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CRL OP No.34763 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.06.2026

DELIVERED ON : .07.2026

CORAM :

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 34763 of 2025

AND

CRL MP No. 24395 of 2025

M.Jothiswaran
S/o.K.Mani,
Panchayat President,
Nadupatti Village Panchayat,
Vennanthur Block,
Namakkal District.

..Petitioner(s)

Vs

1. The State Rep. by
The Inspector of Police,
Vigilance and Anti-Corruption,
Namakkal,
Namakkal District.
2. S.Ravi
S/o.Sadhasivam,
Door No.2-91 B, Nadupatty Village,
Alavaipatty Post, Rasipuram Taluk,
Namakkal District.

..Respondent(s)

PRAYER : Criminal Original Petition filed under Section 528 of BNSS Act, 2023 to call for the records relating to FIR No.04/AC of 2023 dated 04.05.2023 pending on the file of 1st respondent police and quash the



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same in respect of petitioner alone and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

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For Petitioner(s):

Mr.Abdu Kumar Rajarathinam
Senior Counsel
for Mr.M.Elango

For Respondent(s):

Mr.R.Ganesh Kumar
Counsel for Government of Tamil Nadu
(Criminal Side) for R1

ORDER

This Criminal Original Petition has been filed challenging the FIR No.04/AC of 2023 dated 04.05.2023 on the file of the first respondent registered for the offences punishable under Sections 120-B, 468, 471 IPC and Sections 13(2) r/w. 13(1)(c) and Section 13(2) r/w. 13(1)(a) of the Prevention of Corruption Act, 1988 as amended in 2018.

2. The case of the prosecution is that a complaint was lodged by the second respondent alleging the misappropriation of huge money in the construction of house under IAY, Green House, usage of forged job cards in MGNREGS, Non-construction of farm pond, Non-Construction of individual household latrine (IHHL) and non laying of pipelines and fixing electric motor pumps from Nadupatti Village Panchayat funds covering the period of allegations between 2011 – 2019. Upon the said

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complaint, preliminary enquiry was conducted and as per the preliminary enquiry report, the first respondent registered the FIR.

3. The learned Senior Counsel for the petitioner submits that the first respondent had no jurisdiction to register the FIR as against the petitioner as contemplated under Section 17(a)(c) of the Prevention of Corruption Act (hereinafter call 'Act'), since the competent authority did not grant any approval for prosecution. In support of his contention, he relied upon the following judgments :

- i. In the decision of ***Centre for Public Interest Litigation vs Union of India*** reported in ***2026 SCC Online SC 57*** split verdict was awarded by Two Hon'ble Judges of the Supreme Court, wherein, one of the Hon'ble Judges held that the time limit stipulated in the proviso to Section 17A of the Act shall apply and all the authorities concerned will act in accordance with the time-limit laid out therein.
- ii. In the decision of ***Yashwant Sinha and Others vs Central Bureau of Investigation through its Director and Another*** reported in ***(2020) 2 Supreme Court Cases 338*** held that no police officer is permitted to conduct any enquiry or investigation into any offence done by a public servant where the offence alleged is relatable to



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any recommendation made or decision taken by the public servant in discharge of his public functions without previous approval. Unless, there is previous approval, there could be neither enquiry nor investigation.

iii. In the decision of ***Kranti Associates Private Limited and Another vs Masood Ahmed Khan and Others*** reported in (2010) 9 ***Supreme Court Cases 496*** wherein in Para 47 it was held as follows:

“47. Summarizing the above discussion, this Court holds:

- a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.*
- b. A quasi-judicial authority must record reasons in support of its conclusions.*
- c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*
- d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*
- e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.*
- f. Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*
- g. Reasons facilitate the process of judicial review by superior Courts.*



h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain EHRR, at 562 para 29 and Anya v. University of Oxford, wherein the Court referred to [Article 6](#) of European Convention of Human Rights which requires,

"adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law,



requirement of giving reasons for the decision is of the essence and is virtually a part of "due process".

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- iv. In the decision of ***Union of India vs Mohan Lal Capoor and Others*** reported in ***(1973) 2 Supreme Court Cases 836*** it was held that the reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject matter for a decision whether it is purely administrative or quasi-judicial.
- v. In the decision of ***Opto Circuit India Limited vs Axis Bank and Others*** reported in ***(2021) 6 Supreme Court Cases 707*** it was held that if the salutary principle is kept in perspective, though the Authorised Officer is vested with sufficient power; such power is circumscribed by a procedure laid down under the statute. As such the power is to be exercised in that manner alone, failing which it would fall foul of the requirement of complying due process under law.

The learned Senior Counsel further submits that if the prior approval was not granted, entire proceedings even from the beginning of registration of FIR cannot be sustained in the eye of law.



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vi. In support of his contention, he also relied on the judgment of the Hon'ble Supreme Court in the decision of *State of Punjab vs Davinder Pal Singh Bhullar and Others with Sumedh Singh Saini Vs Davinder Pal Singh Bhullar and Others* reported in *(2011) 14 Supreme Court Cases 770* wherein it was held that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order.

Thus it is clear that when prior approval was granted beyond the period stipulated under Section 17A of the Act and when there was an extension period of thirty days, the authority shall record reasons in support of its conclusions. He further submits that in the case on hand, admittedly approval was accorded to prosecute the petitioner under Section 17A of the Act after statutory period of 90 days and before the extension period of 30 days. However, the authority concerned, namely, the District Collector, Namakkal, did not state any reasons for the delay in according approval for prosecution. Therefore, on this sole ground, the FIR cannot be sustained and liable to be set aside.

4. On perusal of the counter filed by the first respondent and also the submissions made by Mr.R.Ganesh Kumar, learned Counsel for

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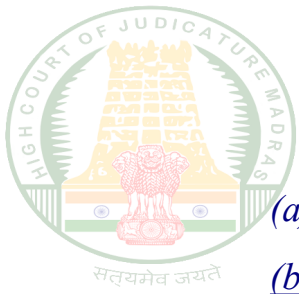
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Government of Tamil Nadu (Criminal Side) it is revealed that there are four named accused in Crime No.04/AC of 2023 registered for the offences punishable under Sections 120-B, 468, 471 IPC and Sections 13(2) r/w. 13(1)(c) and Section 13(2) r/w. 13(1)(a) of the Prevention of Corruption Act, 1988 as amended in 2018. It is the case of misappropriation of Government money. The petitioner is arrayed as first accused. On the complaint of the second respondent, preliminary enquiry was conducted and a report was submitted. On the basis of the preliminary enquiry, the first respondent registered the FIR. The prior approval is not applicable to the petitioner, since he was neither an employee nor was an employer under the State Government. He is coming under the category of any other person. It is relevant to extract the provision under Section 17A(1)(c) of the Act, hereunder :

“Section 17A in The Prevention of Corruption Act, 1988

17A. Enquiry or Inquiry or investigation of offences relatable to recommendations made or decision taken by public servant in discharge of official functions or duties. [Inserted by Act No. 16 of 2018, dated 26.7.2018.]

(1)No police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under this Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties, without the previous approval-



(a)....

(b)...

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(c)in the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed:

Provided that no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person:

Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month.]”

Therefore, the District Collector, Namakkal, is the competent authority to approve the prosecution. The District Collector, Namakkal, provided prior approval for both preliminary enquiry and investigation against the petitioner by the proceedings in ROC No.PA3/2823/2020 dated 23.02.2021. There was no delay in obtaining prior approval for taking up a preliminary enquiry. Similarly, for taking up the investigation, a proposal was sent from the Director of Vigilance and Anti-Corruption to the District Collector, Namakkal and prior approval was obtained from the District Collector, Namakkal dated 28.11.2022. Admittedly, there was a delay of 20 days in obtaining prior approval for taking up the investigation.

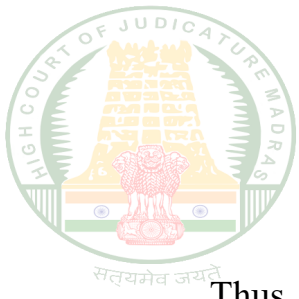


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5. On the basis of the submissions made by either side, the following point arise for consideration in this petition. Whether the FIR and other subsequent proceeding can be sustained if the prior approval was granted with a delay of 20 days without stating any reasons? In support of the contentions, the learned Counsel for Government of Tamil Nadu (Criminal Side), relied on the following judgments of the Hon'ble Supreme Court of India :

- i. In the decision of ***Vijay Rajmohan vs Central Bureau of Investigation (Anti-Corruption Branch)*** reported in ***(2023) 1 SCC 329*** in para 32, it was held as under:

“32. In the first place, non-compliance with a mandatory period cannot and should not automatically lead to the quashing of criminal proceedings because the prosecution of a public servant for corruption has an element of public interest having a direct bearing on the rule of law. This is also an non-sequitur. It must also be kept in mind that the complainant or victim has no other remedy available for judicial redressal if the criminal proceedings stand automatically quashed. At the same time, a decision to grant deemed sanction may cause prejudice to the rights of the accused as there would also be non-application of



mind in such cases.

Thus, it is clear that holding period of three months which may be extended by one more month for legal consultation, is mandatory. The consequence of non-compliance with this mandatory requirement shall not be ground for quashing the criminal proceeding at the very inception. The competent authority shall be accountable for the delay and be subject to judicial review.

- ii. In the decision of ***Nara Chandrababu Naidu vs State of Andhra Pradesh and Another*** reported in (2024) 13 SCC 292 in para 68 and 71, it was held as extracted hereunder :

“ 68. Even otherwise, absence of approval before conducting any enquiry or inquiry or investigation into an offence alleged to have been committed by a public servant, as contemplated in [Section 17A](#) could never be the ground for quashing the FIR registered against the public servant or the proceedings conducted against him, more particularly when he is also charged for the other offences under the [IPC](#) in respect of the same set of allegations. As stated earlier, there are other important facets contained in [Section 17A](#), like whether the alleged offence is relatable to the recommendation made or decision taken by the public servant or not, and whether such



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recommendation or decision was made or taken in discharge of his official functions or duties or not etc. Such facets could be examined only when the evidence is led during the course of trial. The alleged acts which prima facie constitute the offences, though done under the purported exercise of official function or duty, could not fall within the purview of [Section 17A](#). The Protection sought to be granted to a public servant under [Section 17A](#) could not be extended to his acts which prima facie were not in discharge of his official functions or duties. Any other interpretation would certainly tantamount to scuttling the investigation at a very nascent stage. Such could neither be the intention of the legislature nor could such provision be interpreted in the manner which would be counter productive or frustrating the very object of the [PC Act](#).

71. Having considered the different contours of [Section 17A](#), I am of the opinion that [Section 17A](#) would be applicable to the offences under the [PC Act](#) as amended by the Amendment Act, 2018, and not to the offences existing prior to the said amendment. Even otherwise, absence of an approval as contemplated in [Section 17A](#) for conducting enquiry, inquiry or investigation of the offences alleged to have been committed by a



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public servant in purported exercise of his official functions or duties, would neither vitiate the proceedings nor would be a ground to quash the proceedings or the FIR registered against such public servant.”

The provision under Section 17A of the Act is applicable only for the offences under the Prevention of Corruption Act. In the case on hand apart from the offences under the Prevention of Corruption Act, other offences are also registered as against the petitioner. Even otherwise, absence of an approval as contemplated under Section 17A of conducting enquiry or investigation for the offences under the Prevention of Corruption Act would neither vitiate the proceedings nor would be a ground to quash the proceedings or the FIR registered against such public servant.

6. The learned Single judge of the Hon'ble Supreme Court held that the time-limit stipulated in the proviso to Section 17A shall apply and all the authorities concerned will act in accordance with the time-limit laid out therein. Therefore, the above said matter was referred to a Larger Bench and it is pending. But the Hon'ble Supreme Court in ***Nara Chandrababu Naidu vs State of Andhra Pradesh and Another*** reported in (2024) 13 SCC 292 held that even in the absence of approval as



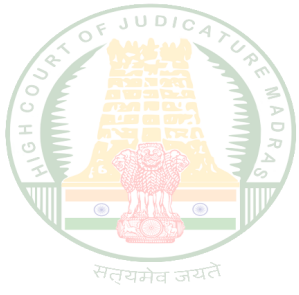
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contemplated under Section 17A of the act could not vitiate the enquiry or investigation or the FIR. That apart in the case on the hand, the District Collector of Namakkal accorded approval to prosecute the petitioner herein. Though the authority concerned failed to mention any reasons for the delay in according approval, it would not vitiate the very FIR. That apart there are specific allegations as against the accused to constitute the offences under IPC apart from the Prevention of Corruption Act. Even assuming that in order to prosecute the petitioner, a prior sanction / approval is mandatory. In the case on hand, there are other offences alleged against the petitioner, for which no approval is required to prosecute the petitioner.

7. In view of the above, this Court finds no ground to quash the FIR. Accordingly, this Criminal Original Petition stands dismissed. The first respondent is directed to complete the investigation within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, connected Criminal Miscellaneous Petition is also dismissed.

.....-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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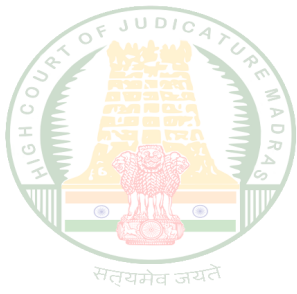


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To

1. The State Rep. by the Inspector of Police,
Vigilance and Anti-Corruption,
Namakkal,
Namakkal District.
2. The Public Prosecutor, High Court, Madras.



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CRL OP No.34763 of 2025

G.K.ILANTHIRAIYAN J.

MTL

Pre-Delivery Order in

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AND

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.....-07-2026