is to insist on a preliminary inquiry". The registration of a regular case can have disastrous consequences for the career of an officer, if the allegations ultimately turn out to be false. In a preliminary enquiry, CBI is allowed access to documentary records and speak to persons just as they would in an investigation, which entails that information gathered can be used at the investigation stage as well. Hence, conducting a preliminary enquiry would not take away from the ultimate goal of prosecuting accused persons in a timely manner. However, we once again clarify that if CBI chooses not to hold a preliminary enquiry, the accused cannot demand it as a matter of right. As clarified by this Court in Managipet [State of Telangana v. Managipet, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] , the purpose of Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] noting that a preliminary enquiry is valuable in corruption cases was not to vest a right in the accused but to ensure that there is no abuse of the process of law in order to target public servants.*

11.5 In ***Sudhakar Reddy's case supra,*** the Apex Court held as under:-

13. The core questions which arise for our consideration in the present case are as follows:—

A. Whether a preliminary inquiry was mandatory before directing registration of an FIR under the PC Act in the facts of the case at hand or whether the source information report could be treated to be a substitute for the preliminary inquiry?

B. Whether the Order dated 4th November, 2023, passed by the Superintendent of Police under Section 17 of the PC Act, is sustainable in the eyes of law?

Issue A : Whether a preliminary inquiry was mandatory before directing registration of an FIR under the PC Act in the facts of the case at hand or whether the source information report could be treated to be a substitute for the preliminary inquiry?

14. It is the case of the appellant-State that preliminary inquiry is not mandatory before registration of an FIR. Without prejudice to the above, it is contended that the source information report submitted by the Police Inspector, Karnataka Lokayukta Police Station to the Superintendent of Police, detailing acquisition of assets by the respondent disproportionate to his known sources of income, itself serves as a preliminary inquiry report as it was elaborate enough to disclose a prima facie case for the offences punishable under Section 13(1)(b) and Section 12 read with Section 13(2) of the PC Act.

15. On the other hand, learned counsel for the respondent would urge that the Superintendent of Police acted in gross violation of law while issuing an order to the Deputy Superintendent of Police to register an FIR as preliminary inquiry in 'corruption cases' is a condition precedent for registration of the FIR. Further, preliminary inquiry can only be conducted by a police officer, who is competent to investigate the offence, and thus, a source information report, however detailed, cannot be taken to be a substitute for a preliminary inquiry.

16. In addressing this issue, we must first consider the legal framework established by this Court in a catena of decisions, particularly in P. Sirajuddin (supra), Lalita Kumari (supra), Thommandru Hannah Vijayalakshmi (supra), and Managipet (supra). This Court in P. Sirajuddin (supra) has held that before any public servant is charged with any acts of dishonesty, a preliminary inquiry 'must' be conducted in order to obviate incalculable harm to the reputation of that person. The relevant para from P. Sirajuddin is extracted herein below:—

> *"17. Before a public servant, whatever be his status, is publicly charged with acts of dishonesty which amount to serious misdemeanour or misconduct of the type alleged in this case and a first information is lodged against him, there 'must' be*

> *some suitable preliminary inquiry into the allegations by a responsible officer. The lodging of such a report against a person, specially one who like the appellant occupied the top position in a department, even if baseless, would do incalculable harm not only to the officer in particular but to the department he belonged to, in general…"*
>
> *(emphasis supplied)*

17. However, the authoritative pronouncement of law in respect of registration of the FIR emerges from the decision of the Constitution Bench in Lalita Kumari (supra) wherein, the issue before the Court was whether a police officer is obligated to register an FIR upon receiving information regarding the commission of a cognizable offence under Section 154 of the CrPC (corresponding Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023) or whether it is essential to conduct a preliminary inquiry to verify the information before registration of the FIR. This Court held that under Section 154 of the CrPC, a police officer is required to register an FIR when the information received by him discloses the commission of a cognizable offence, without undertaking a preliminary inquiry. However, the Court was also cognizant of the possible misuse of the criminal law resulting in the registration of frivolous FIRs. To address this concern, it outlined specific 'exceptions' to the general rule, which mandates the immediate registration of FIR upon receiving information about a cognizable offence. The Constitution Bench in Lalita Kumari (supra) held:

> *"119. Therefore, in view of various counterclaims regarding registration or non-registration, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. However, if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed. But, if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith. Other considerations are not relevant at the stage of registration of FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible, etc. These are the issues that have to be*

verified during the investigation of the FIR. At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence. If, after investigation, the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR."

(emphasis supplied)

18. The following guidelines were laid down by the Constitution Bench governing the issues:—

"120. In view of the aforesaid discussion, we hold:

120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

120.4. The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

120.5. The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

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."

(emphasis supplied)

19. It was held that a preliminary inquiry is not mandatory if the information received by the police officer/Investigating Agency discloses the commission of a cognizable offence. However, if the preliminary inquiry is conducted, its scope is limited to determine whether the information prima facie reveals commission of a cognizable offence and does not extend to verifying its truthfulness. The necessity of a preliminary inquiry depends on the specific facts and circumstances of each case. For instance, corruption cases fall into a category where a preliminary inquiry 'may be made'.

20. The use of the term 'may be made' as noted in Lalita Kumari (supra) underscores that conducting such an inquiry is discretionary in nature and not a mandatory obligation.

21. Following the rationale of Lalita Kumari (supra), this Court in Managipet (supra) held that while the decision in Lalita Kumari (supra) noted that a preliminary inquiry was desirable in cases of alleged corruption, this does not vest a right in the accused to demand a preliminary inquiry. Whether the preliminary inquiry is required to be conducted or not will depend on the peculiar facts and circumstances of each case, and it cannot be said to be a mandatory requirement, in the absence of which, an FIR cannot be registered against the accused in corruption-related matters.

22. The relevant paragraphs from Managipet (supra) are extracted herein below:—

"33. In the present case, the FIR itself shows that the information collected is in respect of disproportionate assets of the accused officer. The purpose of a preliminary inquiry is to screen wholly frivolous and motivated complaints, in furtherance of acting fairly and objectively. Herein, relevant information was available with the informant in respect of prima facie allegations disclosing a cognizable offence. Therefore, once the officer recording the FIR is satisfied with such disclosure, he can proceed against the accused even without conducting any inquiry or by any other manner on the basis of the credible information received by him. It cannot be said that the FIR is liable to be quashed for the reason that the preliminary inquiry was not conducted. The same can only be done if upon a reading of the entirety of an FIR, no offence is disclosed. Reference in this regard, is made to a judgment of this Court in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] wherein, this Court held inter alia that where the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused and also where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

34. Therefore, we hold that the preliminary inquiry warranted in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] is not required to be mandatorily conducted in all corruption cases. It has been reiterated by this Court in multiple instances that the type of preliminary inquiry to be conducted will depend on the facts and circumstances of each case. There are no fixed parameters on which such inquiry can be said to be conducted. Therefore, any formal and informal collection of information disclosing a cognizable offence to the satisfaction of the person recording the FIR is sufficient."

(emphasis supplied)

23. A three-judge bench of this Court in Thommandru Hannah Vijayalakshmi (supra) extensively discussed the judicial precedents and legal principles governing the requirement of conducting a preliminary inquiry before registration of an FIR. The Court affirmed the view taken by the two-judge Bench in Managipet (supra), holding that a preliminary inquiry may not be necessary if the officer recording the FIR possesses relevant information which discloses the commission of a cognizable offence. The relevant extracts from Thommandru Hannah Vijayalakshmi (supra) are reproduced herein below:—

> *"32. [..]… we hold that since the institution of a Preliminary inquiry in cases of corruption is not made mandatory before the registration of an FIR under the CrPC, PC Act or even the CBI Manual, for this Court to issue a direction to that affect will be tantamount to stepping into the legislative domain.*
>
> *39. The precedents of this Court and the provisions of the CBI Manual make it abundantly clear that a preliminary inquiry is not mandatory in all cases which involve allegations of corruption. The decision of the Constitution Bench in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] holds that if the information received discloses the commission of a cognizable offence at the outset, no preliminary inquiry would be required. It also clarified that the scope of a preliminary inquiry is not to check the veracity of the information received, but only to scrutinise whether it discloses the commission of a cognizable offence. Similarly, Para 9.1 of the CBI Manual notes that a preliminary inquiry is required only if the information (whether verified or unverified) does not disclose the commission of a cognizable offence. Even when a preliminary inquiry is initiated, it has to stop as soon as the officer ascertains that enough material has been collected which discloses the commission of a cognizable offence. A similar conclusion has been reached by a two-Judge Bench in Managipet [State of Telangana v. Managipet, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] as well. Hence, the proposition that a preliminary inquiry is mandatory is plainly contrary to law, for it is not only contrary to the decision of the Constitution Bench in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] but would also tear apart the framework created by the CBI Manual."*
>
> *(emphasis supplied)*

24. Applying these principles to the case at hand, it is perspicuous that conducting a preliminary inquiry is not sine qua non for registering a case against a public servant who is accused of corruption. While preliminary inquiry is desirable in certain categories of cases including those under the PC Act, it is neither a vested right of the accused, nor a mandatory pre-requisite for registration of a criminal case. The purpose of a preliminary inquiry is not to verify the veracity of the information received, but merely to ascertain whether the said information reveals the commission of a cognizable offence. The scope of such inquiry is naturally narrow and limited to prevent unnecessary harassment while simultaneously ensuring that genuine allegations of a cognizable offence are not stifled arbitrarily. Thus, the determination, whether a preliminary inquiry is necessary or not will vary according to the facts and circumstances of each case.

25. In the present case, the Police Inspector of the Karnataka Lokayukta submitted a comprehensive source information report dated 10th November, 2023 to the Superintendent of Police, which included meticulous documentation and evaluation of the assets acquired by the respondent, which were grossly disproportionate to his known sources of income. The respondent, during his tenure of service in various departmental units, had acquired assets worth Rs. 3,81,40,246/-, which were disproportionate and almost 90.72% more than his known sources of income. Thereupon, the Superintendent of Police took cognizance of the source information report and concluded that the allegations made against the respondent did constitute prima facie offences punishable under Section 13(1)(b) and Section 12 read with Section 13(2) of the PC Act.

26. It is clearly discernible that the source information report dated 10th November, 2023, was in the nature of a preliminary inquiry in itself and nothing else. The comprehensive nature of the said report took it beyond a simple complaint, as it provided a meticulous breakdown of the respondent's monetary acquisitions. Further, the report makes cross-referencing of official income records with actual property acquisitions, bank deposits, and other financial assets. In substance, the source information report prime facie reflects a systematic pattern of financial irregularities, wherein the discrepancy in acquisition of assets was found to be 90.72% more than the known sources of income of the respondent.

27. Thus, in our view the source information report dated 10th November, 2023, served as a critical piece of information which not only documented the financial discrepancies but also presented a clear, prima facie picture of disproportionate assets accumulated by the respondent but also demanded immediate and thorough investigative action. As we have noted above, the scope of preliminary inquiries is not to verify the absolute truthfulness of information, and it is only to ascertain whether a cognizable offence is disclosed or not therefrom. The source information report in the case at hand clearly satisfies this criterion by comprehensively documenting the financial irregularities committed by the respondent and disclosed a prima facie case of commission of a cognizable offence involving acquisition of disproportionate assets, punishable under the PC Act. Thus, we are of the opinion that the High Court erred in concluding that the FIR was liable to be quashed on account of omission to conduct a preliminary inquiry.

11.6 In ***Channakeshava's case supra,*** the Apex Court held as under:-

> ***11.*** *Mr. Devadatt Kamat, senior advocate appearing for the appellant would rely upon the judgment of this Court in State of Karnataka v. T.N Sudhakar Reddy, 2025 SCC OnLine SC 382 to contend that an enquiry before registration of FIR under PC Act is not mandatory. After considering the law as laid down in Lalita Kumari (Supra), this Court in T.N Sudhakar Reddy (Supra) observed as follows:*
>
> > ***"19.*** *… The necessity of a preliminary inquiry depends on the specific facts and circumstances of each case. For instance, corruption cases fall into a category where a preliminary inquiry 'may be made'.*
> >
> > ***20.*** *The use of the term 'may be made' as noted in Lalita Kumari (supra) underscores that conducting such an inquiry is discretionary in nature and not a mandatory obligation.*
> >
> > ***21.*** *Following the rationale of Lalita Kumari (supra), this Court in Managipet (supra) held that while the decision in Lalita Kumari (supra) noted that a preliminary inquiry was desirable in cases of alleged corruption, this does not vest a right in the accused to demand a preliminary inquiry. Whether the preliminary inquiry is required to be conducted or not will depend on the peculiar facts and circumstances of each case, and it cannot be said to be a mandatory requirement, in the absence of which, an FIR cannot be registered against the accused in corruption-related matters."*
> > *(Emphasis supplied)*
> > *Further, in the said case, this Court held that:*
> > *"51. In view of the above discussion, we conclude that:*
> > *a…..*
> > *b. The preliminary inquiry is not mandatory in every case under the PC Act. If a superior officer is in seisin of a source information report which is both detailed and well-reasoned and such that any reasonable person would be of the view that it prima facie discloses the commission of a cognizable offence, the preliminary inquiry may be avoided.*
>
> *(Emphasis Supplied)*

12. *To sum up, this Court has held that in matters of corruption a preliminary enquiry although desirable, but is not mandatory. In a case where a superior officer, based on a detailed source report disclosing the commission of a cognizable offence, passes an order for registration of FIR, the requirement of preliminary enquiry can be relaxed.*

13. *All the same, Mr. Ranjit Kumar, learned senior advocate for respondent no. 1, would argue that respondent no. 1 was never given a chance to explain his position before the registration of FIR. He would, further, argue that FIR has been used as an instrument to harass the public servant and this is a case where no prior notice or hearing was given to the officer (respondent no. 1), which could have taken place if a preliminary enquiry had been held.*

14. *Mr. Devadatt Kamat, senior counsel, has relied upon a recent Three-Judge Bench decision of this Court in CBI v. Thommandru Hannah Vijayalakshmi, (2021) 18 SCC 135 where it was specifically stated that an accused public servant does not have any right to explain the alleged disproportionate assets before filing of an FIR. We are also of the opinion that this is the correct legal position as there is no inherent right of a public servant to be heard at this stage.*

15. *In view of the above, it is clear that preliminary enquiry was not mandated in the present case, considering that detailed information was already there before the SP in the form of the source report referred above. We have also gone through the order passed by the SP, directing registration of FIR against respondent no. 1, which reflects that the SP had passed that order on the basis of material placed before him in the form of the source report.*

16. *Considering all the facts and circumstances of the case, we are of the considered opinion that the High Court ought not to have quashed the FIR in the present case. Accordingly, we allow this appeal and impugned order dated 25.04.2024 is hereby set aside.*

17. *Interim order(s), if any, stand(s) vacated.*

18. *Pending application(s), if any, stand(s) disposed of."*

11.7 As can be seen from the aforesaid judgments, the Apex Court has categorically reiterated that whilst conducting / holding of a preliminary enquiry cannot be said to be a mandatory requirement without which a case cannot be registered against the accused, whether a preliminary enquiry is required or not will depend on the facts and circumstances of each case; the Apex Court has not laid down any absolute principle of universal application to the effect that preliminary enquiry is not desirable / required in corruption cases and the aforesaid judgments of the Apex Court cannot be construed / treated / understood as having laid down any such absolute / universal proposition as sought to be contended by the learned counsel for the respondents and consequently, the said contention urged by the learned counsel for the respondents – Lokayuktha cannot be accepted.

11.8 In the instant case, petitioner has specifically contended that there was no foundational material available with the respondent to justify the direct registration of the impugned FIR without conducting preliminary enquiry, particularly in view of the instant case involving allegations of disproportionate assets and the contentions of the petitioner in this regard goes to the root of the matter and forms part of the merits to the challenge to the FIR; in this regard, it is pertinent to note that the Apex Court has categorically remitted the matter for *de novo* adjudication touching upon the merits in relation to grounds which were earlier not considered by this Court and in the absence of any finding recorded by this Court as regards desirability of a preliminary enquiry, the said question / issue as to whether a preliminary enquiry was required or desirable clearly remained open and live for adjudication upon remand forming part of the grounds on merits that were raised but not decided by this Court in its earlier order dated 01.03.2024.

11.9 Further, the factual issue as to whether the source information report in the present case was

sufficiently detailed, credible and capable of disclosing the commission of a cognizable offence remains a matter for judicial scrutiny and consequently, the petitioner is clearly not precluded and on the other hand, he is entitled to contend before this Court that the material relied upon by the respondents was inadequate and insufficient so as to justify registration of the impugned FIR without a preliminary enquiry and such an examination by this Court clearly falls squarely within the scope of adjudication permitted by the remand order. It is therefore clear that the issue / question relating to necessity and justification for dispensing with preliminary enquiry, particularly in the absence of credible foundational material remains open for consideration and adjudication by this Court in the present petition and as such, it cannot be said that the petitioner is precluded from contending that preliminary enquiry was desirable / required / warranted in the facts and circumstances of the instant case and the various contentions urged by the learned counsel for the respondents – Lokayuktha cannot be accepted.

11.10 Under these circumstances, I am of the considered opinion that the judgment of the Apex Court dated ***06.05.2025*** passed in case of ***Karnataka Lokayuktha Police vs. K.L.Gangadharaiah – Crl.A.No.2444/2025 (SLP(Crl.)No.12156/2023)*** along with connected matters including the present / instant ***Crl.A.No.2460/2025 (SLP(Crl.)No.14325/2024),*** would not come in the way or have the effect of precluding the petitioner from contending that conducting of preliminary enquiry prior to registration of the impugned FIR was desirable / warranted / required / necessary in the facts and circumstances obtaining in the instant case.

Point No.1 is accordingly answered in favour of the petitioner and against the respondents by holding that the petitioner is not precluded from contending that conducting of preliminary enquiry was required / desirable / warranted prior to the respondents registering the impugned FIR against the petitioner in the instant case.

Re-Point No.2:-

12. While dealing with Point No.1 *supra*, I have come to the conclusion that though it is not mandatory to conduct a preliminary enquiry, the question / issue as to whether preliminary enquiry is desirable / required / warranted depends on the facts and circumstances of a particular case; in this context, it is pertinent to reiterate that while the petitioner contends that the source report submitted by the 2nd respondent in the instant case is inadequate, incomplete, inaccurate and sketchy without containing sufficient details and material particulars thereby warranting / requiring conducting of preliminary enquiry, respondents contend that the source report is self-sufficient and would obviate / dispense with the necessity / requirement of conducting a preliminary enquiry, which was not required or warranted in the instant case.

12.1 Before adverting to the rival contentions, it would be necessary to refer to the Circular dated **11.05.2023** issued by the Karnataka Lokyuktha prescribing guidelines to be followed by Investigating Officers while investigating disproportionate assets (DA) cases – regarding as hereunder:-

"KARNATAKA LOKAYUKTA

LOK/DGP/CIRCULAR-01/2023

Office of the
Director General of Police
Karnataka Lokayukta,
M.S.Building, Bengaluru-560001.
Date: 11/05/2023.

CIRCULAR

Sub: Guidelines to be followed by the Investigating officers while Investigating Disproportionate Asset (DA) cases-reg.

****

With a view to standardise investigation of Disproportionate Asset (DA) cases the following directions are issued for immediate compliance by all the Investigation Officers (I.O) henceforth. These directions will also apply to DA cases under Investigation currently.

i. All DA cases shall be registered only after

a. Submission of detailed Source Information Report (SIR) by the generating officer to the Unit Superintendent of Police (SP), followed by

b. Thorough verification of the SIR by the Unit SP and submission of the same to DGP/ADGP KLA, and

c. Obtaining orders of the DGP/ADGP

ii. All SIRs submitted for orders of DGP/ADGP, shall contain A, B, C and D statements and calculation of DA as per Annexure-1 and comments of the Unit SP on being satisfied with the SIR.

iii. Upon receipt of orders from DGP/ADGP KI.A, the Unit SP shall get the FIR registered and issue orders under Sec. 17 PC Act 1988 assigning the Investigation Officer (10). The 1.0 shall not be the same as SIR generating officer.

iv. The FIR shall be submitted to the concerned court in scaled cover, with request to be opened on completion of the search proceedings.

v. Wherever required, searches shall be planned without any delay after thorough verification of addresses to be searched.

vi. In all Class-1 cases, the detailed proposal for searches shall be submitted to the Headquarters through the Unit Ssl (confidentially through E-mail, fax or any other means) and searches conducted after approval from DGP/ADGP, KLA. In all other cases the Unit SP shall be competent to approve the search proposal.*

vii. All searches shall be conducted only under warrants issued by the Court under sec 93 (1) (c) of Cr.P.C. Only in exceptional circumstances, searches may be conducted under sec 165 Cr.P.C, at new locations discovered during the course of searches.

viii. Extreme confidentiality shall be maintained during briefing and conduct of the search operations. The Unit officer shall make all logistic arrangements such as travel, halt, meals, equipment and stationery etc., seeking assistance of witnesses, well in advance. Search

parties should compulsorily comprise of at least some woman staff. The Unit Officer shall ensure searches are conducted as per law following the Standard Operating Procedure. Provisions of Sections 96, 165, 166. 101, 102 and 103 of Cr.P.C. must be fully complied with.

ix. On completion of searches, the IO shall consider freezing of accounts and assets that are suspect in nature, without affecting day to day livelihood of the accused and connected individuals.

x. In appropriate cases, I.O may initiate process for attachment of properties under the Criminal Law Amendment Ordinance, 1944 after getting authorization from the State Government.

xi. The I.O shall prepare a detailed Plan of Action and gut approved by the unit SP. I.O. shall take up investigation on a day to day basis without any delay and ensure completion within the time frame set in the plan.

xii. The process of obtaining Schedule 1-23 statements from the accused is discontinued and henceforth, I.Os to collect Statements I-VI as in Annexure -2. The request shall be made through the controlling officer of the AGO, fixing a time frame of two months for its submission, extendable up to three months with justifiable reasons failing which the investigation shall be concluded recording the fact that the accused failed to submit the statements.

xiii. With respect to day-to-day living expenditure of the AGO, the I.O to consider 33% of the Net Salary Income as per Hon'ble Supreme Court guidelines in State of Punjab Vs. Sajjan Singh - AIR 1964, SC 465

xiv. On completion of investigation, the I.O shall issue notice to the AGO to finally explain the DA made out in the investigation and record defence of the accused.

xv. The IO shall conduct investigation into the defence of the accused and record his/her reasoned rebuttal if any.

xvi. In appropriate cases the I.O to consider invoking sections of The Prohibition of Benami Property Transactions Act, 1988.

xvii. The final calculation of DA shall be made as per Annexure-3

xviii. During the course of Investigation, the IO shall submit detailed Progress reports to the Unit SP and DGP/ADGP as per SoP

xix. On conclusion of Investigation, the Final Report (FR) of the I.O along with SP Comments shall reach Office of DGP/ADGP without any further delay, for Final Orders.

xx. It shall be the responsibility of the Unit SP to ensure strict compliance of the I.O, to this circular and ensure timely completion of investigations in D.A cases.

**Class-I cases:*

a) All cases involving officers of and above the Rank of Class-1 Gazetted or Officers of equivalent Ranks.

b) All cases involving Elected representatives of MLA/MP or above Rank.

c) All cases referred by the Hon'ble High Court or the Hon'ble Supreme Court of India.

d) Cases of Criminal Misconduct involving a wrongful loss to the Government of and above 5 Crores.

Sd/-
Director General of Police
Karnataka Lokayukta
Bengaluru"

12.2 As can be seen from the aforesaid guidelines issued by the respondents themselves prescribing strict guidelines / directions to be followed for immediate compliance by all Investigating officers including cases under investigation with a view to standardize investigation of DA cases, it is incumbent upon the I.O. to submit a detailed source information report to the Unit Superintendent of Police; the said guidelines, directions also prescribe a thorough verification of the source information report by the Unit S.P. and submission of the same to DGP / ADGP, KLA and thereafter, to obtain orders of the DGP / ADGP; as per the aforesaid Circular, it

is only after submission of a detailed source information report by the I.O., verification of the same by the Unit S.P. and submission to the DGP / ADGP and passing of orders by him along with a satisfaction note of the Unit S.P. on being satisfied with the source information report that the I.O. shall register the FIR and issue orders under Section 17 of the P.C.Act.

12.3 The aforesaid guidelines issued by the respondents themselves clearly indicates that submission of a detailed source information report is necessary / essential / required before proceeding further in the matter and all necessary and material particulars are to be incorporated in the source report including conducting of preliminary enquiry, if required / desirable for the purpose of submission of a detailed source information report; in other words, having regard to the mandatory requirement of a submission of a detailed source information report by the I.O., in the event, the source report is found to be sketchy, incomplete, inaccurate and inadequate in a given case, preliminary enquiry would be desirable, warranted and required depending on the facts and circumstances of a particular case, as can be discerned from the Circular issued by the Lokayuktha itself.

12.4 There is no gainsaying the fact that in the case of *Lalitha Kumari vs. Government of U.P. – (2014) 12 SCC 1*, the Apex Court held that if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and perhaps, the police can conduct a sort of preliminary verification or enquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed by the accused. In the said judgment, the Apex Court illustrated the types of cases which may require conducting of preliminary enquiry and one such category as held by the Apex Court included cases relating to corruption, apart from offences under the Indian Penal Code(IPC). The principles laid down in *Lalitha Kumari's case supra*, have been statutorily recognised and incorporated in sub-section(3) of Section 173 of the BNSS, 2023 and explained by the Apex Court in the case of *Imran*

***Pratapgadi vs. State of Gujarat – 2026 (1) SCC 721*, and the subsequent judgment of the Apex Court in the case of *Ashish Dave vs. State of Rajasthan – 2026 INSC 244*,** wherein it was held as under:-

> *22. In the given facts, the least that was expected from the police officials was to either require the complainant-company to furnish supporting material and details to prima facie make out the allegations made in the FIR, or else to hold a preliminary inquiry before registering the formal FIR. This conclusion finds support from the following observations made by this Court in **Lalita Kumari v. Govt. of U.P. -** (2014) 2 SCC 1.: -*
>
> > ***"119.** Therefore, in view of various counterclaims regarding registration or non-registration, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. **However, if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed…."***
> >
> > *[Emphasis supplied]*
>
> *23. The new regime under the BNSS specifically deals with such situations and provides an additional safeguard where the complaint is for offences carrying punishment between three to seven years. Sub-section (3) of Section 173 BNSS empowers the officer in charge of a police station, with prior permission of a superior officer, to conduct a preliminary inquiry to ascertain whether there exists a prima facie case for proceeding in the matter where the alleged offence is punishable with imprisonment for a term between three and seven years. For ease of reference, Section 173 BNSS is reproduced hereinunder:*

"173. Information in cognizable cases.—(1) *Every information relating to the commission of a cognizable offence, irrespective of the area where the offence is committed, may be given orally or by electronic communication to an officer in charge of a police station, and if given—*

(i) orally, it 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;

(ii) by electronic communication, it shall be taken on record by him on being signed within three days 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 by rules prescribe in this behalf:

Provided that if the information is given by the woman against whom an offence under Section 64, Section 65, Section 67, Section 70, Section 75, Section 78, Section 68, Section 71,Section 76, Section 79 or Section 66, Section 69, Section 74, Section 77, Section 124 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that—

(a) in the event that the person against whom an offence under Section 64,Section 65, Section 66, Section 68, Section 71, Section 76, Section 69, Section 74, Section 77, Section 67, Section 70, Section 75, Section 78, Section 79 or Section 124 of the Bharatiya Nyaya

Sanhita, 2023 is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Magistrate under clause (a) of sub-section (6) of Section 183 as soon as possible.

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant or the victim.

(3) Without prejudice to the provisions contained in Section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years, the officer in charge of the police station may with the prior permission from an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence, —

(i) proceed to conduct preliminary enquiry to ascertain whether there exists a prima facie case for proceeding in the matter within a period of fourteen days; or

(ii) proceed with investigation when there exists a prima facie case.

> *(4) 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 Sanhita, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence failing which such aggrieved person may make an application to the Magistrate."*
>
> *[Emphasis supplied]*

24. This provision was considered by this Court in ***Imran Pratapgadhi v. State of Gujarat*** *-(2026) 1 SCC 721* ***,*** *wherein the scope of Section 173 BNSS has been explained as follows: -*

> ***"23.*** *Section 154 of the CrPC does not provide for making any preliminary inquiry. However, as held in the case of Lalita Kumari, a preliminary inquiry is permissible if the information received does not disclose a cognizable offence and indicates the necessity for an inquiry. A preliminary inquiry must be conducted only to ascertain whether a cognizable offence is disclosed.* ***However, sub-Section (3) of Section 173 of the BNSS makes a significant departure from Section 154 of the CrPC. It provides that when information relating to the commission of a cognizable offence which is made punishable for 3 years or more but less than 7 years is received by an officer-in-charge of a police station, with the prior permission of a superior officer as mentioned therein, the police officer is empowered to conduct a preliminary inquiry to ascertain whether there exists a prima facie case for proceeding in the matter. However, under Section 154 of the CrPC, as held in the case of Lalita Kumari, only a***

limited preliminary inquiry is permissible to ascertain whether the information received discloses a cognizable offence. Moreover, a preliminary inquiry can be made under the CrPC only if the information does not disclose the commission of a cognizable offence but indicates the necessity for an inquiry. Sub-Section (3) of Section 173 of the BNSS is an exception to sub-Section (1) of Section 173.In the category of cases covered by sub-Section (3), a police officer is empowered to make a preliminary inquiry to ascertain whether a prima facie case is made out for proceeding in the matter even if the information received discloses commission of any cognizable offence. That is very apparent as sub-Section (3) of Section 173 refers explicitly to receiving information relating to the commission of a cognizable offence. Therefore, in a case where sub-Section (3) of Section 173 is applicable, even if the information pertaining to the commission of any cognizable offence is received, an inquiry can be conducted to ascertain whether a prima facie case exists for proceeding in the matter. The intention appears to be to prevent the registration of FIRs in frivolous cases where punishment is up to 7 years, even if the information discloses the commission of the cognizable offence. However, under Section 154 of the CrPC, the inquiry permitted by paragraph 120.2 of the decision in the case of Lalita Kumari is limited only to ascertain whether the cognizable offence is disclosed.

24. Under sub-Section (3) of Section 173 of the BNSS, after holding a preliminary inquiry, if the officer comes to a conclusion that a prima facie case exists to proceed, he should immediately register an FIR and proceed to investigate. But, if he is of the view that a prima facie case is not made out to proceed, he should immediately inform the first informant/complainant so that he can avail a remedy under sub-Section (4) of Section 173.

25. Before we go into the applicability of sub- Section (3) of Section 173 of the BNSS to the facts of the case, we must deal with sub-Section (1) of Section 173. Take a case where a person approaches an officer-in-charge of a police station either personally or by electronic communication and alleges that he has seen 'A' assaulting 'X' with a stick. If the injury caused is simple, it will be an offence punishable under Section 115 (2) of the BNS. As per the first Schedule of the BNSS, it is a non-cognizable offence. Therefore, based on such information, FIR cannot be registered. If grievous hurt is caused, it will be an offence punishable under Section 117 (2) of the BNS, which is a cognizable offence. Therefore, the allegations made in the information furnished to an officer-in-charge of a police station must be examined by the officer only with a view to ascertain whether a cognizable offence is made out. Taking the information as correct, the officer has to determine whether it makes out a case of the commission of a cognizable offence. If the allegation makes out a case of a cognizable offence, unless the offence falls in sub-Section (3) of Section 173, it is mandatory to register FIR.

[....]

28. Sub-Section (3) of Section 173 of the BNSS confers a discretion on the officer receiving information relating to the commission of a cognizable offence to conduct a preliminary inquiry to ascertain whether a prima facie case exists to proceed. This option is available when the offence alleged is made punishable for 3 years or more but less than 7 years. In the facts of the case, all the offences except the offence under Section 57 of the BNS are punishable by imprisonment for less than 7 years. Section 57, on the face of it, is not

applicable. Therefore, this option was also available to the police officer in the present case. The officer did not exercise the said option."

[Emphasis supplied]

The crux of the above observations, therefore, is that under the regime of Section 154 of the CrPC, as explained in ***Lalita Kumari (supra),*** *a preliminary inquiry is permissible only for the limited purpose of ascertaining whether the information discloses the commission of a cognizable offence. However, the scheme of Section 173(3) of the BNSS travels a step further and exposits situations where preliminary inquiry may be made even where the complaint is filed for cognizable offences. The said provision empowers the police officer, even in a case where the information may ostensibly disclose the commission of a cognizable offence punishable between three and seven years, to conduct a preliminary inquiry so as to ascertain whether there exists a prima facie case for proceeding in the matter. Thus, the legislative intent behind incorporating sub-section (3) of Section 173 appears to be to provide a safeguard against mechanical registration of FIRs in cases where the allegations, though couched in the language of a cognizable offence, may in substance be vague, speculative or inherently doubtful.*

25.None of the offences alleged in the impugned FIR carries imprisonment which may extend to more than seven years, thereby bringing the case within the category where the option of conducting a preliminary enquiry under Section 173(3) of the BNSS was clearly available to the police authorities. However, the police officials did not choose to exercise this option, and the FIR came to be registered straightaway in a mechanical manner without even a semblance of verification of the fictional and conjectural allegations made in the complaint. In the given facts, where the complaint contained vague allegations and was completely bereft of particulars, the situation clearly warranted a preliminary enquiry so as to arrive at the necessary "prima facie" satisfaction as to the commission of a cognizable offence. Though there is no hard and fast criterion for determining when such prima facie

satisfaction may arise, the very object of permitting a preliminary enquiry is to prevent initiation of criminal proceedings on the basis of frivolous or speculative allegations. The allegations contained in the complaint being so indeterminate and lacking in basic particulars, we are of the opinion that the police authorities ought to have exercised the option available under Section 173(3) of the BNSS.

26. Thus, ex facie, we are satisfied that the complainant-company has misused the process of law to settle the scores and to escape possible liabilities which it may have apprehended on account of some sharp reporting."

12.5 As can be seen from the aforesaid judgment, the desirability, relevance, importance, requirement etc., of conducting a preliminary enquiry under Section 173(3) of BNSS, 2023 has been explained by the Apex Court, thereby indicating that there cannot be an absolute / straitjacket / universal rule / formula as regards conducting / non-conducting of a preliminary enquiry and the same would be dependent on the facts and circumstances obtaining in a particular case.

12.6 In ***Nirankar Nath Pandey's case supra,*** the Apex Court held as under:-

1. Leave granted.

2. The Appeal before us is against the order of the High Court of Allahabad dated 11.01.2024 whereby the High Court has refused to quash the FIR lodged against the Appellant.

3. The factual background of the present case is that FIR No.0002 of 2023 dated 17.10.2023 was registered as Case Crime No.0002 of 2023 against the Appellant under Section 13(1)(b) read with Section 13(2) of Prevention of Corruption Act, 1988(Hereinafter, PC Act). The Appellant filed Criminal Miscellaneous Writ Petition No.18777 of 2023 before the High Court for quashing of the said FIR. The High Court vide order dated 11.01.2024 dismissed the Appellant's Writ Petition. Aggrieved by this, the Appellant is before us.

4. Prior to the present FIR, another FIR was lodged in the year 2018, bearing Case Crime No.476 of 2018 for offences under Section 420, 467, 468, 471, 120B of the Indian Penal Code, 1860 read with Section 13(1)(d) and 13(2) of the PC Act in Police Station Kotwali, District Fatehpur, U.P against some officials of the Excise Department, U.P., wherein the present Appellant was implicated and he was subsequently enlarged on bail. This Case Crime No.476 of 2018 is pending before the Trial Court.

5. Due to the earlier FIR, a notice dated 25.08.2020 was issued to the Appellant by the Department of Vigilance Establishment, U.P. whereby the Appellant was directed to submit the Statement of Declaration of Assets and other income details. Pursuant to this notice, the Appellant submitted all such details before the Uttar Pradesh Vigilance Department.

6. The Appellant was working as Assistant Excise Commissioner when the Uttar Pradesh Vigilance Establishment initiated an inquiry against him. This open inquiry disclosed the Appellant's income from known and legitimate sources during the period of checking as Rs.94,28,605/- (Rupees Ninety Four Lakh Twenty Eight Thousand Six Hundred Five only). For the same period, the Appellant was found to have amassed assets including living expenses worth Rs.1,16,02,669/- (Rupees One Crore Sixteen Lakh Two Thousand Six Hundred Sixty Nine only). The Appellant is said to have amassed assets including expenses of around Rs.21,74,064/- (Twenty One Lakh Seventy Four Thousand Sixty Four only) more than his known income. This is said to be the disproportionate assets in question. The Inquiry Report was forwarded to the Government on 20.03.2023 by the Joint Director, Uttar Pradesh Vigilance Establishment and directions were issued vide Demi-Government Letter dated 20.04.2023 issued by the Vigilance Department, Government of U.P. for institution of criminal proceedings against the Appellant. Consequent to this, the present FIR was registered against the Appellant based on the complaint of Inspector, Uttar Pradesh Vigilance Establishment Sector, Ayodhya.

7. We have heard the learned counsel for the parties and perused the relevant material.

8. The Appellant has declared his and his wife's assets consequent to notice dated 25.08.2020. It is stated that the wife of the Appellant is also earning from teaching yoga, agriculture, and from receiving house rent. It is submitted that the Appellant's total income since 1996 to 2020 is Rs.75,73,676/- (Seventy-Five Lakh Seventy-Three Thousand Six Hundred Seventy Six only) and the income of his wife during the aforesaid period is about Rs.41,67,592/- (Rupees Forty One Lakh Sixty Seven Thousand Five Hundred Ninety Two only). These declarations are supported by the relevant income tax returns. The ornaments of the Appellant's wife have been sold for an amount of Rs.2,16,000/- (Rupees Two Lakh Sixteen Thousand only) and the Appellant received Rs.1,00,000/(Rupees One Lakh only)from a Life Insurance Policy plus there is an amount of Rs.49,000/- (Rupees Forty Nine Thousand only)that was given to the Appellant by his father. Therefore, the total income and assets of the Appellant and his wife has been submitted to be Rs.1,21,06,268/- (Rupees One Crore Twenty One Lakh Six Thousand Two Hundred Sixty Eight only) during the period of 1996 to June 2020. Further, the Appellant has explained and submitted documents regarding the properties owned by him and his wife and a loan given by the Bank. This has not been considered by the Uttar Pradesh Vigilance Department. The present FIR is lodged on the basis of the Uttar Pradesh Vigilance Establishment prima facie finding the Appellant guilty. However, if we consider the declared assets of the Appellant and his wife for the aforesaid period it comes up to Rs.1,21,06,268/(Rupees One Crore Twenty One Lakh Six Thousand Two Hundred Sixty Eight only). The present FIR states the disproportionate assets to be Rs.1,16,02,669/(Rupees One Crore Sixteen Lakh Two Thousand Six Hundred Sixty Nine only) for the same period.

9. We are of the view that the Appellant's wife's income must be considered as well while calculating the total income and assets. Both the Appellant and his wife have filed the relevant income tax returns in order to show their respective incomes andassets. The Respondents in their Counter-Affidavit have not denied these income tax returns or alleged

them to be forged or fabricated. Therefore, when a public servant is submitting his income tax returns, they should be presumed to be true and correct. If you duly consider the income tax returns of the Appellant and his wife for the check period of the year 1996-2020, the total income is coming up to be Rs.1,21,06,268/- (Rupees One Crore Twenty One Lakh Six Thousand Two Hundred Sixty Eight only) which is in fact more than the assets amounting to Rs.1,16,02,669/- (Rupees One Crore Sixteen Lakh Two Thousand Six Hundred Sixty Nine only) which is said to be the disproportionate assets in question under the present FIR.

10. Further, we have considered that the check period is from the year 1996 to 2020, which is almost twenty five years. It must be taken into account that over such a long period of time, there is inflation and a natural progression in the changing economy that affects the value of assets such as property. This can understandably lead to discrepancies in declaring the value of assets over the years. Therefore, there should be a more dynamic approach while considering an individual's income and assets over the span of two decades, such as in the present case. The notion that the declared value of an asset such as property or gold will remain static is flawed. This has to be considered while examining an individual's assets and income while making a determination regarding disproportionate assets. Such an examination needs to reflect such adjustments and changes as is natural with the progression of time.

11. ***We find it pertinent to note that in cases such as these where disproportionate assets are being dealt with, the amounts under scrutiny cannot be looked at in the same manner as one would do a Bank statement or daily ledger of income and expenditure. The scrutiny process cannot be as mechanical as that when you are examining declared assets and the income of an individual over such a long period of time. There has to be a certain margin that is given while making such an assessment as there are invariably economical fluctuations that would have taken place, especially over the course of nearly twenty-five years. It is crucial to have a nuanced***

appreciation of how time and economic conditions affect asset value in such cases.

*12. This Court has held in **State of Haryana vs. Bhajan Lal**, 1992 SCC (Cri) 426 that when allegations made in the first information report or the complaint, even if they are taken at their face value do not prima facie constitute any offence or make out a case against the accused, powers under Article 226 of the Constitution of India could be exercised to prevent abuse of the process of any court. We find that the present FIR in question and the case against the Appellant is covered under these findings in **Bhajan Lal (supra)**.*

13. In view of the above discussion, we find it appropriate to quash FIR No, 0002 of 2023 dated 17.10.2023 pending against the Appellant. Consequently, the appeal is allowed.

Pending application(s) shall stand disposed of."

12.7 **As can be seen from the aforesaid judgment, the Apex Court has held that for evaluating cases relating to disproportionate assets involving public servants, the authorities must consider economic fluctuations and presume income tax returns to be accurate unless specifically proven to be false and the importance and relevance of the income tax returns have been taken into account and highlighted by the Apex Court.**

12.8 In the instant case, it would be necessary to refer to the source report (Translated copy) dated **18.11.2023** submitted by the 2nd respondent – Dy.S.P., which is as hereunder;

Date: 18.11.2023

To,
The Superintendent of Police
Karnataka Lokayukta
Bangalore City Division-1
Bangalore

Sir,

Sub: Submissions of Source Report in respect of Sri N. Satish Babu S/o. Late T. Narasimhaiah, aged 52 years, Superintending Engineer, Public Works Department, Buildings

Division, K.R.Circle, Bangalore regarding possession of illegal properties:

With reference to the above cited subject I submit that the suspected Government Servant Sri N. Satish Babu, Superintending Engineer, has been working in the office of the Buildings division, Public Works Department. As per the basic information gathered about it, he has acquired properties highly disproportionate to his known source of income and the details are as mentioned below:

1. *Name of the S.G.O.: Sri N.Satish Babu*
2. *Present post held: Superintending Engineer, Public Works Department*
3. *Place of working: Office of the Superintending Engineer, Public Works Department, Buildings division, Bangalore.*

   No. 23/A, 6th cross, 3rd main, Jayamahal Extension, Bangalore
4. *Native place: Kolar District, Chintamani*

BACKGROUND:

The suspected officer Sri N.Satish Babu, son of late T. Narasimhaiah, aged 52 years, Superintending Engineer, Public Works Department, Buildings Division, K.R. Circle, Bangalore basically is from Chintamani, Kolar district. After completing his B.E., he was appointed on 24-10-1994 in the Industries and Commerce Department and thereafter joined the Public Works Department in the year 2002 as Assistant Engineer. Thereafter he was promoted phase-wise, at present he is serving as Superintending Engineer, Buildings Division, K.R. Circle, Bangalore. He married N. Sudha, daughter of Sri Hanumantha Reddy of Chitradurga, in the year 1996 and she is presently working as C.D.P.O. in the Women and Children Welfare Department. She is residing at D.No. 228, JRC Layout, 6th cross, Chitradurga along with her family, and the suspected officer is residing at Government quarters at 23/A, 6th cross, 3rd main, Jayamahal Extension, Bangalore. They have two daughters; the first daughter Smt. Manjusha is married and the second daughter Kum. Sireesha is pursuing her education in BBA.

SOURCE OF CORRUPTION:

The suspected Government Officer Sri N.Satish Babu was appointed in the Government service and he has discharged duties in different districts of the state of Karnataka. During his tenure he used to extract illegal gratification from the general public, contractors, commission agents, leading a luxurious life and it is understood that he has purchased properties in his name and in the names of his family members.

It is learnt that the above officer has acquired properties in the names of his wife, children and mother-in-law, and if a raid is conducted, there is possibility of tracing more currency, documents relating to his properties acquired and also gold jewels.

It is prima facie found that the suspected officer Sri N.Satish Babu has acquired more properties disproportionate to his known source of income. The period from his joining Government service i.e., from 24.10.1994 till today is considered as check period.

DETAILS OF THE PROPERTIES ACQUIRED BY THE SUSPECTED GOVERNMENT OFFICER FROM THE DATE OF HIS JOINING SERVICE AND THEIR APPROXIMATE VALUE:

(A)

Sl No.	*Description of the properties*	*Approximate Value*
	The suspected Government Officer Sri N. Satish Babu has not submitted his details of his assets and liabilities available with him prior to his joining service.	-

(B)

Sl No.	*Description of the properties*	*Approximate Value*
1	*A residential house in the name of the suspected Government Officer Sri N. Satish Babu bearing no. 757, Chikkabommanasandra, Yelahanka, Ward No.04, Bangalore (Allala Sandra, Jakkur Plantation, Judicial Layout)*	*2,30,00,000.00*
2	*Site No. 228, JRC Layout, 6th cross, Chitradurga in the name of Smt. N. Sudha, wife of the suspected Government Officer (The said site is gifted by her mother to her daughter and the suspected officer has*	*25,00,000.00*

	constructed a house on the said land. Only the said construction is taken into account)	
3	*Agricultural land in the name of Kumari Sireesha, the second daughter of the suspected Government officer bearing survey no. 30, at Guddadavvanahalli, Kasaba Hobli, Chitradurga District and Taluk measuring 11.09 acres.*	*80,00,000.00*
4	*Two floor house constructed in the Agricultural land bearing survey no. 30, measuring 11-09 acres at Guddadavvanahalli, Kasaba Hobli, Chitradurga district and taluk*	*20,00,000-00*
4	*LIC polices which may be in the name of the suspected Government Officer and in the names of his family members*	*20,00,000-00*
11	*Bank Fixed Deposits which may be in the name of the suspected Government Officer and in the names of his family members*	*10,00,000-00*
12	*Maruti Swift Car bearing registration No. KA -04-ML- 6330 in the name of the suspected Government Officer*	*8,00,000-00*
13	*Two wheeler bearing registration no. KA-16-6828- in the name of the suspected Government Officer*	*70,000-00*
14	*Two wheeler of Honda Activa make bearing registration no. KA16ET-7388 in the name of the suspected Government officer*	*80,000-00*
15	*Tata Punch Car bearing registration No. 22-BH-3599C in the name of Ashuthosh Bram C/o. Smt. N. Sudha*	*8,00,000.00*
-	*Total value (Approximate)*	*4,02,50,000.00*

(C) APPROXIMATE EXPENDITURE OF THE SUSPECTED GOVERNMENT SERVANT:

Sl No.	*Details of the expenditure*	*Approximate Value*
1	*Approximate value of Government registration and stamp duty and property tax paid by the suspected Government servant at the time of buying of the properties in his name and in the names of his family members*	*25,00,000.00*
2	*Approximate family expenditure*	*30,00,000.00*
3	*Approximate educational expenses towards his daughters (the first daughter has studied in a*	*30,00,000.00*

	foreign country)	
4	*Home Appliances, Gold, Silver jewels value*	*60,00,000.00*
5	*Repayment of loans (Approximate)*	*60,00,000.00*
6	*Approximate expenditure for marriage of the first daughter*	*20,00,000.00*
7	*Maintenance expenses of the vehicles maintained by the officer*	*5,00,000.00*
8	*Expenses for the development of the land in survey no. 30, measuring 11-09 acres in Guddadavvanahalli, Kasaba Hobli, Chitradurga district and taluk and also towards fencing, borewell, shed for poultry and fish farming etc.*	*60,00,000.00*
-	*Total approximate expenditure*	*2,90,00,000.00*

(D) APPROXIMATE INCOME OF THE SUSPECTED GOVERNMENT OFFICER:

Sl No.	*Description of Income*	*Approximate Value*
1	*Approximate net income from Salary of the suspected government servant*	*80,00,000.00*
2	*Approximate net income from Salary of the wife of the suspected government officer*	*40,00,000.00*
3	*Income derived from the sale of the immovable properties belonging to Smt. N. Sudha, wife of the suspected Government officer*	*1,00,00,000.00*
4	*Approximate loan amount which may be obtained by the Government Officer from different banks by Government Officer*	*1,00,00,000.00*
5	*Approximate rent that might have been received by the suspected Government Officer and his wife*	*10,00,000.00*
-	*TOTAL INCOME APPROXIMATE*	*3,30,00,000.00*

1	*Total value of the properties*	*4,02,50,000.00*
2	*Total expenditure*	*2,90,00,000.00*
3	*Total properties and expenditure (1+2)*	*6,92,50,000.00*
4	*Total income*	*3,30,00,000.00*
5	*Properties illegally earned (3-4=5)*	*3,62,50,000.00*
6	*Percentagewise (5 / 4 \times 100 = 6)*	*110.00%*

Thanking you,

Yours faithfully,
Sd/- KG. RAMAKRISHNA

Submitted:
Received the Source Report, Investigation Report and Authority letter bearing No. LOK/INV(G)/City/03/2024 DATED 03-01-24 ON 8-01-2024 at 2.30 pm from the office of the Superintendent of Police, and case is registered vide Police Station case No. 3/2024 under section 13(1)(b) read with 13(2) of the Prevention of Corruption act 1988 (as amended in 2019).

Sd/-
Dy.SP-2"

12.**9 If the source report is examined, bearing in mind the Lokayuktha Circular and in the light of the aforesaid judgments of the Apex Court, it becomes evident that the respondents did not verify or ascertain or take any steps to scrutinize the income tax returns submitted by the petitioner and his wife, both of whom are undisputedly public servants as well as their daughter and had submitted their income tax returns regularly, which were relevant and essential for the purpose of preparing and submitting the source report; it is needless to state that the income tax returns of the petitioner, his wife and daughter would necessarily have to be verified and scrutinized by the respondents for the purpose of preparing and submitting the source report; in the instant case, in the absence of verification / scrutiny of the income tax returns of the petitioner, his wife and daughter and in the light of the principles laid down by the Apex Court in *Nirankar Nath Pandey's case supra*, I am of the view that the source report submitted by the 2nd respondent is incomplete, inadequate, sketchy, defective and lacking in material particulars and details, thereby making it desirable and warranting / requiring conducting of preliminary enquiry before proceeding further in accordance with law.**

12.10 A perusal of the source report will also indicate that in Column B pertaining to Assets alleged to be acquired by the petitioner, the value of which was disproportionate to the known sources of income of the petitioner and his wife, Sl.No.2 refers to property No.228, JRC Layout, 6th cross, Chitradurga, which is said to be valued at Rs.25 lakhs; the details of acquisition of the said property, even according to the 2nd respondent is

traced to a gift deed dated 09.09.2004 said to be executed by the petitioner's mother-in-law in favour of the petitioner's wife; it is needless to state that the said property which is said to be acquired under a gift deed (obviously without any consideration) is sought to be incorporated / included in the assets / properties of the petitioner for the purpose of preparing the source report without verifying or ascertaining further details in this regard by ignoring the fact that prima facie, a property acquired by way of a gift deed cannot be said to be a property acquired by the petitioner by intentionally enriching himself illicitly as contemplated under Section 13(1)(b) of the P.C.Act; it follows therefrom that having included the said property as one of the properties for the purpose of a source report for alleged offences under Section 13(1)(b) of the P.C.Act, it was both desirable and necessary / required for conducting of a preliminary enquiry in the instant case for the purpose of preparing a source report which is clearly sketchy, defective, inadequate and incomplete on this ground also.

12.11 A perusal of the aforesaid source report will also indicate that in addition to the properties / assets standing in the name of the petitioner and his wife who were both undisputedly public servants, the properties standing in the name of their daughter and petitioner's mother-in-law (wife's mother) have also been included for the purpose of coming to the conclusion that the petitioner possessed assets disproportionate to his known sources of income; however, a perusal of the source report will clearly indicate that the same contains numerous / several inherent discrepancies, contradictions and lack of material particulars and details which would necessitate conducting of a preliminary enquiry by the respondents before proceeding further in the matter. Under these circumstances, I am of the considered opinion that the source report dated 18.11.2023 is clearly sketchy, defective, incomplete, inadequate, insufficient and lacking in material particulars and details, thereby making it desirable and requiring / warranting conducting of preliminary enquiry by the respondents in accordance with law in the facts and circumstances obtaining in the instant case.

Point No.2 is also accordingly answered in favour of the petitioner and against the respondents by holding that in the facts and circumstances of the instant case, it would be necessary, appropriate and desirable for the respondents to conduct a preliminary enquiry before proceeding further in the matter.

Re-Point Nos.3 and 4:-

13. **A perusal of the material on record will indicate that pursuant to the aforesaid source report dated 18.11.2023, the respondents not only registered the impugned FIR dated 08.01.2024 but also passed an order dated 08.01.2024 granting permission / approval under Section 17 of the P.C.Act to conduct investigation against the petitioner in relation to the alleged offences; while dealing with Point Nos. 1 and 2 supra, I have already come to the conclusion that conducting of preliminary enquiry prior to registration of the FIR and obtaining permission / approval for investigation under Section 17 of the P.C.Act was not only desirable but also required / warranted in the facts and circumstances of the instant case; undisputedly, no such preliminary enquiry was conducted by the respondents before registration of the impugned FIR or granting permission / approval for investigation under Section 17 of the P.C.Act and in the light of the findings recorded by me hereinbefore, the impugned FIR deserves to be quashed and the matter remitted back to the concerned respondents with a direction to conduct a preliminary enquiry in accordance with law and thereafter to proceed further in the matter; insofar as the order dated 08.01.2024 passed under Section 17 of the P.C.Act is concerned, as a consequence of quashing the impugned FIR and remitting the matter back to the concerned respondents with a direction to conduct a preliminary enquiry and thereafter, proceed further in accordance with law, it is not necessary to advert to or express any opinion on the various contentions / grounds urged by both sides as regards the said order dated 08.01.2024 passed under Section 17 of the P.C.Act except stating that since the FIR is hereby quashed, the said order would consequently also have to be quashed and the matter remitted back as stated supra.**

Accordingly, **Point Nos.3 and 4** are also answered in favour of the petitioner and against the respondents.

14. In the result, I pass the following:-

ORDER

(i) Petition is hereby partly allowed.

(ii) The impugned FIR in Crime No.3/2024 at Annexure-A dated 08.01.2024 registered by the respondents – Lokayuktha against the petitioner for alleged offences punishable under Sections 13(1)(b) r/w 13(2) of the Prevention of Corruption Act, 1988, (Amendment Act, 2018), is hereby quashed / set aside and consequently, the order dated 08.01.2024 passed by the respondents under Section 17 of the P.C.Act is also hereby set aside.

(iii) The matter is remitted back to the concerned respondents to conduct a preliminary enquiry pursuant to the source report dated 18.11.2023 and to thereafter proceed further in accordance with law."

The coordinate Bench was following the judgment of the Apex Court in the case of **NIRANKAR NATH PANDEY v. STATE OF UTTAR PRADESH**[1], wherein it is held as follows:

"…. …. ….

10. Further, we have considered that the check period is from the year 1996 to 2020, which is almost twenty five years. It must be taken into account that over such a long period of time, there is inflation and a natural progression in the changing economy that affects the value of assets such as

[1] **Criminal Appeal No.5009 of 2024 decided on 04.12.2024**

property. This can understandably lead to discrepancies in declaring the value of assets over the years. Therefore, there should be a more dynamic approach while considering an individual's income and assets over the span of two decades, such as in the present case. The notion that the declared value of an asset such as property or gold will remain static is flawed. This has to be considered while examining an individual's assets and income while making a determination regarding disproportionate assets. Such an examination needs to reflect such adjustments and changes as is natural with the progression of time.

11. We find it pertinent to note that in cases such as these where disproportionate assets are being dealt with, the amounts under scrutiny cannot be looked at in the same manner as one would do a Bank statement or daily ledger of income and expenditure. The scrutiny process cannot be as mechanical as that when you are examining declared assets and the income of an individual over such a long period of time. There has to be a certain margin that is given while making such an assessment as there are invariably economical fluctuations that would have taken place, especially over the course of nearly twenty-five years. It is crucial to have a nuanced appreciation of how time and economic conditions affect asset value in such cases.

12. This Court has held in ***State of Haryana vs. Bhajan Lal***, *1992 SCC (Cri) 426* that when allegations made in the first information report or the complaint, even if they are taken at their face value do not prima facie constitute any offence or make out a case against the accused, powers under Article 226 of the Constitution of India could be exercised to prevent abuse of the process of any court. We find that the present FIR in question and the case against the Appellant is covered under these findings in **Bhajan Lal (supra)**.

> 13. In view of the above discussion, we find it appropriate to quash FIR No, 0002 of 2023 dated 17.10.2023 pending against the Appellant. Consequently, the appeal is allowed.
>
> 14. Pending application(s) shall stand disposed of."

(Emphasis supplied at each instance)

The judgment of the coordinate Bench in the case of **N.SATISH BABU** was called in question by the Karnataka Lokayukta before the Apex Court. The Apex Court by the following order rejected the S.L.P. The order reads as follows:

> "O R D E R
>
> We are not inclined to interfere with the impugned order of the High Court. Accordingly, the Special Leave Petition is dismissed.
>
> Pending application(s), if any, shall stand disposed of."

In the light of the judgment of coordinate Bench on similar lines, the subject petition deserves to succeed with the same directions that the coordinate Bench has rendered in its judgment in **N.SATISH BABU** *supra.*

8. For the aforesaid reasons, the following:

O R D E R

(i) Criminal Petition is **allowed in part**.

(ii) Crime registered in Crime No.9 of 2025 by the respondent/Lokayukta Police stands quashed.

(iii) The matter is remitted back to the hands of the Karnataka Lokayukta to pass necessary orders right from the stage at which the coordinate Bench has pointed out the defect, bearing in mind the observations made in the course of the order.

Pending application if any, also stand disposed.

Sd/-
(M.NAGAPRASANNA)
JUDGE

Bkp
CT:MJ