IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 1ST DAY OF NOVEMBER 2023 / 10TH KARTHIKA, 1945

W.P.(CRL.) NO.483 OF 2023

PETITIONERS:

1 MAMITHA,
AGED 39 YEARS, D/O. LATE ACHUTHAN,
POOKKAATTIL HOUSE,
PERUMTHURUTHY P.O., PAZHANJI,
THRISSUR, PIN-680 542.

2 SHEEJA PRAKASHAN,
AGED 53 YEARS, W/O PRAKASHAN,
VALATH HOUSE,
T.S. ROAD, EDASSERY, THALIKULAM,
THRISSUR, PIN-680 569.

3 V.K. PRAKASHAN,
AGED 65 YEARS, S/O. V.K. KUNHIRAMAN,
VALATH HOUSE,
T.S. ROAD, EDASSERY, THALIKULAM,
THRISSUR, PIN-680 569.

4 AISWARYA V.P.,
AGED 25 YEARS, D/O. MANU,
VALATH HOUSE,
T.S ROAD, EDASSERY, THALIKULAM,
THRISSUR, PIN-680 569.

5 AISWARYA,
AGED 29 YEARS, W/O. SREENATH,
VARANAMKUDATH HOUSE,
KUTTUMUKKU ROAD, THRISSUR, PIN-680 531.

6 NAYANA,
AGED 33 YEARS, D/O. KRISHNANKUTTY,
CHANGARALAMKULATH HOUSE,
AYINIKKAL ROAD, PARAKKAD,
ARIMBUR, THRISSUR, PIN-680 620.

7 SASI T.,
AGED 53 YEARS, S/O. THANKAPPAN,
AISWARYA NIWAS,
KADAKURUSSY, KANNADI P.O.,
PALAKKAD, PIN-678 701.

8 KARTHIK,
AGED 32 YEARS, S/O. PAZHANISWAMI,
KAVITHA NIWAS,
AGALI P.O., PALAKKAD, PIN-678 581.

9 KRISHNANKUTTY NAIR SUKU,
AGED 62 YEARS, S/O. KRISHNANKUTTY NAIR,
ANMOL HOUSE,
AMRITHA BHAVANS, KADAKURISSI, KANNADI,
PALAKKAD, KERALA, PIN-678 701.

10 GEETHANJALI,
AGED 53 YEARS, W/O. KRISHNANKUTTY NAIR SUKU,
ANMOL HOUSE,
AMRITHA BHAVANS, KADAKURISSI, KANNADI,
PALAKKAD, KERALA, PIN-678 701.

11 PREMAN K.J.,
AGED 61 YEARS, S/O. GOPALAN,
KOLLAPARAMBIL HOUSE,
AANANDHAPURAM P.O., THRISSUR, PIN-680 305.

BY ADV. RAJIT

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
TRIVANDRUM, PIN-695 001.

2 THE STATE POLICE CHIEF,
POLICE HEADQUARTERS, VAZHUTHACAUD,
THIRUVANANTHAPURAM, KERALA, PIN-695 010.

3 ADDITIONAL DIRECTOR GENERAL OF POLICE,
STATE CRIME BRANCH,
THIRUVANANTHAPURAM, PIN-695 001.

4 THE SUPERINTENDENT OF POLICE,
CRIME BRANCH, AYYANTHOLE,
THRISSUR, PIN-680 003.

5 THE DEPUTY SUPERINTENDENT OF POLICE,
CRIME BRANCH EOW, THRISSUR UNIT,
THRISSUR, PIN-680 003.

6 THE DIRECTOR,
DIRECTORATE OF ENFORCEMENT,
PRAVARTAN BHAWAN, APJ ABDUL KALAM ROAD,
NEW DELHI, PIN-110 011.

7 STATION HOUSE OFFICER,
PERAMANGALAM POLICE STATION, PERAMANGALAM,
THRISSUR DISTRICT, PIN-680 545.

8 MR.PRAVEEN K.P. @ PRAVEEN RANA,
AGED 37 YEARS, S/O. PUSHKARAN,
KAIPPILLY HOUSE,
VELUTHUR, THRISSUR, PIN-680 012.

R1-R5 & R7 SMT. SREEJA V., SENIOR GOVERNMENT PLEADER

R6 SRI. JAISHANKAR V. NAIR, STANDING COUNSEL

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 01.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V. KUNHIKRISHNAN, J.

W.P.(Crl.) No.483 of 2023

Dated this the 1st day of November, 2023

JUDGMENT

This Writ Petition (Criminal) is filed with the following prayers:-

a) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 2nd respondent to take over the investigation of the criminal cases registered against the 8th respondent presently being conducted by the 5th respondent either by himself or any such superior and efficient officer and direct the investigation to be completed within such time as may be fixed by this Hon'ble Court.

b) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 6th respondent to take cognizance of the predicate offence registered against the 8th respondent and also Ext-P7 complaint filed by the petitioners and take immediate steps to arrest and freeze the assets of the 8th respondent and his associates.

c) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 2nd respondent to consider

and pass order on Ext-P6 representation and conduct the investigation of the crimes registered against the 8th respondent by a superior and efficient officer.

d) Grant such other relief deemed fit to this Hon'ble Court.

2. The main prayer in this writ petition is to issue a direction to the 2nd respondent to take over the investigation of the criminal cases registered against the 8th respondent presently being conducted by the 5th respondent.

3. Now it is submitted by the counsel for the petitioners that the offence under the Banning of Unregulated Deposits Scheme Act (hereinafter referred to as "the BUDS Act") is also incorporated and if that is the case, as per Section 30 of the BUDS Act, the case is to be investigated by the Central Bureau of Investigation.

4. Heard the counsel for the petitioners, the counsel appearing for the Enforecement Directorate and the Public Prosecutor.

5. It will be better to extract Section 30 of the BUDS Act:-

30. Investigation of offences by Central Bureau of Investigation.– (1) On receipt of information under section 29 or otherwise, if the Competent Authority has reason to believe that the offence relates to a deposit scheme or deposit schemes in which–

(a) the depositors, deposit takers or properties involved are located in more than one State or Union territory in India or outside India; and

(b) the total value of the amount involved is of such magnitude as to significantly affect the public interest,

the Competent Authority shall refer the matter to the Central Government for investigation by the Central Bureau of Investigation.

(2) The reference made by the Competent Authority under sub-section (1) shall be deemed to be with the consent of the State Government under section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946).

(3) On the receipt of the reference under sub-section (1), the Central Government may transfer the investigation of the offence to the Central Bureau of Investigation under section 5 of the Delhi Special Police Establishment Act, 1946 (25 of 1946).

6. A perusal of the above Section would show that on receipt of information under Section 29 or otherwise, if the Competent Authority has reason to believe that the offence relates to a deposit scheme or deposit schemes in which the depositors, deposit takers or properties involved are located in more than one State or Union territory in India or outside India and the total value of the amount involved is of such magnitude as to significantly affect the public interest, the Competent Authority shall refer the matter to the Central Government for investigation by the Central Bureau of Investigation.

7. Admittedly, in this case, there are depositors, deposit takers or properties involved are located in more than one State.

8. A statement is filed by the present Investigating Officer. It will be better to extract Paragraphs 5 and 6 of the said statement:-

> “5. The investigation is progressing in fair manner. The land details of the accused Praveen KP @ Praveen Rana and his close relatives including his father, mother, wife Vayana

Chandran brother in law etc. have been identified and report sent to the Dist Collector Thrissur who is the Asst. Competent for the attachment under provisions of BUDS Act. In the confession statement made by the accused, it is stated that he had transferred crores of Rupees to the Companies run by the Shoukath All at Pune, Mumbai, Kochi etc. The verification of the account details of the persons, firms and the companies to which cash were transferred is going on.

6. It is submitted that the only 1 case was registered by the 7th respondent and that was case re-registered and is being investigated by Crime Branch, in all the cases that are being investigated by Crime Branch, provisions of BUDS Act has been incorporated and the investigation is progressing in a fair manner. The details of the landed property and other assets of the accused and his close relatives have been identified and the report was sent to the Dist. Collector who is the Assistant Competent Authority, for the provisional attachment. In Cr 47/2023, the suspect Shoukath ali was questioned and he approached Honourable high court for anticipatory bail which was not considered by the court, since he is not an accused at present. The investigation to unearth his involvement in the crime is going on."

In the light of the same, it is clear that this case is to be investigated by the Central Bureau of Investigation in the the light of Section 30 of the BUDS Act. I think there can be a direction to the 1st respondent to transfer the cases to the Central Bureau of Investigation in the light of Section 30 of the BUDS Act.

Therefore, this writ petititon is disposed of with the following directions:-

i) The 1st respondent is directed to transfer the cases registered against the 8th respondent and others to the Central Bureau of Investigation in the light of Section 30 of the BUDS Act as expeditiously as possible, at any rate, within three weeks from the date of receipt of a copy of this judgment.

ii) The petitioners will produce a certified copy of this judgment along with the writ petition before the 1st respondent for compliance.

Sd/-
P.V. KUNHIKRISHNAN
JUDGE

bpr

APPENDIX OF WP(CRL.) 483/2023

PETITIONERS' EXHIBITS

Exhibit P1	**A TRUE COPIES OF SOME OF THE AGREEMENTS SIGNED BY THE PETITIONERS.**
Exhibit P2	**A TRUE COPY OF THE BAIL ORDER PASSED IN B.A.NO.2412/2023 OF THIS HON'BLE COURT DATED 31.03.2023.**
Exhibit P3	**A TRUE COPY OF THE BAIL ORDER PASSED IN B.A.NO.2446/2023 OF THIS HON'BLE COURT DATED 16.05.2023.**
Exhibit P4	**A TRUE COPY OF THE BAIL ORDER PASSED IN B.A.NO.2417/2023 OF THIS HON'BLE COURT DATED 04.04.2023.**
Exhibit P5	**A TRUE COPY OF THE BAIL ORDER PASSED IN B.A.NO.2499/2023 OF THIS HON'BLE COURT DATED 04.04.2023.**
Exhibit P6	**A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT DATED 03.04.2023.**
Exhibit P7	**A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE 6TH RESPONDENT DATED 03.04.2023.**