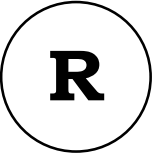


Reserved on : 31.01.2026
Pronounced on : 04.03.2026



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.8678 OF 2023

BETWEEN:

GEETA R.,
W/O G.S.RAVI,
AGED ABOUT 47 YEARS,
OCC. SUPERINTENDENT,
OFFICE OF DEPUTY REGISTRAR
OF CO-OPERATIVE SOCIETIES,
CHITRADURGA.

R/O NO.3388/43,
3RD MAIN, 3RD CROSS,
VINAYAKA BADAVANE VIDYANAGARA,
DAVANAGERE – 577 005.

... PETITIONER

(BY SRI SHANKAR P.HEGDE, ADVOCATE)

AND:

STATE BY KARNATAKA
POLICE SUB-INSPECTOR,
LOKAYUKTHA POLICE STATION,
DAVANAGERE.

REPRESENTED BY LD. SPL.SPP,
HIGH COURT BUILDING,
BENGALURU – 560 001.

AMENDMENT CARRIED OUT AS PER
ORDER DATED 07.12.2023.

... RESPONDENT

(BY SRI K. PRASANNA SHETTY, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE PROCEEDINGS INSTITUTED AGAINST THE PETITIONER FOR OFFENCES P/U/S.7 AND 13(1)(d) R/W SEC.13(2) OF THE PREVENTION OF CORRUPTION ACT, 1988, ON THE FILE OF PRINCIPAL DISTRICT AND SESSIONS JUDGE, DAVANAGERE IN SPL.(LOK) C.C.NO.2/2020.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 31.01.2026, 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 this Court calling in question proceedings before the Special Court in Special Case (LOK) No.2 of 2020 arising out of First Information Report in Crime No.8 of 2018 registered for offences punishable under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'the Act' for short).

2. Facts in brief, germane, are as follows: -

2.1. A complaint comes to be registered on 05-07-2018 which becomes a crime in Crime No.8 of 2018 for the afore-quoted offences. The Police Sub-Inspector, Lokayukta is the complainant. It is the allegation of the first informant/one Rudresh that the petitioner working as Superintendent in the office of the Assistant Registrar of Co-operative Societies, Davangere Sub-Division was approached for registration of Raithabandhu Sahakara Sangha Niyamitha, Kathalagere, Channagiri Taluk. For the said registration, it is the case of the prosecution that the petitioner had demanded ₹15,000/- for completion of work of registration. The then Anti-Corruption Bureau ('ACB' for short) sleuths prepared entrustment mahazar and proceeded to the office of the petitioner. A trap was laid and the petitioner was caught receiving tainted money. The entrustment mahazar and the trap mahazar are indicative of the fact that the petitioner herself has received the money. It is on the basis of the said trap so laid, the aforesaid crime comes to be registered. The Lokayukta Police conduct investigation and file a final report – charge sheet before the

concerned Court. The concerned Court registers Special LOK C.C.No.2 of 2020 and proceed to frame charges for the afore-quoted offences against the petitioner on 01-07-2022.

2.2. On the same incident, another analogous or contemporaneous proceeding was taken up on departmental side. A departmental enquiry was conducted against the petitioner on the basis of trap so laid. The Deputy Registrar of Co-operative Societies was appointed as Inquiry officer. The charge sheet was issued and the Inquiry Officer after conduct of inquiry exonerates the petitioner in entirety. Since exoneration of the petitioner was during subsistence of trial before the concerned Court, the petitioner knocks at the doors of this Court contending that the petitioner is entitled to the relief at the hands of this Court, on the ground that the departmental enquiry and the criminal trial are based on a solitary set of facts. The solitary set of facts is trap that was laid against the petitioner on 05-07-2018. The continuance of trial is what has driven the petitioner to this Court in the subject petition.

3. Heard Sri Shankar P.Hegde, learned counsel appearing for the petitioner and Sri K. Prasanna Shetty, learned counsel appearing for the respondent.

SUBMISSIONS:

PETITIONER'S:

4. The learned counsel appearing for the petitioner would vehemently contend that witnesses and documents that are produced before the Inquiry Officer in the departmental enquiry and the criminal trial are one and the same. In the departmental enquiry, the Inquiry Officer has completely exonerated the petitioner on the basis of evidence. This exoneration has been accepted by the Disciplinary Authority and proceedings are closed. In the light of closure of proceedings, the learned counsel would contend that criminal trial must also be obliterated as, if the prosecution could not prove the case against the petitioner on preponderance of probability, it can hardly prove in a criminal trial where it is required to be proved, beyond all reasonable doubt. He would seek quashment of proceedings.

THE ACB – LOKAYUKTHA:

5. Per contra, learned counsel appearing for the then ACB, now the Lokayukta, would vehemently contend that the petitioner herself is caught receiving bribe. Therefore, the fact that she is exonerated in a departmental inquiry, where unlike in a criminal trial, the evidence would not be complete, cannot mean that criminal trial should be obliterated. He would submit that the judgment rendered by the Apex Court in 2026 would steer clear the doubt as to whether an employee against whom a departmental inquiry is initiated and has been exonerated, the criminal trial will have to be obliterated or otherwise. He has relied upon the judgment of the Apex Court in the case of **KARNATAKA LOKAYUKTHA BAGALKOTE DISTRICT v. CHANDRASHEKAR**¹.

6. The learned counsel appearing for the petitioner would join issue in contending that the Apex Court in the case of **CHANDRASHEKAR** *supra* has not followed the judgment of the Apex Court in **ASHOO SURENDRANATH TEWARI v. CBI**², which

¹ 2026 SCC OnLine SC 13

² (2020) 9 SCC 636

is a judgment rendered by three Judges and, therefore, the judgment in **CHANDRASHEKAR** is per incuriam. He would further contend that the departmental inquiry against the petitioner is conducted under the Karnataka Departmental Inquiries (Enforcement of Attendance of Witnesses, production of Documents and Miscellaneous Provisions) Act, 1981. It is his submission that if witnesses and documents are produced under this Act, it would be on oath. If it is on oath, it becomes a judicial proceeding and not a quasi-judicial proceeding and if it is a judicial proceeding, the exoneration in departmental inquiry would take away the effect of criminal trial. He would, therefore, contend that this Court should interfere in the case at hand. The charges are framed and criminal case is at its fag end. On the sole score that in the departmental inquiry the petitioner is exonerated, he would submit that the judgment in **CHANDRASHEKAR** is not applicable to the facts obtaining in the case at hand and would seek to place reliance on the judgments of the Apex Court in the cases of (i) **P.S.RAJYA v. STATE OF BIHAR**³; (ii) **RADHESHYAM KEJRIWAL v. STATE OF**

³ (1996) 9 SCC 1

WEST BENGAL⁴; (iii) STATE (NCT OF DELHI) v. AJAY KUMAR TYAGI⁵; (iv) ASHOO SURENDRANATH TEWARI *supra*; and (v) NEERAJ DUTTA v. STATE (NCT OF DELHI)⁶.

7. The learned counsel for the respondent/Lokayukta places reliance upon two judgments of the Apex Court in the case of **T. MANJUNATH v. STATE OF KARNATAKA⁷** and **A. KARUNANITHI v. STATE REPRESENTED BY INSPECTOR OF POLICE⁸.**

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

CONSIDERATION:

9. In furtherance of the said submissions, the issue that falls for consideration is:

⁴ (2011) 3 SCC 581

⁵ (2012) 9 SCC 685

⁶ (2023) 4 SCC 731

⁷ 2025 SCC OnLine SC 2597

⁸ 2025 SCC OnLine SC 1677

“Whether, in every case where two parallel proceedings spring from an identical substratum of facts - one being a departmental enquiry and the other, a criminal prosecution, the exoneration of a delinquent employee in the former - departmental enquiry, can result in the obliteration of the later - criminal trial?”

10. The factual narrative and a sequence of events are matters of record and admit of no serious dispute. On 05-07-2018, a complaint comes to be registered, acting upon the said complaint the then Anti-Corruption Bureau laid a trap against the petitioner. In the course of the trap, the petitioner was apprehended red-handed - caught in the act of receiving tainted currency. The phenolphthalein test yielded the characteristic pink discoloration lending corroboration to the prosecution's case. The trap mahazar records recovery of the entire sum of ₹15,000/- and documents the procedural formalities attended upon such recovery. The trap mahazar, insofar as it is relevant, reads as follows.

“ಟ್ರಾಪ್ ಪಂಚನಾಮೆ

ದಿನಾಂಕ:05/07/2018 ರಂದು ದಾವಣಗೆರೆ ಸಹಕಾರ ಸಂಘಗಳ ಸಹಾಯಕ ನಿಬಂಧಕರು ದಾವಣಗೆರೆ ಉಪ ವಿಭಾಗ ವಿದ್ಯಾನಗರ ದಾವಣಗೆರೆ ಕಛೇರಿಯಲ್ಲಿ ದಾವಣಗೆರೆ ಎಸಿಬಿ ಪೊಲೀಸ್ ಠಾಣೆಯ ಅಪರಾಧ ಸಂಖ್ಯೆ 08/2018 ಕಲಂ: 7, 13(1)(ಡಿ) & 13(2) ಪಿ ಸಿ ಆಕ್ಟ್ -1988ರ ಮೊಕ್ಕದ್ದಮೆಯಲ್ಲಿ ತನಿಖಾಧಿಕಾರಿಯಾದ ಹೆಚ್.ಎಸ್. ಪರಮೇಶ್ವರ್, ಪೊಲೀಸ್ ಉಪಾಧೀಕ್ಷಕರು, ಎಸಿಬಿ ಪೊಲೀಸ್ ಠಾಣೆ ದಾವಣಗೆರೆ ಇವರು ಪಂಚರಾದ.

1) ಶ್ರೀ ಎಂ. ಮಹಬೂಬ್ ಬಾಷಾ ಬಿನ್ ಲೇ|| ಎಂ.ಡಿ. ಅಮೀನ್, 55ವರ್ಷ, ಮುಸ್ಲಿಂ ಜನಾಂಗ, ಕಛೇರಿ ಅಧೀಕ್ಷಕರು, ರೇಷ್ಮೆ ಉಪನಿರ್ದೇಶಕರ ಕಛೇರಿ, ಜಿಲ್ಲಾ ಪಂಚಾಯತ್ ದಾವಣಗೆರೆ. ವಾಸ||#1053/999, 1ನೇ ಮೇನ್, 1ನೇ ಕ್ರಾಸ್, ವಿಜಯನಗರ ಬಡಾವಣೆ, ಹರಿಹರ, ದಾವಣಗೆರೆ ಜಿಲ್ಲೆ.-9036719066.

2) ಶ್ರೀಮತಿ ಮಾಲಾ ಎನ್. ಕೊಂ ಲೇ|| ರಾಮು, 45ವರ್ಷ, ರಜಪೂತ್ ಜನಾಂಗ, ಟೈಪಿಸ್ಟ್ ಕೆಲಸ, ಎ.ಪಿ.ಎಂ.ಸಿ. ಕಛೇರಿ, ದಾವಣಗೆರೆ ವಾಸ|| #ಎ5, ಎ.ಪಿ.ಎಂ.ಸಿ. ವಸತಿ ಗೃಹ, ಪಿ.ಬಿ. ರಸ್ತೆ, ದಾವಣಗೆರೆ.-9880087790.

ರವರ ಸಮಕ್ಷಮ ತಯಾರಿಸಿದ ಪಂಚನಾಮೆ.

ಪ್ರಾರಂಭಿಸಿದ ಸಮಯ: ಮಧ್ಯಾಹ್ನ 3-30 ಗಂಟೆಗೆ.

ಈ ದಿನ ಬೆಳಿಗ್ಗೆ ದಾವಣಗೆರೆ ಎಸಿಬಿ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ಪ್ರಾಯೋಗಿಕ ಪಂಚನಾಮೆ ಆದ ನಂತರ ಮಧ್ಯಾಹ್ನ 2-40 ಗಂಟೆಗೆ ತನಿಖಾಧಿಕಾರಿಗಳ ರವರ ಸೂಚನೆಯಂತೆ ತನಿಖಾಧಿಕಾರಿಗಳೊಂದಿಗೆ, ಪಂಚಸಾಕ್ಷಿ-ಶ್ರೀ ಮಹಬೂಬ್ ಬಾಷಾ, ಪಿಐ., ಶ್ರೀ ನಾಗಪ್ಪರವರು ಹಾಗೂ ಕೆಎ-04 ಜಿ-1365ನೇ ಕಾರಿನಲ್ಲಿ ಹಾಗೂ ಪಿಐ ಶ್ರೀ ಅಡಿವೆಪ್ಪ ಎಸ್ ಗುದಿಗೊಪ್ಪ ಮತ್ತು ಸಿಬ್ಬಂದಿ ಶ್ರೀ ವೀರೇಶಪ್ಪ, ಸಿಪಿಸಿ, ಧನರಾಜ್ ಸಿಪಿಸಿ, ಮೋಹನ ಸಿಪಿಸಿ ರವರುಗಳು ಮಹಿಳಾ ಪೊಲೀಸ್ ಠಾಣೆಯ ಸಿಬ್ಬಂದಿಯವರಾದ ಶ್ರೀಮತಿ ಗಾಯತ್ರಿ ಮಹಿಸಿ-55, ಶ್ರೀಮತಿ ಶೋಭಾ, ಮಹಿಸಿ-264, ಸರ್ಕಾರಿ ವಾಹನ ಸಂಖ್ಯೆ ಕೆ.ಎ-04 ಜಿ-1317 ರಲ್ಲಿ, ಹಾಗೂ ಕೆಎ-04 ಜಿ-1432 ಕಲ್ಲೇಶಪ್ಪ, ಸಿಪಿಸಿ ಶ್ರೀಮತಿ ಫಾತಿಮಾ ಜಹೀರಾ ಮಹಿಸಿ ರವರುಗಳು ಹಾಗೂ ಫರ್ಯಾದಿ ಬಾಬು ಕೆಎ-17 ಇಟಿ-4619ನೇ ಹೊಂಡಾ ಶೈನ್ ಬೈಕ್‌ನಲ್ಲಿ ಫರ್ಯಾದಿ ಮತ್ತು ನೆರಳು ಸಾಕ್ಷಿ ಶ್ರೀಮತಿ ಮಾಲಾ ರವರುಗಳು ದಾವಣಗೆರೆ ಎಸಿಬಿ ಪೊಲೀಸ್ ಠಾಣೆಯನ್ನು ಬಿಟ್ಟು ದಾವಣಗೆರೆ ಸಹಕಾರ ಸಂಘಗಳ ಉಪ ನಿರ್ದೇಶಕರ ಕಛೇರಿ ಬಳಿ ಬಂದಾಗ ಸಮಯ ಮಧ್ಯಾಹ್ನ 2.55 ಗಂಟೆಯಾಗಿತ್ತು.

ನಂತರ ತನಿಖಾಧಿಕಾರಿಗಳ ಸೂಚನೆಯಂತೆ ಫರ್ಯಾದಿ & ನೆರಳುಸಾಕ್ಷಿ ಶ್ರೀಮತಿ ಮಾಲಾ ರವರು ಆಪಾದಿತರು ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುವ ಕಛೇರಿಗೆ ಹೋದರು, ಉಳಿದ ಅಧಿಕಾರಿ, ಸಿಬ್ಬಂದಿಯವರು ಕಛೇರಿಯ ಹೊರಗೆ ಅಲ್ಲಲ್ಲಿ ಸುತ್ತಮುತ್ತ ಮರೆಯಾಗಿ ಕಾಯುತ್ತಾ ಇದ್ದರು. 2 ನಿಮಿಷದ ನಂತರ ಫರ್ಯಾದಿ ಹೊರಗೆ ಬಂದು ಸೂಚ್ಯವಾಗಿ ಆಪಾದಿತರು ಉಟಕ್ಕೆ ಹೋದವರು ಬಂದಿಲ್ಲ ಎಂದು ತಿಳಿಸಿದರು. ನಂತರ ಅಲ್ಲಿಯೇ

ಕಾಯುತ್ಥಾ ಕಛೇರಿಯ ಕೆಳ ಮಹಡಿಯಲ್ಲಿ ಕುಳಿತರು. 10 ನಿಮಿಷದ ನಂತರ ನೆರಳು ಸಾಕ್ಷಿ ಶ್ರೀಮತಿ ಮಾಲಾ ರವರು ಹೊರಗಡೆ ಬಂದು ಸೂಚ್ಯವಾಗಿ ನೀಡಿದ ಸಂಜ್ಞೆಯ ಮೇರೆಗೆ ಪಂಚ ಸಾಕ್ಷಿಯಾದ ನಾನು ಮಹಬೂಬ್ ಬಾಷಾ ಮತ್ತು ತನಿಖಾಧಿಕಾರಿ ಹಾಗೂ ಉಳಿದ ಅಧಿಕಾರಿ ಸಿಬ್ಬಂದಿಯವರೆಲ್ಲರೂ ಕಛೇರಿಗೆ ಹೋದೆವು. ನಂತರ ಫಿರ್ಯಾದಿಯ ಮುಂದೆ ಕುಳಿತಿದ್ದ ಒಬ್ಬ ಮಹಿಳೆಯೇ ಆಪಾದಿತ ಶ್ರೀಮತಿ ಗೀತಾ ಎಂದು ನೆರಳು ಸಾಕ್ಷಿ ತಿಳಿಸಿದ ಮೇರೆಗೆ ಮಹಿಳಾ ಸಿಬ್ಬಂದಿಯಾದ ಶ್ರೀಮತಿ ಫಾತಿಮ ಜಹೇರಾ, ಮಪಿಸಿ ರವರು ಆಪಾದಿತರ ಬಲಗೈಯನ್ನು ಹಾಗೂ ಮಪಿಸಿಶ್ರೀಮತಿ ಗಾಯಿತ್ರಿರವರು ಆಪಾದಿತೆಯ ಎಡಗೈಯನ್ನು ಹಿಡಿದುಕೊಂಡರು. ಆಗ ಆಪಾದಿತೆಯ ಎಡಗೈಯಲ್ಲಿದ್ದ ಹಣವನ್ನು ಟೇಬಲ್ ಮೇಲೆ ಇರಿಸಿದರು. ಹಾಗೂ ಪಿರ್ಯಾದಿ ಬಳಿ ಕೊಟ್ಟಿದ್ದ ಸೋನಿ ವಾಯ್ಸ್ ರೆಕಾರ್ಡ್‌ನ್ನು ತನಿಖಾಧಿಕಾರಿಗಳು ಪಡೆದುಕೊಂಡು ಆಫ್ ಮಾಡಿದರು.

ನಂತರ ತನಿಖಾಧಿಕಾರಿಗಳು ಫಿರ್ಯಾದಿ ಮತ್ತು ನೆರಳು ಸಾಕ್ಷಿರವರನ್ನು ವಿಚಾರಿಸಲಾಗಿ ನಾವುಗಳು ಕಛೇರಿಗೆ ಬಂದು ನೋಡಿದಾಗ ಕಛೇರಿಯ ಅಧಿಕ್ಷಕರಾದ ಶ್ರೀಮತಿ ಗೀತಾರವರು ಇರಲಿಲ್ಲ. ಕಛೇರಿಯಲ್ಲಿ ಕೇಳಿದಾಗ ಉಟಕ್ಕೆ ಹೋಗಿದ್ದಾರೆ ಈಗ ಬರುತ್ತಾರೆ. ಅಂತ ತಿಳಿಸಿದ ಮೇರೆಗೆ ನಾವುಗಳು ಕಛೇರಿಯ ಮೆಟ್ಟಿಲು ಬಳಿ ಕಾಯುತ್ಥಾ ಕುಳಿತೆವು. ಸುಮಾರು 10 ನಿಮಿಷದ ನಂತರ ಶ್ರೀಮತಿ ಗೀತಾ ರವರು ಬಂದಾಗ ನಾವುಗಳು ಅವರದೊಂದಿಗೆ ಕಛೇರಿ ಒಳಗೆ ಹೋದೆವು ನಂತರ ಫಿರ್ಯಾದಿ ಅಪಾದಿತರನ್ನು ನಮ್ಮ ಕೆಲಸ ಏನಾಯಿತು ಎಂದು ವಿಚಾರಿಸಿದಾಗ ಅವರು ಎಲ್ಲಾ ಆಗಿದೆ ಸಹಿ ಆಗಿದೆ. ಎಂದು ಕಡತವನ್ನು ತೋರಿಸಿ, ಹಣಕ್ಕೆ ಸೂಚ್ಯವಾಗಿ ತಿಳಿಸಿದ ಮೇರೆಗೆ ಫಿರ್ಯಾದಿಯು ಫಿನಾಪ್ತಲೀನ್ ಪುಡಿಯನ್ನು ಸವರಿದ 15,000/- ರೂ ಲಂಚದ ಹಣವನ್ನು ಆಪಾದಿತರಿಗೆ ನೀಡಿದಾಗ ಅವರು ಬಲಗೈಯಿಂದ ಹಣವನ್ನು ಪಡೆದು ಎಣಿಸಿ ಎಡಗೈಯಲ್ಲಿ ಹಣವನ್ನು ಹಿಡಿದುಕೊಂಡರು ಆಗ ನಾನು ಬಂದು ನಿಮಗೆ ಸಂಜ್ಞೆಯನ್ನು ನೀಡಿದ ಮೇರೆಗೆ ತಾವುಗಳು ಹಾಗೂ ಅಧಿಕಾರಿ/ಸಿಬ್ಬಂದಿಯವರು ಬಂದು ಶ್ರೀಮತಿ ಫಾತಿಮಾ ಜಹೇರಾ, ಹಾಗೂ ಶ್ರೀಮತಿ ಗಾಯಿತ್ರಿ ಮಪಿಸಿರವರುಗಳು ಆಪಾದಿತರ ಎರಡೂ ಕೈಯನ್ನು ಹಿಡಿದುಕೊಂಡರು. ಆಗ ಸಮಯ ಸುಮಾರು 3.15 ಗಂಟೆಯಾಗಿತ್ತು.

ನಂತರ ತನಿಖಾಧಿಕಾರಿಗಳು ಪಿರ್ಯಾದಿ ಕಡೆಯಿಂದ ಪಡೆದ ಸೋನಿ ವಾಯ್ಸ್ ರೆಕಾರ್ಡ್‌ನ್ನು ಪಿಸಿ ಧನರಾಜ್ ರವರಿಗೆ ನೀಡಿ ಸಂಭಾಷಣೆಯನ್ನು ಲೇಖಿತ್ಯತ ಮಾಡಲು ತಿಳಿಸಿದರು. ತನಿಖಾಧಿಕಾರಿಗಳು ಆಪಾದಿತೆಯಾದ ಶ್ರೀಮತಿ ಗೀತಾರವರಿಗೆ ತಮ್ಮ ಗುರುತಿನ ಚೀಟಿಯನ್ನು ತೋರಿಸಿ ತಮ್ಮ ಪರಿಚಯ ಮಾಡಿಕೊಂಡು, ಪಂಚರ ಪರಿಚಯವನ್ನು ಸಹಾ ಅವರಿಗೆ ಮಾಡಿಕೊಟ್ಟರು. ನಂತರ ತನಿಖಾಧಿಕಾರಿಗಳು ಆಪಾದಿತರನ್ನು ವಿಚಾರಿಸಲಾಗಿ ಅವರು ತಮ್ಮ ಹೆಸರು ಶ್ರೀಮತಿ ಗೀತಾ ಕೋಂ ಜಿ.ಎಸ್. ರವಿ ಕಛೇರಿ ಅಧೀಕ್ಷಕರು, ಸಹಕಾರ ಸಂಘಗಳ ಸಹಾಯಕ ನಿಬಂಧಕರ ಕಛೇರಿ, ದಾವಣಗೆರೆ ಉಪ ವಿಭಾಗ, ದಾವಣಗೆರೆ ವಾಸ # 3388/43, 3ನೇ ಮೇನ್, 2ನೇ ಕ್ರಾಸ್, ವಿನಾಯಕ ಬಡಾವಣೆ, ದಾವಣಗೆರೆ. ಸ್ವಂತ ವಿಳಾಸ: 4ನೇ ಕ್ರಾಸ್, ಕೃಷ್ಣಮೂರ್ತಿ ಲೇಔಟ್, ವಿದ್ಯಾನಗರ, ಶಿವಮೊಗ್ಗ ಮೊಬೈಲ್ ನಂ. 9844284303 ಅಂತಾ ತಿಳಿಸಿದರು. ತನಿಖಾಧಿಕಾರಿಗಳು ಆಪಾದಿತರಿಗೆ ಪಿರ್ಯಾದಿ ರುದ್ರೇಶ್ ಎಸ್.ಇ.ರವರು ನೀಡಿದ ದೂರಿನ ಮೇರೆಗೆ ನಿಮ್ಮ ವಿರುದ್ಧ ಎಸಿಬಿ ಪೊಲೀಸ್ ಠಾಣೆ ದಾವಣಗೆರೆಯಲ್ಲಿ ಪ್ರಕರಣ ಸಂಖ್ಯೆ: 08/2018 ಕಲಂ: 7 ಪಿ.ಸಿ. ಆಕ್ಟ್-1988ರ ಕಾಯ್ದೆ ಅಡಿ ಪ್ರಕರಣ ದಾಖಲಾಗಿದೆ ತನಿಖೆಗೆ ಸಹಕರಿಸಿ ಎಂದು ತಿಳಿಸಿದರು ಅದಕ್ಕೆ

ಅವರು ಒಪ್ಪಿಗೆ ಸೂಚಿಸಿದರು. ತನಿಖಾಧಿಕಾರಿಗಳು ಆಪಾದಿತನಿಗೆ ಪಿರ್ಯಾದಿಯ ಪರಿಚಯವಿದೆಯೆ ಎಂದು ಕೇಳಿದಾಗ ಅವರು ಹೌದು ಅವರು ಕತ್ತಲೆಗರೆ ಗ್ರಾಮದವರಾಗಿದ್ದು ರೈತಬಂಧು ಸಹಕಾರ ಸಂಘ ನಿಯಮಿತ ಸಂಘವನ್ನು ನೊಂದಣಿ ಮಾಡಿಸಲು ಈ ಕಛೇರಿಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದು, ಆ ಸಂಬಂಧ ಬಂದಿದ್ದರು ಎಂದು ತಿಳಿಸಿದರು.

ನಂತರ ತನಿಖಾಧಿಕಾರಿಗಳು ಪಿರ್ಯಾದಿ ನೀಡಿದ ಲಂಚದ ಹಣದ ಬಗ್ಗೆ ಕೇಳಿದ್ದಕ್ಕೆ ಆಪಾದಿತರು ತಾವುಗಳು ನನ್ನನ್ನು ಹಿಡಿದುಕೊಂಡು ನನ್ನ ಎಡಗೈಯಲ್ಲಿದ್ದ ಹಣವನ್ನು ನನ್ನ ಟೇಬಲ್ ಮೇಲೆ ಇರಿಸಿದ್ದು ಇದೇ ರುದ್ರೇಶ್ ರವರು ನೀಡಿದ ಹಣವಾಗಿರುತ್ತದೆ ಅಂತ ತಿಳಿಸಿದ ಮೇರೆಗೆ ಹಾಗೂ ತನಿಖಾಧಿಕಾರಿಗಳ ಸೂಚನೆಯಂತೆ ಪಂಚರಾದ ನಾವುಗಳು ಪರಿಶೀಲಿಸಿ ನೋಡಲಾಗಿ ಅವುಗಳ ಮೌಲ್ಯ ಮತ್ತು ಕ್ರಮ ಸಂಖ್ಯೆ ಈ ಕೆಳಗಿನಂತಿರುತ್ತದೆ.

- 1) ರೂ. 2000 ಮೌಲ್ಯದ ಒಂದು ನೋಟು ಕ್ರಮ ಸಂಖ್ಯೆ: 5GT661748
- 2) ರೂ. 2000 ಮೌಲ್ಯದ ಒಂದು ನೋಟು ಕ್ರಮ ಸಂಖ್ಯೆ: 1GM220166
- 3) ರೂ. 2000 ಮೌಲ್ಯದ ಒಂದು ನೋಟು ಕ್ರಮ ಸಂಖ್ಯೆ: 9HM267396
- 4) ರೂ. 2000 ಮೌಲ್ಯದ ಒಂದು ನೋಟು ಕ್ರಮ ಸಂಖ್ಯೆ: 3BH245582
- 5) ರೂ. 2000 ಮೌಲ್ಯದ ಒಂದು ನೋಟು ಕ್ರಮ ಸಂಖ್ಯೆ: 3MC727609
- 6) ರೂ. 2000 ಮೌಲ್ಯದ ಒಂದು ನೋಟು ಕ್ರಮ ಸಂಖ್ಯೆ: 4AA271506
- 7) ರೂ. 2000 ಮೌಲ್ಯದ ಒಂದು ನೋಟು ಕ್ರಮ ಸಂಖ್ಯೆ: 7AT848016
- 8) ರೂ. 500 ಮೌಲ್ಯದ ಒಂದು ನೋಟು ಕ್ರಮ ಸಂಖ್ಯೆ: 3FE250354
- 9) ರೂ. 500 ಮೌಲ್ಯದ ಒಂದು ನೋಟು ಕ್ರಮ ಸಂಖ್ಯೆ: 7DL008113

ಸದರಿ ಮೇಲ್ಕಂಡ ನೋಟುಗಳ ಕ್ರಮ ಸಂಖ್ಯೆ & ಮೌಲ್ಯವನ್ನು ನೆರಳುಸಾಕ್ಷಿ ಶ್ರೀಮತಿ ಮಾಲಾ ಆದ ನಾನು ಹೇಳಿದಂತೆ, ಇನ್ನೊಬ್ಬ ಪಂಚಸಾಕ್ಷಿ ಶ್ರೀ ಮಹಬೂಬ್ ಬಾಷಾ ರವರು ಒಂದು ಬಿಳಿ ಹಾಳೆಯಲ್ಲಿ ಬರೆದುಕೊಂಡರು ನಂತರ ತನಿಖಾಧಿಕಾರಿಗಳ ಸೂಚನೆಯಂತೆ ನಾವು ಪ್ರಾಯೋಗಿಕ ಪಂಚನಾಮೆ ಕಾಲಕ್ಕೆ ಪಿರ್ಯಾದಿ ಹಾಜರ್‌ಪಡಿಸಿದ್ದಾಗ, ಒಂದು ಬಿಳಿ ಹಾಳೆಯಲ್ಲಿ ಗುರುತಿಸಿಕೊಂಡಿದ್ದ ನೋಟುಗಳ ಸಂಖ್ಯೆ ಮತ್ತು ಮೌಲ್ಯವು, ಆಪಾದಿತರು ಹಾಜರುಪಡಿಸಿದ ನೋಟುಗಳ ಮೌಲ್ಯ ಮತ್ತು ಕ್ರಮ ಸಂಖ್ಯೆಗಳಿಗೆ ಹೊಂದಾಣಿಕೆ ಆಗಿರುತ್ತದೆ. ಸದರಿ ಹಾಳೆಗೆ ಪಂಚರಾದ ನಾವುಗಳು, ಆಪಾದಿತ ಶ್ರೀಮತಿ ಗೀತಾ, ಫಿರ್ಯಾದಿ ಸಹಿ ಮಾಡಿದ ನಂತರ ತನಿಖಾಧಿಕಾರಿಗಳು ಅಮಾನತ್ತುಪಡಿಸಿಕೊಂಡರು. ನಂತರ ಮೇಲ್ಕಂಡ ಎಲ್ಲಾ ನೋಟುಗಳನ್ನು ಪ್ಲಾಸ್ಟಿಕ್ ಕವರ್‌ನಲ್ಲಿ ಹಾಕಿ, ಅದನ್ನು ಖಾಕಿ ಬಣ್ಣದ ಕಾಗದದ ಒಂದು ಖಾಲಿ ಕವರ್‌ನಲ್ಲಿ ಇಟ್ಟು, ಪ್ರಾಯೋಗಿಕ ಪಂಚನಾಮೆ ಕಾಲದಲ್ಲಿ 'ಎವಿ' ಅಕ್ಷರದ ಸೀಲ್‌ನ್ನು ನೆರಳು ಸಾಕ್ಷಿ- ಶ್ರೀಮತಿ ಮಾಲಾರವರ ಕಡೆ ನೀಡಿದ್ದನ್ನು ಪಡೆದು ಕವರ್‌ಗೆ ಅರಗಿನಿಂದ "ಎವಿ" ಎಂಬ ಇಂಗ್ಲೀಷ್ ಅಕ್ಷರದ ಸೀಲ್ ಮಾಡಿ ಕಾಗದದ ಕವರ್‌ನ್ನು ಆರ್ಟಿಕಲ್ ನಂ:04 ಎಂದೂ ಮತ್ತು ಪಂಚರು ಪ್ರಾಯೋಗಿಕ ಪಂಚನಾಮೆ ಕಾಲದಲ್ಲಿ & ಟ್ರಾಪ್ ಆದ ನಂತರ ನೋಟುಗಳ ಸಂಖ್ಯೆ ಹಾಗೂ ಮೌಲ್ಯವನ್ನು ಬರೆದುಕೊಂಡ ಎರಡು ಬಿಳಿ ಹಾಳೆಗಳನ್ನು ಒಂದು ಕಾಗದದ ಕವರ್‌ನಲ್ಲಿ ಹಾಕಿ ಆರ್ಟಿಕಲ್ ನಂ:05 ಅಂತ ನಮೂದಿಸಲಾಯಿತು.

ನಂತರ ತನಿಖಾಧಿಕಾರಿಗಳ ಸೂಚನೆಯ ಮೇರೆಗೆ ಪಂಚರ ಸಮಕ್ಷಮ ಎಸಿಬಿ ರಾಣೆಯ ಪೊಲೀಸ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಶ್ರೀ ಬಿ ನಾಗಪ್ಪ & ಸಿಬ್ಬಂದಿ ಶ್ರೀ ವೀರೇಶಪ್ಪರವರು ಶುದ್ಧವಾದ ನೀರು ಮತ್ತು ಸೋಡಿಯಂ ಕಾರ್ಬೋನೇಟ್ ಪುಡಿ ಉಪಯೋಗಿಸಿ ಒಂದು ಪ್ಲಾಸ್ಟಿಕ್ ಬಟ್ಟಲಿನಲ್ಲಿ ಸೋಡಿಯಂ ಕಾರ್ಬೋನೇಟ್ ದ್ರಾವಣ ತಯಾರಿಸಿದರು ಅದು ಬಣ್ಣ ರಹಿತವಾಗಿದ್ದು, ತನಿಖಾಧಿಕಾರಿಗಳ ಸೂಚನೆಯಂತೆ ಪ್ಲಾಸ್ಟಿಕ್ ಬಟ್ಟಲಿನಲ್ಲಿದ್ದ ಸೋಡಿಯಂ ಕಾರ್ಬೋನೇಟ್ ದ್ರಾವಣದಿಂದ ಸ್ವಲ್ಪ ದ್ರಾವಣವನ್ನು ಮಾದರಿಯಾಗಿ ತೆಗೆದು ಅದನ್ನು ಒಂದು ಬಾಟಲಿಯಲ್ಲಿ ಹಾಕಿ ಮುಚ್ಚುಳ ಮುಚ್ಚಿ ಅದಕ್ಕೆ ಬಿಳಿ ಬಟ್ಟೆ ಸುತ್ತಿ ಅದರ ಬಾಯಿಗೆ ದಾರದಿಂದ ಕಟ್ಟಿ ಅರಗಿನಿಂದ ಸೀಲ್ ಮಾಡಿ ಅದರ ಮೇಲೆ "ಎ.ವಿ" ಎಂಬ ಇಂಗ್ಲೀಷ್ ಅಕ್ಷರದ ಮೊಹರು ಮಾಡಿ ಆರ್ಟಿಕಲ್ ನಂ.06 ಅಂತ ನಮೂದಿಸಲಾಯಿತು.

ನಂತರ ತನಿಖಾಧಿಕಾರಿಗಳ ಸೂಚನೆಯ ಮೇರೆಗೆ ಆಪಾದಿತರ ಬಲ & ಎಡ ಕೈಬೆರಳುಗಳನ್ನು ಎರಡು ಪ್ರತ್ಯೇಕ ಪ್ಲಾಸ್ಟಿಕ್ ಬಟ್ಟಲಿನಲ್ಲಿದ್ದ ಸೋಡಿಯಂ ಕಾರ್ಬೋನೇಟ್ ದ್ರಾವಣದಲ್ಲಿ ಪ್ರತ್ಯೇಕವಾಗಿ ಅದ್ದಿ ತೊಳೆದಾಗ ಅದು ತಿಳಿಗುಲಾಬಿ ಬಣ್ಣಕ್ಕೆ ಬದಲಾವಣೆ ಆಯಿತು, ನಂತರ ಅದನ್ನು ಎರಡು ಪ್ರತ್ಯೇಕ ಪ್ಲಾಸ್ಟಿಕ್ ಖಾಲಿ ಬಾಟಲಿಗಳಲ್ಲಿ ಹಾಕಿ ಮುಚ್ಚುಳ ಮುಚ್ಚಿ ಅವುಗಳಿಗೆ ಬಿಳಿ ಬಟ್ಟೆ ಸುತ್ತಿ ಅವುಗಳ ಬಾಯಿಗೆ ದಾರದಿಂದ ಕಟ್ಟಿ ಅವುಗಳ ಮೇಲೆ ಅರಗಿನಿಂದ ಸೀಲ್ ಮಾಡಿ ಅದರ ಮೇಲೆ "ಎವಿ" ಎಂಬ ಇಂಗ್ಲೀಷ್ ಅಕ್ಷರದ ಮೊಹರು ಮಾಡಿ, ಬಲಕ್ಕೆ ಬೆರಳುಗಳನ್ನು ತೊಳೆದ ದ್ರಾವಣದ ಬಾಟಲಿಯನ್ನು ಆರ್ಟಿಕಲ್ ನಂ.07 ಅಂತ ಹಾಗೂ ಎಡಕ್ಕೆ ಬೆರಳುಗಳನ್ನು ತೊಳೆದ ದ್ರಾವಣದ ಬಾಟಲಿಯನ್ನು ಆರ್ಟಿಕಲ್ ನಂ.08 ಅಂತ ನಮೂದಿಸಲಾಯಿತು.

ನಂತರ ತನಿಖಾಧಿಕಾರಿಗಳು ಆಪಾದಿತ ಶ್ರೀಮತಿ ಗೀತಾರವರಿಗೆ ಫಿರ್ಯಾದಿಯು ರೈತಬಂಧು ಸಹಕಾರ ಸಂಘ ನಿಯಮಿತ ಕತ್ತಲಗೆರೆ ಸಂಘದ ನೊಂದಣಿಗಾಗಿ ಸಲ್ಲಿಸಿದ ಅರ್ಜಿಗೆ ಸಂಬಂಧಿಸಿದ ಕಡತವನ್ನು ಹಾಜರುಪಡಿಸಲು ಹೇಳಿದ್ದು ಅವರು ಅಲ್ಲಿಯೇ ಟೇಬಲ್ ಮೇಲೆ ಇದ್ದ ಫೈಲನ್ನು ಹಾಜರುಪಡಿಸಿದರು. ಪಂಚರ ಸಮಕ್ಷಮ ತನಿಖಾಧಿಕಾರಿಗಳು ಪರಿಶೀಲಿಸಿದಾಗ ಒಟ್ಟು 76 ಹಾಳೆಗಳು ಇದ್ದು ಈ ಕೆಳಕಂಡಂತೆ ಇರುತ್ತವೆ.

- 1) ರೈತ ಬಂಧು ಸಹಕಾರ ಸಂಘ ನಿಯಮಿತ ಅಂತ ಇರುವ ಮುಖಪುಟ
- 2) ಫಿರ್ಯಾದಿಯು ಸಂಘದನೊಂದಣಿಗಾಗಿ ನೀಡಿದ ಅರ್ಜಿ
- 3) ಸಂಘದ ಪೂರ್ವ ಭಾವಿ ಸೂಚನಾ ಪ್ರಕಟಣೆ
- 4) ದಿ: 08/04/2018ರಂದು ನಡೆದ ಸಂಘದ ಸಾರ್ವಜನಿಕ ಸಭೆಯ ನಡವಳಿಕೆಗಳು.
- 5) ಸದರಿ ಸಂಘದ ಪ್ರವರ್ತಕರ ಹೆಸರು ಮತ್ತು ವಿಳಾಸದ ಮಾಹಿತಿ ಮತ್ತು ಸಂಘದ ಮುಖ್ಯ ಪ್ರವರ್ತಕರ ಮತ್ತು ಪ್ರವರ್ತಕರು ಸೇರಿ ಒಟ್ಟು 13 ಜನರ ವೈಯಕ್ತಿಕ ಮಾಹಿತಿ ಮತ್ತು ಘೋಷಣೆ ಪತ್ರಗಳು. (ದ್ವಿಪ್ರತಿಯಲ್ಲಿ)
- 6) ಸಂಘದ ಮುಖ್ಯ ಕಛೇರಿಯ ತೆರೆಯುವ ಸಂಬಂಧ ಕಟ್ಟಡದ ಬಾಡಿಗೆ ಕರಾರು ಪತ್ರ
- 7) ಸಹಕಾರ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ ಚನ್ನಗಿರಿರವರಿಗೆ ಸಹಕಾರ ಸಂಘಗಳ ಸಹಾಯಕ ನಬಂಧಕರು,

ದಾವಣಗೆರೆ ಉಪ ವಿಭಾಗರವರು ದಿ: 26/4/2018ರಂದು ತಮ್ಮ ಕಛೇರಿ ಪತ್ರ ಸಂಖ್ಯೆ: ಎಆರ್-31/ಆರ್ ಜಿಎನ್/ಉರೈಸಸಂ/ಸ್ಥಾಪನೆ/2018-19 ರಲ್ಲಿ ಸದರಿ ಸಂಘದ ಸ್ಥಾಪನೆ ಬಗ್ಗೆ ಸಾಧ್ಯತಾ ವರದಿಯನ್ನು ಸಲ್ಲಿಸುವ ಬಗ್ಗೆ ಬರೆದ ಪತ್ರ.

8) ಸಹಕಾರ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ ಚನ್ನಗಿರಿರವರು ಸಹಾಯಕ ನಿಬಂಧಕರು ಸಹಕಾರ ಸಂಘರವರಿಗೆ ಸದರಿ ಸಂಘದ ನೋಂದಣಿಗೆ ಸಲ್ಲಿಸಿರುವ ಸಾಧ್ಯತಾ ವರದಿ

ಮೇಲ್ಕಂಡ ದಾಖಲಾತಿಗಳ ಬಗ್ಗೆ ಪರ್ಯಾಯ ವಿಚಾರಿಸಲಾಗಿ ಈ ದಾಖಲಾತಿಗಳು ನಾನು ಮತ್ತು ನಮ್ಮ ಗ್ರಾಮದ ಸಾರ್ವಜನಿಕರು ಸೇರಿಕೊಂಡು ಸ್ಥಾಪಿಸಲ್ಪಟ್ಟಿರುವ ಉದ್ದೇಶಿತ ರೈತ ಬಂದು ಸಹಕಾರ ಸಂಘದ ಪ್ರವರ್ತಕರುಗಳ ವೈಯಕ್ತಿಕ ಮಾಹಿತಿ ಮತ್ತು ಇತ್ಯಾದಿ ದಾಖಲೆಗಳನ್ನು ಸಲ್ಲಿಸಿದವುಗಳಾಗಿರುತ್ತವೆ. ಅಂತೆ ತಿಳಿಸಿದರು.”

Subsequent investigation culminated in filing of the charge sheet by the Lokayuktha police before the competent Court. The learned Special Court registered Spl.C.C. 2 of 2020 and upon consideration of the material, framed charges against the petitioner on 01-07-2022 for the offences alleged. The trial presently stands in progress.

11. Simultaneously, a departmental proceeding was instituted on the very same factual foundation, i.e., the trap conducted on 05-07-2018. The Enquiry Officer, upon appreciation of the oral and documentary evidence, adduced in the said departmental proceeding, rendered a report exonerating the

petitioner. The report exonerating the petitioner, insofar it is germane, reads as follows:

"....

REASONS

7. I have gone through the oral and the documentary evidence placed before me. PW-1 from whom the DGO was said to have received the bribe amount of ₹15000/-, has stated in his evidence that about 4 years back one day he had gone to the office of ARCS, Davanagere and he met one Sri Rangappa, who is the retired Executive Engineer, pertaining to registration of his Sangha as he was told to meet him in order to get the works done in a proper way.
8. The evidence of PW-1 further unveils the fact that Rangappa informed him that certain documents are required and he asked him to pay ₹20,000/- and he requested Rangappa to make it ₹15,000/- and he presented the documents before the DGO and the DGO informed him that 15 documents are required in respect of 13 Directors. He further speaks that thereafter he met Rangappa outside the Office for registration of his Sangha and Rangappa asked him to pay the amount and he paid ₹15,000/- to him, who was standing near the entrance gate of the office and thereafter the ACB sleuths came and went inside the office and he does not know what happened inside the office.
9. PW-1 further speaks that while receiving the documents from him, Rangappa had also taken his signatures on some blank papers stating that those documents may be required for attending the work. He further speaks that the ACB sleuths have not drawn any mahazars in his presence and his signatures were taken by ACB sleuths on blank white sheets. He has identified his signature on the complaint, which is marked Ex.P1. He further identifies his signatures on mahazars, which are marked as Ex.P2 and Ex.P3. Ex.P2 is the entrustment mahazar and Ex.P3 is the trap mahazar.

He identifies the documents submitted for registration of Sangha and the said documents are together marked as Ex.P4.

10. Since PW-1 did not support the case, the Presenting Officer has treated him as hostile. Nothing has been got elicited in the cross-examination of PW-1 made by the Presenting Officer. PW-1 has stated in his cross-examination made by the Defence Assistant that he does not know the contents of Ex.P1 to P3. He further speaks that he has not written the contents of Ex.P1. He further speaks that he has never talked anything with the DGO at any point of time. He further speaks that when ACB sleuths entered the chamber of DGO, there was exchange of words in between Rangappa and DGO and the DGO was telling that what Rangappa had given to DGO was a loan taken by him from DGO.
11. PW-2 speaks that on 05-07-2018 when he was in the office, the ACB sleuths came to their office and the ACB sleuths asked him to identify the voice of DGO recorded in the cell phone and he said that the said voice may be the voice of DGO. He further speaks that the ACB sleuths seized some documents under mahazar and asked him to certify the said documents and he accordingly certified the same, when are marked as Ex.P4. He speaks in the cross-examination that he is not an expert in the voice identification. He further speaks that he cannot say as to, to whom the cell phone belongs. He further speaks that he cannot say as to whether anybody had made mimicry of the said voice and he cannot say as to whether the voice identified by him is genuine one or tampered. He further speaks that prior to playing the voice, the ACB sleuths had told him that it is of the DGO voice.
12. PW-3, who is the shadow witness, has stated in examination-in-chief that in the month of July, 2018, the ACB sleuths had requested her Secretary to send a lady typist to their office in connection with a case and she was accordingly sent on duty. She further speaks that another official witness had come there and the ACB sleuths informed her about the complaint and explained about the procedure of trapping and entrustment mahazar and they

prepared Ex.P2 and she signed on it. PW-3 further speaks that herself and another witness and the ACB sleuths went near the office of DGO and the ACB sleuths sent herself and PW-1 along with a lady constable to the office of DGO. She further speaks that the officials had gone for lunch and they waited there and thereafter the DGO came to her chamber.

13. PW-3 further speaks that she had been seated near DGO in her chamber and PW-1 was along with her and there were talks in between the DGO and PW-1. She further speaks that she is oblivious of their talks and PW-1 paid ₹18,000/- to DGO, who kept it in the drawer of her table and thereafter, she came out of the chamber and informed to the lady police and in turn, the lady police communicated to the other sleuths and herself and the lady police came inside the chamber and each of them caught hold of the hands of DGO till arriving of riding sleuths. She also speaks that the ACB sleuths got the hands of DGO washed and they performed the procedure of trap and seized the amount from the drawer of the table. She further speaks that the ACB sleuths have drawn the mahazar as per Ex.P3.
14. PW-3 has admitted in his cross-examination that she was not knowing as to the quantum of the amount to be given. She has further stated that both Ex.P-2 and Petition-3 were written in the office of ARCS, Davangere, which unfolds the fact that Ex.P3 was not prepared in the office of DGO. She further speaks that the DGO removed the amount of ₹18,000/- from the drawer of her table as per the instructions of ACB sleuths. She also speaks that she does not know as to how much amount was handed over by the DGO to ACB sleuths from the drawer and as to how much amount has been retained in the drawer. PW-3 further speaks in the cross-examination that she does not know the contents of the mahazars.
15. The DGO has stated in her evidence that one Rangappa, who is her relative, had taken the hand loan of ₹15,000/- from her and she had asked him repeatedly to return the said amount and he had not returned. Further she speaks that on 05-07-2018 when she was in the office, the said Rangappa came to her chamber and repaid the said loan

and when she was arguing with him as to the delay in repaying the loan, some persons entered into her chamber and caught hold of her hands and she came to know that they are ACB sleuths. She has stated in her evidence that the work of PW-1 was not pending with her as on 05-07-2018 and she has never asked him to pay any amount and he had not paid any amount to her. She has also stated in her evidence that she has not received any bribe amount from PW-1.

16. Upon the assiduous unravelling the evidence of PW-1, it clearly spells out the fact that he has not paid the bribe amount of ₹15,000/- to DGO. The evidence of PW-1 clears the cloud to hold that pragmatically there is no demand and acceptance of any bribe amount by the DGO. Whatever PW-1 has stated is only against one Rangappa to whom he has paid ₹15,000/- to get his work done. If the evidence of PW-1 is read along with the evidence of DGO, it lays a clear path to hold that what PW-1 had paid the amount to Rangappa was the very amount, which was paid by Rangappa to the DGO and the said amount came to be seized by the ACB sleuths during raid.
17. Upon peering into the whole evidence of PW-1, it is my considered opinion that without there being even an infinitesimal skeptical his evidence does not implicate the DGO in any way for the reason that he has not spoken anything against the DGO as to whether he had approached her to get his work done or as to whether the DGO has placed any demand for the bribe or as to whether he has paid any bribe to DGO on her demand.
18. The circumspect look over the evidence of PW-3, it unrolls the fact that according to her, PW-1 has paid ₹18,000/- to DGO, which is not the case of the Disciplinary Authority. Further the evidence of PW-3 beckons the fact that she does not know as to how much amount was handed over by the DGO to ACB sleuths from the drawer and as to how much amount was retained in the drawer. In all perspective, the evidence of PW-3 places the inconsistent and different story than what has been alleged against the DGO.

19. It is indispensable to state that the evidence of PW-1 and PW-3 does not corroborate with each other and further, the number of material contradictions and material omissions amounting to contradictions are arising in their evidence and their evidence does not run parallel to each other. Above all, even the evidence of PW-3 does not divulge as to whether there was a demand and acceptance on the part of DGO.
20. It is very much cardinal to state that even if the entire evidence of PW-1 and 3 is filtered in the way known to law, there does not find even a tiny cogent and satisfactory evidence to come to the conclusion as to whether there is a demand and acceptance of the bribe amount of ₹15,000/- by the DGO from PW-1. Albeit the evidence of PW-3 unveils that PW-1 paid ₹18,000/- to the DGO, the evidence of PW-1 falsifies her evidence, whose evidence uncovers the fact that he has not paid any amount to DGO. As I have earlier stated, PW-3 has placed a complete different evidence all together by deposing that PW-1 has paid ₹18,000/- to DGO.
21. In order to recapitulate, I have no hesitation to hold that it is very arduous to accept the evidence of PW-3, whose evidence contradicts the evidence of PW-1. Upon peeping into the whole evidence of PW-1 and PW-3, I do not find a petite material in their evidence even to postulate as to whether there was a demand and acceptance on the part of the DGO.
22. Hence, in the light of my findings given supra, I arrive at an irresistible conclusion that there is no even a miniature evidence on record to buttress the charges levelled against the DGO and thus, in all perspective it is not proved that DGO has committed any breach in her duty and there is no iota of evidence to hold that DGO has committed the breach in her duty under the KCS (CCA) Rules, 1957 as alleged. Hence, for the reasons stated supra, I have no hesitation to hold that DGO is entitled for exoneration of the charges levelled against her.

23. In the result, I proceed to pass the following:

ORDER

That the charges levelled against the Delinquent Government Official viz., Smt. Geetha R. W/o Ravi G.S., alleging the violation of KCS (CCA) Rules, 1957 are not proved.

Sd/-
(BASAVARAJ S.SAPPANNAVAR)
ENQUIRY OFFICER

ANNEXURES:

Witnesses examined for the Disciplinary Authority:

1. PW-1 – Sri S.E.Rudresh,
2. PW-2 – Sri Dakshinamurthy
3. PW-3 – Smt. Mala

Witnesses examined for the Defence:

1. DW-1- Smt. Geetha R.

Documents marked for Disciplinary Authority:

1. Ex.P1 - Complaint
2. Ex.P1(a) - Signature of PW-1.
3. Ex.P2 - Entrustment Mahazar
4. Ex.P2(a)- Signature of PW-1
5. Ex.P2(b)- Signature of PW-3
6. Ex.P3 - Trap mahazar
7. Ex.P3(a)- Signature of PW-1
8. Ex.P3(b) Signature of PW-3
9. Ex.P4 - Documents pertaining to registration of Sangha.
10. Ex.P4(a) - Signature of PW-2

Documents marked for Defence: Nil.

Sd/-
(BASAVARAJ S.SAPPANNAVAR)
ENQUIRY OFFICER"

In essence, the Enquiry Officer found that PW1, the complainant resiled from the prosecution narrative, turning hostile and attributed the monetary transaction to one Rangappa, disclaiming any demand or acceptance on the part of the petitioner. PW2's testimony concerning voice identification was hedged with uncertainty and lacked expert corroboration. PW3, the shadow witness, while deposing about the alleged payment, introduced inconsistencies, particularly as to the quantum of money and circumstances of recovery. The Enquiry Officer noted material contradictions and omissions between the testimonies of PW1 and PW3 and observed that their versions did not match each other. He further found that in the absence of cogent evidence establishing the essential ingredients of demand and acceptance, the defence version - that the amount represented repayment of a hand loan by a relative was considered as correct, with the complainant's deposition.

12. On an overall assessment, the Enquiry Officer concluded that there was not even a semblance of reliable evidence to substantiate the charge of misconduct under the KCS (CCA) Rules,

1957. Consequently, the petitioner was exonerated. The Disciplinary Authority, by an order dated 27-01-2023, accepted the report and closed to the proceedings. The order of the Disciplinary Authority reads as follows:

“ಪ್ರಸ್ತಾವನೆ:

ಮೇಲೆ ಓದಲಾದ ಕ್ರಮ ಸಂಖ್ಯೆ: (1) ರ ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತರ ವರದಿಯಲ್ಲಿ ಶ್ರೀಮತಿ ಆರ್.ಗೀತಾ ಕೋಂ ಜಿ.ಎಸ್.ರವಿ, ಕಛೇರಿ ಅಧೀಕ್ಷಕರು, ಸಹಕಾರ ಸಂಘಗಳ ಸಹಾಯಕ ನಿಬಂಧಕರ ಕಛೇರಿ, ದಾವಣಗೆರೆ ಉಪವಿಭಾಗ, ದಾವಣಗೆರೆ ಇವರು "ರೈತ ಬಂಧು" ಸಹಕಾರಿ ಸಂಘ ಎಂಬ ಹೆಸರಿನ ಸಹಕಾರ ಸಂಘವನ್ನು ನೋಂದಣಿ ಮಾಡುವ ಸಂಬಂಧ ಶ್ರೀ ಎಸ್.ಇ.ರುದ್ರೇಶ್ ಬಿನ್ ಎಸ್.ಜಿ.ಈಶ್ವರಪ್ಪ ಇವರಿಗೆ ಲಂಚದ ಹಣಕ್ಕೆ, ಬೇಡಿಕೆ ಇಟ್ಟು ದಿನಾಂಕ:05.07.2018 ರಂದು ರೂ.15,000/- ಗಳ ಲಂಚದ ಹಣವನ್ನು ಪಡೆದುಕೊಂಡು ದುರ್ನಡತೆ ಎಸಗಿರುವುದಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಸದರಿಯವರ ವಿರುದ್ಧ ಶಿಸ್ತು ನಡವಳಿ ಹೂಡಲು ಮತ್ತು ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ನಡೆಸಲು ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957 ರ ನಿಯಮ 14-ಎ ರಡಿಯಲ್ಲಿ ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತರವರಿಗೆ ವಹಿಸುವಂತೆ ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತರವರು ಕೋರಿರುತ್ತಾರೆ.

ಮೇಲೆ ಓದಲಾದ ಕ್ರಮ ಸಂಖ್ಯೆ: (2) ರ ಆದೇಶದಲ್ಲಿ, ಶ್ರೀಮತಿ ಆರ್.ಗೀತಾ ಕೋಂ ಜಿ.ಎಸ್.ರವಿ, ಕಛೇರಿ ಅಧೀಕ್ಷಕರು, ಸಹಕಾರ ಸಂಘಗಳ ಸಹಾಯಕ ನಿಬಂಧಕರ ಕಛೇರಿ, ದಾವಣಗೆರೆ ಉಪವಿಭಾಗ, ದಾವಣಗೆರೆ ಇವರು ಲಂಚದ ಹಣವನ್ನು ಪಡೆದುಕೊಂಡು ಅಕ್ರಮ ಎಸಗಿರುವ ಪ್ರಕರಣಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಸದರಿಯವರ ವಿರುದ್ಧ ಶಿಸ್ತು ನಡವಳಿ ಹೂಡಲು ಮತ್ತು ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ನಡೆಸಲು ಅನುಮತಿ ನೀಡಿ, ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957 ರ ನಿಯಮ 14-ಎ ರಡಿ ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತರವರಿಗೆ ವಹಿಸಿ ಆದೇಶಿಸಲಾಗಿರುತ್ತದೆ.

ಮೇಲೆ ಓದಲಾದ ಕ್ರಮ ಸಂಖ್ಯೆ: (3) ರ ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: ಸಇ 16 ಎಸಸೇ 2022, ದಿನಾಂಕ:06.06.2022 ರ ಆದೇಶದಲ್ಲಿ ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957 ರ ನಿಯಮ 14 ರಡಿ ಶಿಸ್ತು ನಡವಳಿ ಹೂಡಲು, ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸಲು ಮಾನ್ಯ ಉಪಲೋಕಾಯುಕ್ತರವರಿಗೆ ವಹಿಸಿದ್ದ ಪ್ರಕರಣವನ್ನು ಮಾನ್ಯ ಲೋಕಾಯುಕ್ತರವರು ದಿನಾಂಕ:26.09.2022 ರಂದು ಮುಕ್ತಾಯಗೊಳಿಸಿ ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶಿಸಿರುತ್ತಾರೆ.

"4. The Inquiry Officer (Additional Registrar of Enquiries-3) has reported that, after recording of

First Oral Statement the DGO submitted that on the same charges, departmental enquiry has been conducted against her by the Disciplinary Authority and she has been exonerated from the charges and hence requested to close the Present enquiry.

ಅದರಂತೆ ಮಾನ್ಯ ಉಪ ಲೋಕಾಯುಕ್ತರ ಶಿಫಾರಸ್ಸನ್ನು ಒಪ್ಪಿ ವಿಚಾರಣೆಯನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಲು ತೀರ್ಮಾನಿಸಿದ ಸರ್ಕಾರವು ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶಿಸಿದೆ.

ಸರ್ಕಾರಿ ಆದೇಶ ಸಂಖ್ಯೆ: ಸಇ 16 ಎಸಸೇ 2022

ಬೆಂಗಳೂರು, ದಿನಾಂಕ:27.01.2023

ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಯಂತ್ರಣ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957 ರ ನಿಯಮ 14-ಎ ರಲ್ಲಿನ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ ಶ್ರೀಮತಿ ಆರ್.ಗೀತಾ ಕೋಂ ಜಿ.ಎಸ್.ರವಿ, ಕಛೇರಿ ಅಧೀಕ್ಷಕರು, ಸಹಕಾರ ಸಂಘಗಳ ಸಹಾಯಕ ನಿಬಂಧಕರ ಕಛೇರಿ, ದಾವಣಗೆರೆ ಇವರ ವಿರುದ್ಧದ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಲಾಗಿದೆ.

ಈ ವಿಚಾರಣೆ ನಡೆಯದಿದ್ದಲ್ಲಿ ನೌಕರರು ಯಾವ ಸೌಲಭ್ಯಗಳನ್ನು ಪಡೆಯುತ್ತಿದ್ದರೂ, ಆ ಎಲ್ಲಾ ಸೌಲಭ್ಯಗಳನ್ನು ಪಡೆಯಲು ಅರ್ಹರಿರುತ್ತಾರೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ
ಸಹಿ/- 27/1/23
(ಕೆ. ಮಂಜುನಾಥ)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ-2
ಸಹಕಾರ ಇಲಾಖೆ"

In the wake of such exoneration, the present petition comes to be filed on 11-07-2023, contending that the continuation of criminal trial would be unwarranted in the light of the departmental findings, thereby contending that the criminal

trial must be closed, on account of the petitioner's exoneration in the departmental enquiry.

13. In order to resolve the controversy, it becomes necessary to survey the judicial landscape shaped by the elucidation of the Apex Court.

JUDICIAL LANDSCAPE:

13.1. The Apex Court in **P.S. RAJYA** *supra* has held as follows:

" "

17. At the outset we may point out that the learned Counsel for the respondent could not but accept the position that the standard of proof required to establish the guilt in a criminal case is far higher than the standard of proof required to establish the guilt in the departmental proceedings. He also accepted that in the present case, the charge in the departmental proceedings and in the criminal proceedings is one and the same. He did not dispute the findings rendered in the departmental proceedings and the ultimate result of it. On these premises, if we proceed further then there is no difficulty in accepting the case of the appellant. For if the charge which is identical could not be established in a departmental proceedings and in view of the admitted discrepancies in the reports submitted by the valuers one wonders what is there further to proceed against the appellant in criminal proceedings. In this context, we can usefully extract certain relevant portions from the report of the Central Vigilance Commission on this aspect:

"Neither the prosecution nor the defence has produced the author of various reports to confirm the valuation. The documents cited in the list of documents is a report signed by two engineers namely S/Shri S.N. Jha and D.N. Mukherjee whereas the document brought on record (Ex. S. 20) has been signed by three engineers. There is also difference in the estimated value of the property in the statement of imputation and the report. The document at Ex. S. 20 has been signed by three engineers and the property has been valued at Rs. 4, 85, 000 for the ground floor and Rs. 2, 55, 600 for the second floor. A total of this comes to Rs. 7, 40, 900 which is totally different from the figure of Rs. 7, 69, 800 indicated in the statement of imputation. None of the engineers who prepared the valuation report though cited as prosecution witnesses appeared during the course of enquiry. This supports the defence argument that the authenticity of this document is in serious doubts. It is a fact that the income tax authorities got this property evaluated by S/Shri S.N. Jha and Vasudev and as per this report at. pp., 50 to_63 they estimated the property at Rs. 4, 57, 600 including the cost of land Rs. 1, 82, 000 for ground and - -. mezzanine floor plus Rs. 2, 55, 600 for first floor and Rs. 20, 000 for cost of land. Thus both the engineers who prepared the valuation report for income tax purposes also prepared the report for the CBI and there is no indication in the subsequent report as to why there is a difference in the value of the property. A perusal of these two reports reveals that there is difference in the specification of the work. The valuation report prepared by Sri S.N. Jha for ground floor for income tax purposes clearly states that the structure was having "RCC pillars at places, brickwork in cement mortar, RCC lintel, 60 cm walls, 9 inch floor height, 17. 6, 8. 00, 8. 00 inch" but in the report for CBI which was also prepared by him the description is "RCC framed structure open verandah on three sides in the ground floor". Similarly, for the first floor it is written in the report as "partly framed structure and partly load being walls, floor heights 3. 20 mm. Further Shri S.N. Jha on p. 54 of Ex. D. 1 had adopted a rate of Rs. 290 per sq. mtr. for ground floor and adding for extra height he had estimated ground floor including mezzanine floor at Rs. 2, 02, 600. But for the report at Ex. S. 20 the rate has been raised to 365 per sq. mtr. There is no explanation for this increase of rate by Rs. 75 per mtr. It is also observed that for the

updating of the cost of index 5% was added to the rate of Rs. 290 as per p. 55 of Ex. D. 1 by Sri S.N. Jha but this has been raised to 97% as an escalation to the cost of index in Ex. S. 20 without explaining or giving the reasons therefor. It is surprising that same set of engineers have adopted different standard for evaluating the same property at different occasions. Obviously, either of the report is false and it was for the prosecution to suitably explain it. In the absence of it the only inference to be drawn is that report at Ex. S. 20 is not authentic. Since the same set of engineers have done the evaluation earlier and if subsequently they felt that there was some error in the earlier report, they should have explained detailed reasons either in the report itself or during the course of enquiry. Therefore, Ex. S. 20 is not reliable."

... ..

20. Moreover a perusal of Ex. S. 20 reveals that Shri Vasudev, Executive Engineer has recorded a note as follows:

"Hence the valuation of Sri S.N. Jha was never superseded by any other estimates. As is confirmed from the records, his estimated figures were only accounted for by the ITO Bokaro."

Thus according to Shri Vasudev, who was the seniormost among the three CPWD engineers who prepared Ex. S. 20, the valuation of ground floor remains at Rs. 1, 82, 600 plus Rs. 20, 000 for the cost of land. The first floor as per Ex. S. 20 was estimated at Rs. 2, 55, 600 and a total of all this comes to Rs. 4, 57, 600 which is very near to the declaration of actuals to the income tax authority and also the estimated cost by the Bokaro Steel Township Engineer and the Government approved valuer.

21. It is clear from the above discussions that though the document cited in Annexure III is a joint report of two engineers what has been brought on record is a document signed by three engineers, the same set of engineers who evaluated the property for income tax purposes, and there is a vast difference in the specifications and the rates adopted for calculating the

cost in Ex. S. 20 have been increased without any explanation and none of these engineers were produced during the course of enquiry to clarify the position. Hence the authenticity of Ex. S. 20 is doubtful as claimed by the defence.

22. It needs to be mentioned that the report at Ex. S. 20 has evaluated the ground floor at Rs. 4, 85, 300 and a note to the effect that 10% should be allowed for self-supervision and procurement of material has also been recorded at the end. On this basis the net value of ground floor comes to Rs. 4, 36, 810 (Rs. 4, 85, 344-Rs. 48, 534). The first floor has been evaluated at Rs. 2, 55, 600 after allowing the allowance for self-supervision and a total of both items would come to Rs. 6, 62, 410. Thus, even the report at Ex. S. 20 does not support the prosecution case that as per the report of CPWD Engineers the property is valued at Rs. 7, 69, 800. As the property assessed by the income tax authority for Rs. 4. 67 lakhs and even the valuation given by the Bokaro Steel Township Engineer and the Government approved valuer are very near to this figure, the reasonable value of this property could only be taken as Rs. 4. 75 lakhs assessed by the Bokaro Township Engineer on detailed estimate basis.

....

20. At the risk of repetition, we may state that the charge had not been proved and on that basis the appellant was cleared of departmental enquiry. In this connection, we may also usefully cite a decision of this Court in State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426. This Court after considering almost all earlier decisions has given guidelines relating to the exercise of the extraordinary power under Article 226 of the Constitution or the inherent powers under Section 482 of the Criminal Procedure Code for quashing an FIR or a complaint. This Court observed as follows: (SCC pp. 378-79, paras 102-3)

"In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

- (1) Where the allegations made in the first information report 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.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non - cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide 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."

13.2. Later, in **RADHESHYAM KEJRIWAL** *supra* the Apex Court holds as follows:

"....

26. We may observe that the standard of proof in a criminal case is much higher than that of the adjudication proceedings. The Enforcement Directorate has not been able to prove its case in the adjudication proceedings and the appellant has been exonerated on the same allegation. The appellant is facing trial in the criminal case. Therefore, in our opinion, the determination of facts in the adjudication proceedings cannot be said to be irrelevant in the criminal case. In *B.N. Kashyap* [AIR 1945 Lah 23] the Full Bench had not considered the effect of a finding of fact in a civil case over the criminal cases and that will be

evident from the following passage of the said judgment: (AIR p. 27)

"... I must, however, say that in answering the question, I have only referred to civil cases where the actions are in personam and not those where the proceedings or actions are in rem. Whether a finding of fact arrived at in such proceedings or actions would be relevant in criminal cases, it is unnecessary for me to decide in this case. When that question arises for determination, the provisions of Section 41 of the Evidence Act, will have to be carefully examined."

....

29. We do not have the slightest hesitation in accepting the broad submission of Mr Malhotra that the finding in an adjudication proceeding is not binding in the proceeding for criminal prosecution. **A person held liable to pay penalty in adjudication proceedings cannot necessarily be held guilty in a criminal trial. Adjudication proceedings are decided on the basis of preponderance of evidence of a little higher degree whereas in a criminal case the entire burden to prove beyond all reasonable doubt lies on the prosecution.**

....

31. It is trite that the standard of proof required in criminal proceedings is higher than that required before the adjudicating authority and in case the accused is exonerated before the adjudicating authority whether his prosecution on the same set of facts can be allowed or not is the precise question which falls for determination in this case.

....

38. The ratio which can be culled out from these decisions can broadly be stated as follows:

(i) Adjudication proceedings and criminal prosecution can be launched simultaneously;

(ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;

(iii) Adjudication proceedings and criminal proceedings are independent in nature to each other;

(iv) The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;

(v) Adjudication proceedings by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure;

(vi) The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue;and

(vii) In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases.

39. In our opinion, therefore, the yardstick would be to judge as to whether the allegation in the adjudication proceedings as well as the proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings, the trial of the person concerned shall be an abuse of the process of the court."

13.3. In **AJAY KUMAR TYAGI** *supra*, the Apex Court has held as follows:

"....

12. We have bestowed our consideration to the rival submissions and we find substance in the submission of Mr Attri. True it is that the inquiry officer has submitted its report and found the allegation to have not been proved but, that is not the end of the matter. **It is well settled that the disciplinary authority is not bound by the conclusion of the inquiry officer and, after giving a tentative reason for disagreement and providing the delinquent employee an opportunity of hearing, can differ with the conclusion and record a finding of guilt and punish the delinquent employee.** In the present case, before the said stage was reached, the accused filed an application under Section 482 of the Code of Criminal Procedure for terminating the criminal proceedings and the High Court fell into error in quashing the said proceedings on the premise that the accused has been exonerated in the departmental proceeding. As the order of the High Court is founded on an erroneous premise, the same cannot be allowed to stand.

13. It is worthwhile to mention here that in the writ petition filed by the accused himself, seeking conclusion of the departmental proceeding, the High Court had observed that keeping the departmental proceeding in abeyance till the pendency of the criminal case is not unjustified, and that order has attained finality. Further, the order dated 25-3-2009 passed by the disciplinary authority exonerating the accused from the charges, is founded on the ground of quashing of the criminal proceedings by the High Court and in that, it has clearly been observed that if an order contrary to the High Court order is received, the matter will be reopened.

14. As we have taken the view that the impugned order [*Ajay Kumar Tyagi v. State*, (2008) 3 DLT (Cri) 788] of the High Court suffers from an apparent illegality, the same deserves to be set aside so also the order of the disciplinary authority founded on that and, in the light of the direction of the High

Court, the departmental proceeding has to be reopened and kept in abeyance till the conclusion of the criminal case.

15. Now we proceed to consider the question of law referred to us i.e. whether the prosecution against an accused, notwithstanding his exoneration on the identical charge in the departmental proceeding could continue or not?

16. Mr Sharma, with vehemence, points out that this question has been settled and set at rest by this Court in *P.S. Rajya* [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] , which has held the field since 1996, hence at such a distance of time, it is inexpedient to reconsider its ratio and upset the same. Mr Attri, however, submits that this Court in the aforesaid case has nowhere held that exoneration in the departmental proceeding would ipso facto terminate the criminal proceeding.

17. We have given our anxious consideration to the submissions advanced and in order to decipher the true ratio of the case, we have read the judgment relied on very closely. **In *P.S. Rajya* case [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] , the allegations against the delinquent employee in the departmental proceeding and criminal case were one and the same, that is, possessing assets disproportionate to the known sources of income. The Central Bureau of Investigation, the prosecutor to assess the value of the assets relied on the valuation report given later on. This Court on fact found that "the value given as basis for the charge-sheet is not the value given in the report subsequently given by the valuers".** This would be evident from the following passage from para 15 of the judgment: (SCC p. 5)

"15. ... According to the learned counsel the Central Vigilance Commission has dealt with this aspect in its report elaborately and ultimately came to a conclusion that the subsequent valuation reports on which CBI placed reliance are of doubtful nature. The same view was taken by the Union Public Service Commission. Even otherwise the value given as basis for the charge-sheet is not the value given in the report subsequently given by the valuers."

18. Thereafter, this Court in *P.S. Rajya case* [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] referred to its earlier decision in *State of Haryana v. Bhajan Lal* [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , and reproduced the illustrations laid down for exercise of extraordinary power under Article 226 of the Constitution of India or the inherent powers under Section 482 of the Code of Criminal Procedure for quashing the criminal prosecution. The categories of cases by way of illustrations, wherein power could be exercised either to prevent the abuse of the process of the court or otherwise to secure the ends of justice read as follows: (*Bhajan Lal case* [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , SCC pp. 378-79, para 102)

“(1) Where the allegations made in the first information report 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.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the

institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide 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."

The aforesaid illustrations do not contemplate that on exoneration in the departmental proceeding, the criminal prosecution on the same charge or evidence is to be quashed. However, this Court in *P.S. Rajya case* [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] quashed the prosecution on the peculiar facts of that case, finding that the said case can be brought under more than one head enumerated in the guidelines. This would be evident from paras 21 and 22 of the judgment, which read as follows: (*P.S. Rajya case* [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] , SCC p. 9)

"21. The present case can be brought under more than one head given above in *Bhajan Lal case* [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] without any difficulty.

22. The above discussion is sufficient to allow this appeal on the facts of this case."

19. Even at the cost of repetition, we hasten to add that none of the heads in *P.S. Rajya* [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] is in relation to the effect of exoneration in the departmental proceedings on criminal prosecution on identical charge. The decision in *P.S. Rajya* [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] , therefore, does not lay down any proposition that on exoneration of an employee in the departmental proceeding, the criminal prosecution on the identical charge or the evidence has to be quashed.

20. It is well settled that the decision is an authority for what it actually decides and not what *flows* from it. The mere fact that in *P.S. Rajya* [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] , this Court quashed the prosecution when the

accused was exonerated in the departmental proceeding would not mean that it was quashed on that ground. This would be evident from para 23 of the judgment, which reads as follows: (SCC p. 9)

"23. Even though all these facts including the report of the Central Vigilance Commission were brought to the notice of the High Court, unfortunately, the High Court took a view that the issues raised had to be gone into in the final proceedings and the report of the Central Vigilance Commission, exonerating the appellant of the same charge in departmental proceedings would not conclude the criminal case against the appellant. *We have already held that for the reasons given, on the peculiar facts of this case, the criminal proceedings initiated against the appellant cannot be pursued.* Therefore, we do not agree with the view taken by the High Court as stated above. These are the reasons for our order dated 27-3-1996 [*P.S. Rajya v. State of Bihar*, Criminal Appeal No. 434 of 1996, order dated 27-3-1996 (SC)] for allowing the appeal and quashing the impugned criminal proceedings and giving consequential reliefs."

(emphasis supplied)

From the reading of the aforesaid passage of the judgment it is evident that the prosecution was not terminated on the ground of exoneration in the departmental proceeding but, on its peculiar facts.

21. It is worth mentioning that the decision in *P.S. Rajya* [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] came up for consideration before a two-Judge Bench of this Court earlier, in *State v. M. Krishna Mohan* [(2007) 14 SCC 667 : (2009) 1 SCC (Cri) 922] . **While answering an identical question i.e. whether a person exonerated in the departmental enquiry would be entitled to acquittal in the criminal proceeding on that ground alone, this Court came to the conclusion that exoneration in departmental proceeding ipso facto would not lead to the acquittal of the accused in the criminal trial. This Court observed emphatically that the decision in *P.S. Rajya* [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] was rendered on peculiar facts obtaining therein.** It is apt to reproduce paras 32 and 33 of the said judgment in this

connection: (*M. Krishna Mohan case* [(2007) 14 SCC 667 : (2009) 1 SCC (Cri) 922] , SCC p. 676)

"32. Mr Nageswara Rao relied upon a decision of this Court in *P.S. Rajya v. State of Bihar* [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] . The fact situation obtaining therein was absolutely different. In that case, in the vigilance report, the delinquent officer was shown to be innocent. It was at that juncture, an application for quashing of the proceedings was filed before the High Court under Section 482 of the Code of Criminal Procedure which was allowed relying on *State of Haryana v. Bhajan Lal* [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] holding: (*P.S. Rajya case* [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] , SCC p. 9, para 23)

'23. Even though all these facts including the report of the Central Vigilance Commission were brought to the notice of the High Court, unfortunately, the High Court took a view that the issues raised had to be gone into in the final proceedings and the report of the Central Vigilance Commission, exonerating the appellant of the same charge in departmental proceedings would not conclude the criminal case against the appellant. *We have already held that for the reasons given, on the peculiar facts of this case, the criminal proceedings initiated against the appellant cannot be pursued.*"

(emphasis in original)

Ultimately this Court concluded as follows: (*M. Krishna Mohan case* [(2007) 14 SCC 667 : (2009) 1 SCC (Cri) 922] , SCC p. 676, para 33)

"33. The said decision was, therefore, rendered on the facts obtaining therein and cannot be said to be an authority for the proposition that exoneration in departmental proceeding ipso facto would lead to a judgment of acquittal in a criminal trial."

22. This point also fell for consideration before this Court in *Supt. of Police (CBI) v. Deepak Chowdhary* [(1995) 6 SCC 225 : 1995 SCC (Cri) 1095] , where quashing was sought for on two grounds and one of the grounds urged was that the accused having been exonerated of the charge in the departmental proceeding, the prosecution is fit to be quashed. The said submission

did not find favour with this Court and it rejected the same in the following words: (SCC p. 227, para 6)

"6. The second ground of departmental exoneration by the disciplinary authority is also not relevant. What is necessary and material is whether the facts collected during investigation would constitute the offence for which the sanction has been sought for."

23. The decision of this Court in *CBI v. V.K. Bhutiani* [(2009) 10 SCC 674 : (2010) 1 SCC (Cri) 407] , also throws light on the question involved. In the said case, the accused against whom the criminal proceeding and the departmental proceeding were going on, was exonerated in the departmental proceeding by the Central Vigilance Commission. The accused challenged his prosecution before the High Court relying on the decision of this Court in *P.S. Rajya* [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] and the High Court quashed the prosecution. On a challenge by the Central Bureau of Investigation, the decision was reversed and after relying on the decision in *M. Krishna Mohan* [(2007) 14 SCC 667 : (2009) 1 SCC (Cri) 922] , this Court came to the conclusion that the quashing of the prosecution was illegal and while doing so observed as follows: (*V.K. Bhutiani case* [(2009) 10 SCC 674 : (2010) 1 SCC (Cri) 407] , SCC p. 678, para 6)

"6. ... In our opinion, the reliance of the High Court on the ruling of *P.S. Rajya* [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] was totally uncalled for as the factual situation in that case was entirely different than the one prevalent here in this case."

24. Therefore, in our opinion, the High Court quashed the prosecution on total misreading of the judgment in *P.S. Rajya case* [(1996) 9 SCC 1 : 1996 SCC (Cri) 897] . In fact, there are precedents, to which we have referred to above, that speak eloquently a contrary view i.e. exoneration in departmental proceeding ipso facto would not lead to exoneration or acquittal in a criminal case. On principle also, this view commends us. It is well settled that the standard of proof in a

department proceeding is lower than that of criminal prosecution. It is equally well settled that the departmental proceeding or for that matter criminal cases have to be decided only on the basis of evidence adduced therein. Truthfulness of the evidence in the criminal case can be judged only after the evidence is adduced therein and the criminal case can not be rejected on the basis of the evidence in the departmental proceeding or the report of the inquiry officer based on those evidence.

25. We are, therefore, of the opinion that the exoneration in the departmental proceeding ipso facto would not result in the quashing of the criminal prosecution. We hasten to add, however, that if the prosecution against an accused is solely based on a finding in a proceeding and that finding is set aside by the superior authority in the hierarchy, the very foundation goes and the prosecution may be quashed. But that principle will not apply in the case of the departmental proceeding as the criminal trial and the departmental proceeding are held by two different entities. Further, they are not in the same hierarchy."

13.4. The Apex Court in **ASHOO SURENDRANATH TEWARI**

supra has held as follows:

"....

8. A number of judgments have held that the standard of proof in a departmental proceeding, being based on preponderance of probability is somewhat lower than the standard of proof in a criminal proceeding where the case has to be proved beyond reasonable doubt. In *P.S. Rajya v. State of Bihar* [*P.S. Rajya v. State of Bihar*, (1996) 9 SCC 1: 1996 SCC (Cri) 897], the question before the Court was posed as follows: (SCC pp. 2-3, para 3)

"3. The short question that arises for our consideration in this appeal is whether the respondent is justified in pursuing the prosecution against the appellant under Section 5(2) read with Section 5(1)(e) of the Prevention of Corruption Act, 1947 notwithstanding the fact that on an identical charge the appellant was exonerated in the departmental proceedings in the light of a report submitted by the Central Vigilance Commission and concurred by the Union Public Service Commission."

9. This Court then went on to state: (*P.S. Rajya case* [*P.S. Rajya v. State of Bihar*, (1996) 9 SCC 1 : 1996 SCC (Cri) 897] , SCC p. 5, para 17)

"17. At the outset we may point out that the learned counsel for the respondent could not but accept the position that the standard of proof required to establish the guilt in a criminal case is far higher than the standard of proof required to establish the guilt in the departmental proceedings. He also accepted that in the present case, the charge in the departmental proceedings and in the criminal proceedings is one and the same. He did not dispute the findings rendered in the departmental proceedings and the ultimate result of it."

10. This being the case, the Court then held: (*P.S. Rajya case* [*P.S. Rajya v. State of Bihar*, (1996) 9 SCC 1 : 1996 SCC (Cri) 897] , SCC p. 9, para 23)

"23. Even though all these facts including the report of the Central Vigilance Commission were brought to the notice of the High Court, unfortunately, the High Court took a view [*Prabhu Saran Rajya v. State of Bihar*, Criminal Miscellaneous No. 5212 of 1992, order dated 3-8-1993 (Pat)] that the issues raised had to be gone into in the final proceedings and the report of the Central Vigilance Commission, exonerating the appellant of the same charge in departmental proceedings would not conclude the criminal case against the appellant. We have already held that for the reasons given, on the peculiar facts of this case, the criminal proceedings initiated against the appellant cannot be pursued. Therefore, we do not

agree with the view taken by the High Court as stated above. These are the reasons for our order dated 27-3-1996 for allowing the appeal and quashing the impugned criminal proceedings and giving consequential reliefs."

11. In *Radheshyam Kejriwal v. State of W.B.* [*Radheshyam Kejriwal v. State of W.B.*, (2011) 3 SCC 581 : (2011) 2 SCC (Cri) 721] , this Court held as follows: (SCC pp. 594-96, paras 26, 29 & 31)

"26. We may observe that the standard of proof in a criminal case is much higher than that of the adjudication proceedings. The Enforcement Directorate has not been able to prove its case in the adjudication proceedings and the appellant has been exonerated on the same allegation. The appellant is facing trial in the criminal case. Therefore, in our opinion, the determination of facts in the adjudication proceedings cannot be said to be irrelevant in the criminal case. In *B.N. Kashyap* [*B.N. Kashyap v. Crown*, 1944 SCC OnLineLah46 : AIR 1945 Lah 23] the Full Bench had not considered the effect of a finding of fact in a civil case over the criminal cases and that will be evident from the following passage of the said judgment: (SCC OnLineLah: AIR p. 27)

'... I must, however, say that in answering the question, I have only referred to civil cases where the actions are in personam and not those where the proceedings or actions are in rem. Whether a finding of fact arrived at in such proceedings or actions would be relevant in criminal cases, it is unnecessary for me to decide in this case. When that question arises for determination, the provisions of Section 41 of the Evidence Act, will have to be carefully examined.'

29. We do not have the slightest hesitation in accepting the broad submission of Mr Malhotra that the finding in an adjudication proceeding is not binding in the proceeding for criminal prosecution. A person held liable to pay penalty in adjudication proceedings cannot necessarily be held guilty in a criminal trial. Adjudication proceedings are decided on the basis of preponderance of evidence of a little higher degree whereas in a criminal case the entire

burden to prove beyond all reasonable doubt lies on the prosecution.

31. It is trite that the standard of proof required in criminal proceedings is higher than that required before the adjudicating authority and in case the accused is exonerated before the adjudicating authority whether his prosecution on the same set of facts can be allowed or not is the precise question which falls for determination in this case."

12. After referring to various judgments, this Court then culled out the ratio of those decisions in para 38 as follows: (*Radheshyam Kejriwal case* [*Radheshyam Kejriwal v. State of W.B.*, (2011) 3 SCC 581 : (2011) 2 SCC (Cri) 721] , SCC p. 598)

"38. The ratio which can be culled out from these decisions can broadly be stated as follows:

(i) Adjudication proceedings and criminal prosecution can be launched simultaneously;

(ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;

(iii) Adjudication proceedings and criminal proceedings are independent in nature to each other;

(iv) The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;

(v) Adjudication proceedings by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure;

(vi) The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and

(vii) In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases."

13. It finally concluded: (*Radheshyam Kejriwal case* [*Radheshyam Kejriwal v. State of W.B.*, (2011) 3 SCC 581 : (2011) 2 SCC (Cri) 721] , SCC p. 598, para 39)

"39. In our opinion, therefore, the yardstick would be to judge as to whether the allegation in the adjudication proceedings as well as the proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings, the trial of the person concerned shall be an abuse of the process of the court."

13.5. In its latest judgment, in **CHANDRASHEKAR** *supra*, the Apex Court has held as follows:

"....

3. The appellant is the Lokayukta of the State of Karnataka, an independent body tasked also to conduct enquiries on complaints of corruption and initiate and continue prosecution; such powers having been statutorily conferred under the Karnataka Lokayukta Act, 1984. On facts, suffice it to notice that the respondent, an Executive Engineer (Electrical) with the Works and Maintenance Division, HESCOM, Bagalkot regulated by the Karnataka Electricity Transmission Corporation Limited Regulations, was alleged to have demanded a bribe from an electrical contractor to clear five bills, at the rate of Rupees two thousand each. The contractor complained to the Anti-Corruption Bureau who prepared a trap, with identifiable, powdered notes kept in a packet entrusted with the complainant, to be handed over to the Executive Engineer. The

trap was successful, and the notes were recovered from the pocket of the Executive Engineer whose hands turned pink on dipping in the prepared solution, which proved the taint of corruption.

4. Disciplinary proceedings were initiated and so was criminal prosecution launched, the former by the department itself and the latter by the Lokayukta who is the appellant herein. On the claim that the departmental proceedings ended in exoneration, the delinquent employee approached the High Court, for quashing the criminal proceedings. The High Court by the impugned judgment relied on *Radheshyam Kejriwal v. State of W.B.*, a three-Judge Bench decision to hold that if there is an exoneration on merits where the allegation is found to be not sustainable at all and the person held innocent, then criminal proceedings on the same set of facts and circumstances cannot be allowed to continue especially based on the principle of higher standard of proof in criminal cases. The learned Single Judge also refused to follow a later judgment of this Court in *State (NCT of Delhi) v. Ajay Kumar Tyagi*; finding the later judgment to be *per incuriam*, having been passed in ignorance of the earlier one.

5. There can be no doubt regarding the principle that if the later Bench holds contrary to the earlier Bench decision of coequal strength, on the same point, the contrary dictum expressed by the later Bench would be *per incuriam* as held by a Constitution Bench in *National Insurance Company Limited v. Pranay Sethi*. But the question arising herein is as to whether there was a conflict with the earlier and later judgments.

6. In *Radheshyam Kejriwal*, the raid on the premises of the appellant therein, by the Enforcement Directorate gave rise to proceedings under the Foreign Exchange Regulation Act, 1973. Initially, a show-cause notice was issued by the Director of the Enforcement Directorate proposing adjudication proceedings under Section 51 of the FERA, which, after explanation received was concluded with a decision taken by the Adjudicating Officer that the contravention of the provisions alleged cannot be sustained since the transaction itself is not proved. The said order became final for reason of the Enforcement Directorate having not challenged it. Later,

on the same set of facts, as enabled under Section 56 of the FERA criminal proceedings were initiated, which even as per the enactment could be continued without any prejudice to any award of penalty by the Adjudicating Officer under Section 51 of the FERA. It is in this context that the three-Judge Bench, by a majority, held *inter alia* that though the adjudication and criminal proceedings are independent of each other, if in the former the offender is exonerated on merits then the criminal prosecution also comes to an inevitable end. It was also categorically found that if the exoneration in the adjudication proceeding is on a technical ground and not on merits, the prosecution could continue.

7. In *Radheshyam Kejriwal* the adjudication proceedings and the criminal proceedings were under the FERA, one for penalty; to recoup the economic loss caused by the transaction contravening the provisions of the statute and the other, prosecution; to provide penal consequences as a deterrent measure. The subject matter of the offence alleged in both proceedings was the contravention of the provisions of the statute through the transaction detected. When the adjudication proceedings found the transaction alleged to have not taken place, then it cuts at the root of the prosecution too. Other decisions under the FERA, where the two proceedings of adjudication and prosecution were found to be independent; the decision in one having no bearing on the other, were noticed. So were the decisions under the Income Tax Act, 1961⁶ noticed, wherein, when the penalty imposed on a presumed violation of the provisions of the I.T. Act was set aside by the Tribunal; the last fact-finding authority under the scheme of the I.T. Act, for that reason alone the prosecution was found redundant and quashed. *Radheshyam Kejriwal*² culled out the principles in the following manner:

38. *The ratio which can be culled out from these decisions can broadly be stated as follows:*

- (i) *Adjudication proceedings and criminal prosecution can be launched simultaneously;*

- (ii) *Decision in adjudication proceedings is not necessary before initiating criminal prosecution;*
- (iii) *Adjudication proceedings and criminal proceedings are independent in nature to each other;*
- (iv) ***The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;***
- (v) ***Adjudication proceedings by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure;***
- (vi) ***The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and***
- (vii) ***In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases.***

39. In our opinion, therefore, the yardstick would be to judge as to whether the allegation in the adjudication proceedings as well as the proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings, the trial of the person concerned shall be an abuse of the process of the court.

[underlining by us for emphasis]

8. In *Radheshyam Kejriwal* the very substratum of the allegation of violation of the provisions of FERA was

found to be non-existent, an adjudication on merits that the transaction alleged had not occurred. In the instant case the Enquiry Report found that for reason of the Officer in charge of the trap having not been examined, the department was unable to establish the charge, not at all an exoneration on merits, but more a discharge for lack of diligence. The *ratio decidendi* of that case cannot be extended to every situation where a statute provides for a civil liability and a criminal liability, in which event Courts would be presuming what logically follows from the finding, without any application on the facts.

9. In a disciplinary enquiry the employer satisfies itself as to whether the misconduct alleged is proved and if proved, decides on the proportionate punishment that should be imposed; both of which are in the exclusive domain of the employer, to be determined on the standard of preponderance of probabilities. In a criminal prosecution launched what assumes significance is the criminality of the act complained of or detected which has to be proved beyond reasonable doubt. Both are independent of each other not only for reason of the nature of the proceedings and the standard of proof, but also for reason of the adjudication being carried on by two different entities, regulated by a different set of rules and more importantly decided on the basis of the evidence led in the independent proceedings. If evidence is not led properly in one case, it cannot govern the decision in the other case where evidence is led separately and independently.

10. No doubt, the principles in *Radheshyam Kejriwal* are applicable in a disciplinary inquiry, which was the specific question considered in *Ajay Kumar Tyagi*; interestingly by the very same Hon'ble Judge who authored the majority judgment in *Radheshyam Kejriwal*. True, the earlier decision was not noticed in the latter decision; according to us with just cause since there were distinctions on facts.

11. *Ajay Kumar Tyagi* was a case in which a successful trap was laid and there was exoneration in the enquiry conducted without a final order by the Disciplinary Authority. Therein the Disciplinary Authority

had not passed an order, in deference to the pending criminal prosecution, which action of deferment was unsuccessfully challenged in a writ petition by the delinquent. Then a further writ petition was filed challenging the continuance of the criminal prosecution on the ground of exoneration in the Enquiry Report, which stood allowed. The Disciplinary Authority then passed an order exonerating the delinquent, subject to a challenge to the quashing of the criminal proceedings. In the SLP filed against the order of quashing there was a reference to a larger Bench noting the divergence of opinion with regard to the quashing of a prosecution based on exoneration in a disciplinary proceeding. Even before answering the reference the larger Bench found the quashing to be wrong insofar as the Disciplinary Authority having power to differ from the findings in the report of enquiry and the High Court, in that case having upheld the action of the Disciplinary Authority, keeping in abeyance the final order. We pause here to notice that herein the Disciplinary Authority passed an order concurring with the findings in the Enquiry Report on 08.07.2024, produced as Annexure R-1, with a rider that the order is subject to the proceedings in the criminal case, the consequences of which would necessarily follow.

12. The reference too was answered in *Ajay Kumar Tyagi*. A two-Judge Bench decision of this Court in *P.S. Rajya v. State of Bihar* was referred to wherein the criminal prosecution was quashed when the departmental proceedings concluded in exoneration. In *P.S. Rajya*, the allegation was of possession of assets disproportionate to the source of income. The Central Vigilance Commission dealt with the charge and in its elaborate report concluded that the valuation report on which CBI placed reliance is of doubtful nature. The Court on facts found that the value given as a base for the chargesheet was not the value given in the reports subsequently given by the valuers. The decision in *P.S. Rajya* relying on *State of Haryana v. Bhajan Lal*; the water shed decision in invocation of the inherent powers under Section 482 of the Criminal Procedure Code, 1973 for quashing criminal prosecution, held that the prosecution in that case should

be quashed for more than one reason as laid down in *Bhajan Lal. Ajay Kumar Tyagi* categorically held that the quashing of criminal proceedings in *P.S. Rajya* was not merely on account of the exoneration in the disciplinary proceedings. Referring to a number of decisions, it was held so in paragraphs 24 & 25 which are extracted hereunder:

"24. Therefore, in our opinion, the High Court quashed the prosecution on total misreading of the judgment in P.S. Rajya case (1996) 9 SCC 1. In fact, there are precedents, to which we have referred to above, that speak eloquently a contrary view i.e. exoneration in departmental proceeding ipso facto would not lead to exoneration or acquittal in a criminal case. On principle also, this view commends us. It is well settled that the standard of proof in a department proceeding is lower than that of criminal prosecution. It is equally well settled that the departmental proceeding or for that matter criminal cases have to be decided only on the basis of evidence adduced therein. Truthfulness of the evidence in the criminal case can be judged only after the evidence is adduced therein and the criminal case cannot be rejected on the basis of the evidence in the departmental proceeding or the report of the inquiry officer based on those evidence.

25. We are, therefore, of the opinion that the exoneration in the departmental proceeding ipso facto would not result in the quashing of the criminal prosecution. We hasten to add, however, that if the prosecution against an accused is solely based on a finding in a proceeding and that finding is set aside by the superior authority in the hierarchy, the very foundation goes and the prosecution may be quashed. But that principle will not apply in the case of the departmental proceeding as the criminal trial and the departmental proceeding are held by two different entities. Further, they are not in the same hierarchy."

13. We are of the opinion that in the present case the distinction as brought out in *Ajay Kumar Tyagi* squarely applies and the *ratio decidendi* therein is not regulated by the ratio of the earlier judgment in *Radheshyam Kejriwal*. In *Radheshyam Kejriwal*, the

adjudication proceedings and the prosecution were both by the very same entity, the Enforcement Directorate under the FERA. In *Ajay Kumar Tyagi*, the allegation was of a demand and acceptance of bribe in which a trap was laid, and the prosecution was commenced and continued by the ACB while the departmental proceedings were by the Delhi Jal Board under which the delinquent employee worked. Identical is the fact in this case where the ACB laid the trap, commenced and continued the criminal proceedings, at the behest of the appellant, while the department carried on with the enquiry. The findings in the enquiry report also do not persuade us to quash the criminal proceedings as we would presently notice.

14. At the outset, we cannot but reiterate that the enquiry report in disciplinary proceedings is not conclusive of the guilt or otherwise of the delinquent employee, which finding is in the exclusive domain of the disciplinary authority. The enquiry officer is appointed only as a convenient measure to bring on record the allegations against the delinquent employee and the proof thereof and to ensure an opportunity to the delinquent employee to contest and defend the same by cross-examination of the witnesses proffered by the department and even production of further evidence, in defense. The enquiry officer, strictly speaking, merely records the evidence and the finding entered on the basis of the evidence led at the enquiry does not have any bearing on the final decision of the disciplinary authority. The disciplinary authority takes the ultimate call as to whether to concur with the findings of the enquiry authority or to differ therefrom. On a decision being taken to differ from the findings in the enquiry report as to the guilt of the delinquent employee, if it is in favour of the delinquent employee nothing more needs to be done since the enquiry stands closed exonerating the employee of the charges levelled. If the decision is to concur with the finding of guilt by the Enquiry Officer, then a show-cause is issued with the copy of the Enquiry Report. However, while differing from the finding of exoneration in the enquiry report, necessarily the disciplinary authority will not only have to issue a show-cause against the delinquent employee, with a copy of

the Enquiry Report, but the show-cause notice also has to specifically bring to attention of the delinquent, the aspects on which the disciplinary authority proposes to differ, based on the facts discovered in the enquiry so as to afford the delinquent employee an opportunity to proffer his defense to the same.

15. Having thus stated the law regulating the final decision in a departmental enquiry, we cannot but notice that in the present case, there is a final order produced as passed by the Disciplinary Authority. The learned Counsel for the respondent vehemently argued that a retired District Judge was the Enquiry Officer, which according to us gives the enquiry no higher sanctity than that would be conferred on any enquiry report in any disciplinary proceeding carried out by a person not trained in law. The Enquiry Officer often is appointed as an independent person who would have no connection with the management to ensure against any allegation of bias. A retired judicial officer being appointed as an enquiry officer does not confer the enquiry report any higher value or greater sanctity than that is normally available to such reports. We cannot but observe that in this case the Enquiry Officer fell into an error by requiring proof at a higher level than that necessary under preponderance of probabilities and so did the Disciplinary Authority, in concurring with the same.

16. We also notice the specific findings in the enquiry report. The exoneration was on the basis of two aspects, one, the Inspector of the ACB who carried out the trap having not been examined and the other, two independent witnesses accompanying the trap team having stated that they were standing outside the office room wherein the handing over of the bribe took place. The first ground of the Inspector not having been examined, according to us, based on the preponderance of probabilities, is not imperative, especially when the two independent witnesses were examined. More so, insofar as the department not being at fault since three summons were taken out and a further request was made again for summoning the witness, which was declined by the Enquiry Officer. We cannot but notice that there would be no consequence in not responding to a summons in departmental proceedings, while a like failure in criminal proceedings would be more drastic. The criminal court has ample powers to ensure

the presence of a witness in a criminal proceeding, which the Enquiry Officer does not possess. In this context, the fact that the prosecuting agency and the one carrying on the departmental enquiry being two entities assumes significance. Further, here the trap was laid by the ACB, and the prosecution was conducted at the behest of the Lokayukta, and we cannot presume or anticipate any laxity on the prosecuting agency of not bringing the Inspector to the box, before the criminal court. More pertinently we cannot, on such anticipated laxity put an end to the prosecution.

17. We looked at the evidence laid at the enquiry, not to regulate the order in the departmental proceedings which is not challenged before us, but to satisfy ourselves and to understand whether there is total exoneration on merits, which we find to be absent. In the present case, the witnesses proffered by the department where, (i) the complainant; the contractor who complained of the demand of bribe and (ii) two independent witnesses, government officers in two different departments who accompanied the trap team. PW-1, the complainant categorically stated that a bribe was demanded from him of Rupees ten thousand to clear five bills at the rate of Rupees two thousand each. He complained to the ACB whose Inspector marked the notes, powdered them and put them in a packet, after noting down the numbers to later identify them. The trap team along with the complainant and two witnesses went to the office of the delinquent employee. The complainant went inside the office room wherein he handed over the packet containing the money to the delinquent employee, who counted and put it in his pant's pocket, clearly spoken of by the complainant at the enquiry. The complainant gave the signal as agreed upon, a missed call on the mobile, when the trap team went in, checked the pockets of the delinquent employee, recovered the packet with the money and when the hands of the delinquent employee were dipped in the solution earlier prepared, the colour changed bringing forth the taint.

18. PW-2 and PW-3 were the independent witnesses who were standing outside the office room when the complainant went in. They deposed that on the signal being given, the officers went inside the room and the witnesses followed. They witnessed the money being taken out from the pocket of the delinquent and the delinquent's hands being dipped in a solution

which displayed the tainted colour. Even without the examination of the Inspector who laid the trap we are of the opinion that there was sufficient proof on the standard of preponderance of probabilities to find the delinquent guilty of the charge of demand and acceptance of bribe. The complainant and the independent witnesses have spoken about the incident of the successful trap laid.

19. On the principles of law as stated hereinabove and also on the peculiar facts coming out from the above case, we are not convinced that this is a fit case where the criminal proceedings can be quashed on the exoneration of the delinquent employee in a departmental enquiry. We find the decision in *Ajay Kumar Tyagi* to be squarely applicable. The appeal stands allowed permitting the continuation of criminal proceedings. We make it clear that since the disciplinary authority has accepted the enquiry report, there cannot be reopening of the same based on the findings hereinabove; but a conviction in the criminal case would bring in consequences as mandated by rules regulating the service, specifically reserved in the order of the disciplinary authority, Annexure R-1."

(Emphasis supplied at each instance)

The Apex Court in CHANDRASEKHAR *supra* makes it abundantly clear that the impact of exoneration in a departmental inquiry, upon the criminal prosecution, must be assessed in the factual matrix of each case. It does not efface earlier precedents but circumscribes their application to appropriate circumstances. It therefore becomes necessary to notice, whether the demand and acceptance is prima facie proved

against the petitioner, for it to become the ingredients of the offences alleged.

14. The trap mahazar is noted hereinabove. The conversation between the informant and the petitioner is also necessary to be noticed. It reads as follows:

" "

ಒಟ್ಟು 14 ನಿಮಿಷ 29 ಸೆಕೆಂಡ್ ರೇಕಾರ್ಡ್ ಸಂಭಾಷಣೆ ಇರುತ್ತದೆ.

02-43ರವರೆಗೆ ಸಂಬಂಧಿಸಿದ ಮತ್ತು ಅಸ್ಪಷ್ಟ ಸಂಭಾಷಣೆ ಇರುತ್ತದೆ.	
2-44 ಅಸಲ	ಬನ್ನಿ
ಪರ್ಯಾಯ	ಆಗಿದೆಯಾ ಮೇಡಂ ನಮ್ಮ
ಅಸಲ	ಆಗಿದೆ, ನಿನ್ನೇನೆ ಮಾಡ್ ಇಟ್ಟಿದ್ದೆ.
3-14 ಅಸಲ	ಬೇಗ ಶೇರ್ ಕಲೆಕ್ಷನ್ ಮಾಡ್ಕೊಂಡ್ ತಂದೆ ಕೋಡ್.
ಪರ್ಯಾಯ	ಶೇರ್ ಅಮೌಂಟ್ ಎಷ್ಟ್ ಮಾಡಿದೀರಿ ಮೇಡಂ.
ಅಸಲ	ಒಂದ್ ತ್ರಿ ಲಾಕ್ಸ್ ಮಾಡಿದೀನಿ.
ಪರ್ಯಾಯ	ಹೇಯ್ ಅಷ್ಟೊಕ್ಕೊಂದ್ ಮಾಡ್ಬೇಡಿ ಮೇಡಂ.
ಅಸಲ	ಹೇ ಅಷ್ಟೇ ಜಾಸ್ತಿ ಏನಲ್ಲಾ..
ಪರ್ಯಾಯ	ಹೇಯ್ ಒಂದ್ ಲಕ್ಷ ಮಾಡಿ ಮೇಡಂ.
ಅಸಲ	ಹೇ, ಒಂದ್ ಲಕ್ಷ ಆಗೋದಿಲ್ಲ, ಹಂಗೇ..
ಪರ್ಯಾಯ	ಮೂರ್ ಲಕ್ಷ ಮಾಡ್ಬೇಕಾ?
ಅಸಲ	ಹೂ .. ಒಂದ್ ಸರ್ಕ್ಯೂಲರ್ ಪ್ರಕಾರ ಅಷ್ಟ್ ಮಾಡ್ಬೇಕು.
ಪರ್ಯಾಯ	ಇವು ರಂಗನಾಥ್ ಹೇಳಿದ್ದಲ್ಲ ಒಂದ್ ಲಕ್ಷ ಮಾಡಬಹುದು ಅಂತಾ ಕೇಳ್ತೆ ಅಂದ
ಅಸಲ	ಹೇ ಅವನೊಬ್ಬ ಆಫೀಸಿಗೆ ಮ್ಯಾಟರ್ ಸಂಬಂಧ ಇಲ್ಲೋನು ಯಾಕಪ್ಪ ಮಾತಾಡ್ತೀಯಾ ಅಂತಾ ನಾ ಹೇಳ್ತಿನಿ.
ಪರ್ಯಾಯ	ನಗುತ್ತಾರೆ.
ಅಸಲ	ಅವು ಆಫೀಸಿಗೆ ಸಂಬಂಧ ಪಡೋದಿಲ್ಲ, ಅವು ಏನಾದ್ರೂ ಗೊತ್ತಿದ್ರೆ ಮಾತಾಡ್ಬೇಕು. ಗೊತ್ತಿಲ್ಲವಲ್ಲ

	ಮಾತಾಡೋನೆ ಇಲ್ಲ ಸುಮ್ಮಿರ್‌ಬೇಕು. ಹೌದು ತಾನೇ_
ಪಿರ್ಯಾದಿ	ಹೇಳಿದ್ರೆ ನಾನು, ಎಷ್ಟು ಮಾಡಿಸಿದೀರಿ ಅಂತಂದೇ ಷೇರ್ ಕಲೆಕ್ಷನ್ ಅದಕ್ಕೆ ಕೇಳಿಲ್ಲ ಮೇಡಂ ಅವಿಗೆ ಕೇಳಬೇಕು ಅಂದೆ, ಅದಕ್ಕೆ ಒಂದ್ ಲಕ್ಷ.
ಅಸಲ	ಎಲ್ಲಾ ಓದ್ ದಬಾಕಿದಾನೆ, ಡಾಕುಮೆಂಟ್‌ನ ಸರ್ಕ್ಯೂಲರ್‌ನ, ಸುತ್ತೋಲೆನ ಏನೇನ್ ಮಾಡಬೇಕು ಅಂತಾ ಮಾತಾಡ್ತಾನೆ, ಹ್ಲಾ. ಹಂಗಾಗಿ.
ಪಿರ್ಯಾದಿ	ಇನ್ನೂ ಸಾಹೇಬ್‌ಲು ಸೈನ್ ಹಾಕ್ತೇಕು ಮೇಡಂ.
ಅಸಲ	ಇಲ್ಲಾ ಆಗಿದೆ.
ಪಿರ್ಯಾದಿ	ಆಗಿದ್ದಾ, ನೋ ಡಬ್ಬೇದು, ಸೈನ್ ಹಾಕಿ.
ಪಿರ್ಯಾದಿ	ಹ್ಲಾ .. ನೋ ಡಬ್ಬೇದಾ ಮೇಡಂ ಇದನ್ನಾ..
ಅಸಲ	ಹ್ಲಾ .. ನೋ ಡಬ್ಬೇದು. ಸೈನ್ ಹಾಕಿ.
ಪಿರ್ಯಾದಿ	ಇಲ್ಲೊಂದ್ ಸೈನ್ ಹಾ ಕ್ವೇಕಾ.. ಪೆನ್ ಕೋಡ್ರಿ ಮೇಡಂ ಇಲ್ಲಿ, ಇಲ್ಲಾ, ಇಲ್ಲಿ ಕೆಳಗಡೆ ನಾ.. ರಿಸಿವರ್ ಅಂತನಾ, ರಿಸಿವಿಂಗ್ ಅಂತಾ ಅಲ್ವಾ,
ಅಸಲ	ಸೈನ್ ಮಾಡಿ ನಿಮ್ಮ, ಕೋಡ್‌ನಿ ಕಾಫಿ ತಗೋಳ್ಳಿ,
ಪಿರ್ಯಾದಿ	ಹೌದಾ.. ನಮ್ಮೆ ಅಲ್ವಾ ಇದು ಸೈನ್ ಮಾಡಿರೋದು ನಿಮ್ಮ.
ಅಸಲ	ಹ್ಲಾ .. ಅಲ್ಲಾ ಇದ್ದೆ ಸೈನ್ ಮಾಡಿದ್ದಾ,
ಪಿರ್ಯಾದಿ	ಹ್ಲಾ .. ಸೈನ್ ಮಾ ಡೇ, ಶಾರ್ಟ್ ಸೈನ್ ಶಾರ್ಟ್ ಸೈನ್.
ಅಸಲ	ಡೇಟ್ ಹಾಕಿ ಕೆಳಗೆ
ಪಿರ್ಯಾದಿ	ಡೇಟ್ ಎಷ್ಟು ಮೇಡಂ ಇವತ್ತು.
ಅಸಲ	ಹ್ಲಾ... ಐದು.
ಪಿರ್ಯಾದಿ	ಐದು, ಏಳು ಹದಿನೆಂಟು ಓಕೆ. ಪಾಸ್ಪಾಾಗಿ ಮಾಡಿದೀರಿ.
ಅಸಲ	ನಾನು ಇದ್ರೆ ಮಾಡ್ಕೋಟ್ ಬಿಡ್ತಿನಿ ಜಾಗದ್ ಮ್ಯುಟೇಷನ್ ಆಗೋ ತನಕ ಹಿಂಗೆ. ಇದು ನಿಮ್ ಕಾಪಿ
ಪಿರ್ಯಾದಿ	ಫೈಲ್ ನಮ್‌ಗೆ ಮೇಡಂ, ಇದು ಇದೊಂದೆ ಕಾಪಿನಾ ನಿಮ್ಮ
ಅಸಲ	ಅದೊಂದೆ ಕಾಪಿ ನಮ್ಮೆ ಹ್ಲಾ .ಶಾಖೆಚೆಂಜ್ ಆಗಿದೆ. ಇದೊಂದೆ ಸರಿ ಮಾಡ್ಕೋಟ್ ಬಿಡ್ತೀನಿ. ಇಲ್ಲಿ ದಾವಣಗೆರೆ. ಶಾಖೆ. ಐದ್ ನಿಮಿಷ.
ಪಿರ್ಯಾದಿ	ಲೇಟ್ ಆಗುತ್ತಾ ಮೇಡಂ. ಇಲ್ಲಿ
ಅಸಲ	ಇಲ್ಲ.. ಇಲ್ಲ..

ಪಿರ್ಯಾದಿ	ಶಾಖೆ ಡಿಫರೆನ್ಸ್ ಆಗಿದೆ ಅಲ್ಲಾ
ಅಸಲ	ಹೂ
ಪಿರ್ಯಾದಿ	ಸಾಹೇಬ್ರುದು ಮತ್ ಸೈನ್ ಆಗ್ಬೇಕಲ್ಲಾ ಈಗ, ಇದರಾ ಸಾಹೇಬ್ರು ಇದರಾ..
ಅಸಲ	ಇದಾರೆ..
ಪಿರ್ಯಾದಿ	ಇದ್ರೆ ಸರಿ..
06-06 ರಿಂದ 10-25 ರವರೆಗೆ ಯಾವುದೇ ಸಂಭಾಷಣೆ ಇರುವುದಿಲ್ಲ.	
10-26 ಪಿರ್ಯಾದಿ	ಷೇರ್ ಕಡಿಮೆ ಮಾಡ್ಕಾಗಲ್ಲ ಮೇಡಂ ಇದು.
ಅಸಲ	ಇಲ್ಲಾ, ಆಕ್ಟಲೀ ಸರ್ಕ್ಯೂಲರ್ ಪ್ರಕಾರ
ಪಿರ್ಯಾದಿ	ಮೂರು ಕಂಪಲ್ಸಾರ್ ಮಾಡ್ಬೇಕಾ.
ಅಸಲ	ಹೌದು..ಹೌದು.. ಯಾಕಂದ್ರೆ ನಾವ್ ಸರ್ಕ್ಯೂಲರ್ ಬಿಟ್ ಹೋಗೋಕೆ ಆಗಲ್ಲ. ಹೀಗ್ ಏನಾಗುತ್ತ ಗೊತ್ತಾ, ನಿಮ್ ಷೇರ್ ಕೆಲಕ್ಷನ್ ಕಡಿಮೆ ಮಾಡ್ಬೆ ಅಂದ್ಕೋತ್ತೀ ಎಲೆಕ್ಷನ್ಗೆ ಬಾಡಿಗೆಗೆ ಅಂತೆ, ಅಲ್ಲೇ ನಿಮ್ಮ ದುಡ್ ಉಳಿದ್ ಬಿಡುತ್ತೆ. ಎಷ್ಟೋಂದ್
ಪಿರ್ಯಾದಿ	ಹೂ .. ಹೂ ..
ಅಸಲ	ಆ ಉದ್ದೇಶಕ್ಕೆ.
ಪಿರ್ಯಾದಿ	ಜಾಸ್ತಿ ಮಾಡೋದು.
ಅಸಲ	ಹೂ .. ಅಟ್‌ಲಿ ಷ್ಡ್ ಹೋದ್ರೂನೂ ಉಳಿಬೇಕು.
ಪಿರ್ಯಾದಿ	ಅಮೌಂಟ್ ಇದ್ರೆ ಸ್ವಲ್ಪ ನಮಗೆ
ಅಸಲ	ಹೂ .. ಸ್ವಲ್ಪ ಅನುಕೂಲ ಆಗುತ್ತೆ. ಇದು ಬ್ಯಾಂಕಿಗೆ ಒಂದ್ ಕೊಟ್ಟೀ.
ಪಿರ್ಯಾದಿ	ಬ್ಯಾಂಕ್‌ಗೆ ಒಂದ್ ಕೊಟ್ಟೀಕಾ.
ಅಸಲ	ಹೂ .. ಕೊಡ್ತಿದ್ರೆ ಅಕೌಂಟ್ ಓಪನ್ ಮಾಡಿಸ್‌ಕೊಳ್ಳಲ್ಲ.
ಪಿರ್ಯಾದಿ	ಇದ್ ಇದ್, ಈ ಕಾಪಿ ಕೋಡ್ಬೇಕಲ್ಲಾ.
ಅಸಲ	ಈ ಕಾಪಿ.
ಪಿರ್ಯಾದಿ	ಈ ಕಾಪಿ ಕೋಡ್ಬೇಕು, ಈ ಕಾಪಿ ಹಿಡ್‌ಕೊಳ್ಳಬೇಕಲ್ಲಾ.
ಅಸಲ	ಈ ಮಾರ್ಕ್ ಮಾಡೀದಿನಿ, ಅವ್ರ ಫಾರಂ ಕೊಡ್ತಾರೆ.
ಪಿರ್ಯಾದಿ	ಓಕೆ ಓಕೆ.. ನೆಕ್ಸ್ ನೆಕ್ಸ್ ನಮ್ಮ ಏನಾರೂ ಇದ್ರೆ ಅನುಕೂಲ ಮಾಡ್‌ಕೊಟ್ಟೆ.
ಅಸಲ	ಹೂ .. ಆಯ್ತಪ್ಪಾ, ಅಲ್ಲಿಂದ ಬಂದ್ ಮೇಲೆ ಸೈನ್ ಆದ್ ಮೇಲೆ ಅಕೌಂಟ್ ಎಸ್.ಬಿ.ಐ ನಲ್ಲಿ
ಪಿರ್ಯಾದಿ	ನಿನ್ನೆ ಎಲ್ಲಾ ತಂದ್ ಕೊಡೋಕಾಗುತ್ತೆ ಅಲಾ ಡಾಕ್ಯುಮೆಂಟ್ಸ್‌ನ ಎಲ್ಲಾನೂ
ಅಸಲ	ಅಮೇಲೆ ನಾ ಹೇಳಿದಿನಲ್ಲಾ ಇವ್ವ್ ಡಾಕ್ಯುಮೆಂಟ್ ತರ್ಬೇಕು, ಇಲ್ಲಿಂದ ಇಷ್ಟು...

ಪಿರ್ಯಾದಿ	ಓಕೆ ಮೇಡಂ ಓಕೆ
ಅಸಲ	ಇಲ್ಲಿಂದ ಇಲ್ಲಿ ತನಕ ಎಲ್ಲಾ ಡಾಕ್ಯುಮೆಂಟ್ಸ್ ತಗೊಂಡ್ ಬರ್ಬೇಕು. ಆಮೇಲೆ ರಿಜಿಸ್ಟ್ರೇಷನ್ ಮಾಡ್ಕೊಂಡ್ ಕೊಡ್ತೀನಿ, ಇಷ್ಟ್ ಕೆಲಸಗಳಿದಾವೆ,
ಪಿರ್ಯಾದಿ	ರಿಜಿಸ್ಟ್ರೇಷನ್ ಆಗಿಲ್ಲಾ ಅಲ್ಪ ಮೇಡಂ ಇದು,
ಅಸಲ	ಇನ್ನೂ ಇಲ್ಲಾ
ಪಿರ್ಯಾದಿ	ಮತ್ತೆ ಏನಾಗಿದೆ
ಅಸಲ	ಕಲೆಕ್ಷನ್ ಪರ್ಮಿಷನ್ ಕೊಟ್ಟಿದ್ದೀವಿ,
ಪಿರ್ಯಾದಿ	ಅಷ್ಟೇ, ಪರ್ಮಿಷನ್ ಅಷ್ಟೇ ಇದು,
ಅಸಲ	ಮಾಡಿಸ್ಕೊಂಡ್ ಬಂದ್ ಮೇಲೆ ಮಿಕ್ಕಿದ್ದು, ಆಮೇಲೆ ರಿಜಿಸ್ಟ್ರೇಷನ್
ಪಿರ್ಯಾದಿ	ಓಕೆ
12.20 ಪಿರ್ಯಾದಿ	ತಗೋಳ್ತೇ, ಎಣಿಸ್ಕೋಳ್ತೇ
ಅಸಲ	ಸರಿ ಇದೆ
ಪಿರ್ಯಾದಿ	ಎಣಿಸ್ಕೋ ಬಿದ್ದಿ ಮೇಡಂ
ಅಸಲ	ಹತ್ತು, ಹನ್ನೆರಡು, ಹದಿನಾಲ್ಕು, ಹದಿನೈದು ತಗೊಂಡ್ ಬಂದಿದ್ದೀರಾ
ಪಿರ್ಯಾದಿ	ಹೂಂ
ಅಸಲ	ಮಿಕ್ಕಿದ್ದು, ಬೈಲಾ ಎಲ್ಲಾ ಆದ್ ಮೇಲೆ ಹೇಳ್ತೀನಿ
ಪಿರ್ಯಾದಿ	ಹೂಂ ಮೇಡಂ
ಅಸಲ	ಆದಷ್ಟು ಬೇಗ ನೀವು ಷೇರ್ ಕಲೆಕ್ಷನ್ ಮಾಡಿ ನೀವು ತುಂಬಿಬಿಟ್ಟು, ಮೂರ್ ಲಕ್ಷ
ಪಿರ್ಯಾದಿ	ಆ ಶೇರ್ ಅಮೌಂಟ್ ಬಹಳ ಹೇವಿ ಆಗ್ಗಿದ್ದು ಈಗ
ಅಸಲ	ಅಲ್ಲಾ ಜಾಸ್ತಿ ಅಮೌಂಟ್ ಆದ್ರೆ ಅದು ಎಲ್ಲಾ ಹೋಗಲ್ಲಾ, ಅಲ್ಲೇ ಇರುತ್ತವೆ, ಏನ್ ಗೊತ್ತಾ ಒಂದ್ ಸಾರಿ ಹಾಕಿದ್ ಮೇಲೆ ಯಾವ್ ಕಾರಣಕ್ಕೂ ತೆಗೆಯೋಕೆ ಬರಲ್ಲಾ
ಪಿರ್ಯಾದಿ	ಅಲ್ಲಾ ಮೇಡಂ ರಿಜಿಸ್ಟ್ರೇಷನ್ ಫೈನಲ್ ಆಗಿಲ್ಲಾ ಇದು
ಅಸಲ	ಹೂಂ,
ಪಿರ್ಯಾದಿ	ಈಗ ಏನಿದು ಸದ್ಯ
ಅಸಲ	ಶೇರ್ ಅಮೌಂಟ್ ಕಲೆಕ್ಷನ್‌ಗೆ ಪರ್ಮಿಷನ್ ಕೊಟ್ಟಿರೋದು
ಪಿರ್ಯಾದಿ	ರಿಜಿಸ್ಟ್ರೇಷನ್ ಎಷ್ಟು ದಿನ ಆಗುತ್ತೆ.
ಅಸಲ	ಸಿಕ್ಸ್ ಡೇಸ್, ಆರವತ್ತು ದಿನಗಳೊಳಗೆ ಎಲ್ಲಾ ಮುಗ್ಗಿಕೊಂಡು ಬನ್ನಿ
ಪಿರ್ಯಾದಿ	ಹೌದಾ , ಮೂರ್ ಲಕ್ಷ ಆಗಲೇಬೇಕಾ? ಆಗದಿದ್ದರೆ,
ಅಸಲ	ಆದಷ್ಟು ಬೇಗ ಮಾಡ್ಕೊಂಡು ಬನ್ನಿ ಆಯ್ತಾ
ಪಿರ್ಯಾದಿ	ಹೂಂ ಹೂಂ

ಅಸಲ	ಉಪ ವಿಧಿಗಳು ನಾನ್ ಮಾಡ್ ಕೊಡ್ತೀನಿ ನಿಷ್ಕು
ಪಿರ್ಯಾದಿ	ಹೂಂ.. ಹೂಂ, ಬೈಲಾ ನೀವು ಮಾಡ್ಕೊತ್ತೀರಾ
ಅಸಲ	ಹೂಂ ನಾನ್ ಮಾಡ್ಕೊಟ್ ಬಿಡ್ತೀನಿ
ಪಿರ್ಯಾದಿ	ಹೇ, ಮತೆ ರಂಗನಾಥ್ ಮಾಡ್ಕೊತೀನಿ ಅಂತಾ ಹೇಳಿದ್ದಲ್ಲ
ಅಸಲ	ದಯವಿಟ್ಟು ಅನ್ನಿಗೆ ದುಡ್ಡು ಕೊಡೋಕ್ ಹೋಗ್ವೇಡಿ, ಏನ್ ಕೊಡೋಕ್ ಹೋಗ್ವೇಡಿ, ಅರ್ಥ ಆಯ್ತಾ,
ಪಿರ್ಯಾದಿ	ಹೂಂ.. ಹೂಂ..

....

ಸಂಭಾಷಣೆಯಲ್ಲಿನ ಆಯ್ದ ಭಾಗದ ಲೇಖಿ ಈ ಕೆಳಕಂಡಂತೆ ಇರುತ್ತದೆ.

05-33 ಅಸಲ	ಈಗ ಒಂದ್ ಅರ್ಥ ಕೋಡ್ಬೇಕು. ಆಮೇಲೆ ಒಂದ್ ಅರ್ಥ.. ಹ್ಲ ಒಂದ್ ಇಪ್ಪತ್ ಸಾವ್ರಾ ಆಗ್ಬಹುದು.
ಅಸಲ	ಎಲ್ಲಾ ಸೇರಿ ಒಂದ್ 25 ಆಗುತ್ತೆ.
ಪಿರ್ಯಾದಿ	25, ಅಷ್ಟೊಂದ್ ಇಲ್ಲ ಮೇಡಂ.. ಬಹಳ ಆಯ್ತು..
ಅಸಲ	ಮತ್ತೆ ಇಲ್ಲ ಅಂದ್ರೆ, ಒಂದ್ ಇಪ್ಪತ್(20)ಕೊಡ್ತೀರಾ..ಬೈಲದು ಎಲ್ಲಾ ಸೇರಿ.
ಪಿರ್ಯಾದಿ	ಅಪ್ಪ ಮಕಾ ಸುಡಾ.. ಅಲ್ಲಿ ಸಂಘ-ಸಂಸ್ಥೆಗೆ ಹೇಳ್ತಾನೆ. ಅದಿಕ್ಕೆ ಹೇಳಿದ್ದು ನಾನು ನಿಮಗೆ.
ಅಸಲ	ಹ್ಲ.. ಸಂಘ-ಸಂಸ್ಥೆಗೆ ಹೋಗ್ತಾನೆ, ಅಲ್ಲಿ ಯಾವ ತರಾ ಅಂದ್ರೆ, ಈಗ ಅದಿಕ್ಕೆ ಅಮ್ಮ ಮಾತ್ ಕೇಳಬೇಡಿ ಅಂತಾ ನಿಮಗೆ ಹೇಳೋದು ಇದೆ ಉದ್ದೇಶಕ್ಕೆ.
ಅಸಲ	ಬೈಲ ಹಾಕಿರೋದು ಎಲ್ಲಾ ಸೇರಿ, ಇಪ್ಪತ್ (20) ತಂದೆ ಕೊಟ್ಟೆ ಮಾಡ್ಕೊಡ್ತೀನಿ..”

The voice sample of the petitioner was sent for forensic examination. The forensic analysis report of the voice sample is appended to the charge sheet and it shows that conversation between the informant and the petitioner was recorded by the informant on his mobile phone. The opinion of Forensic Science Laboratory ('FSL') is as follows:

"OPINION

The comparison of respective speeches based on auditory and feature extraction methods has revealed that, the respective

speeches said to be of female speaker suspect Smt.Geetha found recorded in the CDs marked as article numbers 01 and 09 the sample speeches found recorded CD marked as article number 10 are similar and are of the same person.

Sd/-
(Chandrika.G)
Senior Scientific Officer
OOD at Physical Section
State Forensic Science Laboratory
Bengaluru -68

Despatch No: FSL/615/PS/276/2018 Date:10-3-2020
Forwarded: - Receipt of the same may please be acknowledged.

Sd/-
Director
Director
State Forensic Science Laboratory
Bengaluru -68"

In the case at hand, the material placed before the criminal Court discloses prima facie evidence of demand and acceptance. The trap mahazar records recovery of tainted currency. The recorded conversation between the informant and the petitioner was subjected to forensic examination and the Forensic Science Laboratory opines that the voice sample matched with that of the petitioner. These circumstances taken together, furnish prima facie material supporting the prosecution's case. In such a scenario, where the accused is allegedly caught red-handed, where recovery is documented and where forensic opinion lend support to the

allegation of demand, the exoneration in a departmental proceedings, cannot by itself eclipse the criminal prosecution or obliterate it. A *caveat*, this principle would not become applicable to all cases.

15. The principle that once a delinquent employee gets exonerated in a departmental enquiry, would lead to obliteration of the criminal proceedings would not become or the principle is not of universal application. In cases where the trap has failed or where there is absence of direct evidence of demand and acceptance, a departmental exoneration of the kind may indeed bear upon the sustainability on the criminal proceedings. But where prima facie evidence of demand and acceptance exists, and where the amount is recovered from the hands of the said delinquent employee/accused, when caught red-handed receiving the tainted currency and the trap mahazar draws or documents all that is necessary to be done to prove demand and acceptance *albeit*, prima facie, it would become prima facie evidence of demand and acceptance. Such matters must be tested in the crucible of full-fledged trial. Therefore, there exists no straight-jacketed formula

that mandates obliteration of criminal proceedings, merely because both actions arise from the same factual foundation.

16. The contention of the learned counsel that examination of witnesses on oath in departmental proceedings elevates such enquiry to the status of a judicial proceeding is noted only to be rejected. A departmental enquiry, by settled principle of law, remains a quasi-judicial proceeding. The mere administration of oath to witness does not metamorphose its character into a criminal trial governed by the rigours of the Code of Criminal Procedure and the Indian Evidence Act.

SUMMARY OF FINDINGS:

- *Where both departmental inquiry and criminal prosecution arise from the same set of facts, the effect of exoneration in the former - departmental inquiry, upon the latter the criminal trial would depend upon the evidentiary complexion of each case.*

- *If the departmental exoneration rests upon a finding that the core ingredients of the offence - demand and acceptance in corruption cases, are wholly absent, the criminal case founded upon identical material, continuation of prosecution may, in appropriate cases, amount to abuse of the process.*
- *However, where prima facie material exists in the criminal case such as, recovery of tainted money, recorded conversation, evidencing demand or forensic corroboration, the departmental exoneration cannot eclipse the criminal trial. The matter must be tested in the crucible of full-fledged trial under the stricter standard of proof. This would be particularly in cases where the delinquent Government servant is caught red-handed receiving bribe.*
- *In essence, departmental exoneration may influence, but does not automatically extinguish, criminal prosecution. Each case turns on its own factual and evidentiary matrix.*

17. In that view of the matter, the submissions advanced on behalf of the petitioner, do not persuade this Court to interdict the criminal process at this stage. It is for the petitioner to come out clean in a full-blown trial, which stands in progress as on today.

18. Finding no merit in this petition, the petition stands **rejected**. Since the trial was interjected by the interim order, the trial shall now progress further.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

Bkp
CT:MJ