



2026:KER:3188

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 14TH DAY OF JANUARY 2026 / 24TH POUSHA,

1947

CRL.REV.PET NO. 555 OF 2024

CRIME NO.6/2009 OF VACB, ERNAKULAM, Ernakulam

AGAINST THE ORDER DATED 06.01.2024 IN CMP

NO.1387 OF 2017 OF ENQUIRY COMMISSIONER AND SPECIAL

JUDGE (VIGILANCE), MUVATTUPUZHA

REVISION PETITIONER/COMPLAINANT:

STATE OF KERALA REPRESENTED BY THE PUBLIC
PROSECUTOR

HIGH COURT OF KERALA ERNAKULAM, PIN - 682031

BY SPL.PUBLIC PROSECUTOR SRI.RAJESH.A,
SR.PUBLIC PROSECUTOR SMT.REKHA.S

RESPONDENT/ACCUSED:

P.H.MUNEER

S/O.P.M.HASSAN (RET.ASSISTANT EXECUTIVE
ENGINEER, PWD ROADS N.11 DIVISION)

PALATHINKAL HOUSE, AZAD ROAD, MUVATTUPUZHA,
ERNAKULAM., PIN - 686673

BY ADVS.

SRI.BABU JOSEPH KURUVATHAZHA

SMT.ARCHANA K.S.

SHRI.NOEL EALIAS

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
12.12.2025, THE COURT ON 14.01.2026, PASSED THE FOLLOWING:



Crl.R.P No.555/2024

2026:KER:3188

“C.R”

A. BADHARUDEEN, J.

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Crl.R.P No.555 of 2024
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Dated this the 14th day of January, 2026

O R D E R

This Revision Petition is at the instance of the Vigilance and Anti Corruption Bureau (‘VACB’ for short) represented by the State of Kerala and in this Revision Petition, the order in C.M.P.No.1387 of 2017 in C.C.No.354 of 2016 on the files of the Enquiry Commissioner and Special Judge (Vigilance), Muvattupuzha, dated 06.01.2024 is under challenge. The sole respondent herein is the sole accused in C.C.No.354/2016, who is the petitioner in C.M.P.No.1387 of 2017.

2. Heard the learned Special Public Prosecutor appearing for the revision petitioner and the learned counsel appearing for the 1st respondent. Perused the records as well as the



order impugned.

3. Here the prosecution allegation is that the accused, who worked as a public servant in the Public Works Department Roads (NH Division), for the period from 01.08.1992 to 29.07.2009, acquired assets worth Rs.36,01,292.00 and incurred expenditure of Rs.39,70,103.00 making a total of Rs.75,71,395.00, whereas his income from known sources during the relevant period would come to Rs.49,21,282.00. According to the prosecution, in view of the above facts, the accused amassed income worth Rs.26,50,112.00, that is, 53.85% more than his known source of income, for which he could not satisfactorily account for, as revealed from statements A to D. On this premise, prosecution filed final report before the Special Court alleging commission of offences punishable under Section 13(1)(e) r/w 13(2) of the Prevention of Corruption Act, 1988 ('PC Act, 1988' for short), by the 1st



respondent/accused.

4. On appearance before the Special Court, the accused filed C.M.P.No.1387 of 2017 under Section 239 of the Code of Criminal Procedure, 1973, seeking discharge. The learned Special Judge appraised the contentions and finally discharged the accused for the reasons stated in paragraph 15 of the impugned order, which reads as under:

“As a result of the discussions made above Rs.6,35,023 being the value of car owned by the father of the petitioner must be deducted from Statement B which is the list of assets and Rs.5,83,324 being the investment for the purchase of said car must be deducted from statement D.

The figure of statement B is as follows:

$$Rs.36,38,042- Rs.6,35,023= Rs.30,03019$$

The figure of statement D is as follows:

$$Rs.39,70,103- Rs.5,83,324= Rs.33,86,779.$$

It was already concluded that the figure of statement C is Rs.63,64,798.6 There is no change in statement A which was Rs.36,750/- and 35 sovereigns of gold. When the formula adopted by the investigating officer namely (B-A) + D)- C is applied, we get the following result:

$$(30,03019-36750) = 29,66,269+33,86,779 = 63,53,048-$$

$$63,64,798.6 =-11750$$

The assets disproportionate to the alleged known sources of income of the petitioner is Rs.-11750. It is a negative figure. In the matter of assessing disproportionate assets, calculation with mathematical precision is not possible.



What is possible is an approximate assessment. The value of gold in possession of the petitioner at the beginning of the check period and at the end is almost similar. Therefore, it makes no difference in the calculation. It is pointed out that even if the loan of Rs.5 lakhs taken from State Bank of Travancore is excluded from the income of the petitioner, the assets disproportionate to the known sources of income of the petitioner will be Rs.4,88,249 which also less than 10 percent of Rs.63,64,798.”

5. While challenging the finding of the Special Court, it is submitted by the learned Special Public Prosecutor that, in the instant case the learned Special Judge conducted mini trial by adding income from some other sources, as the assets of the accused while adverting to the discharge plea of the petitioner. According to the learned Special Public Prosecutor, when considering the discharge plea of the petitioner, a court is not expected to conduct a mini trial by evaluating the evidence to arrive at any finding based on the same. It is specifically pointed out by the learned Special Public Prosecutor that the exercise undertaken by the learned Special Judge ought to have been relegated to the stage of trial, particularly after examining the witnesses and evaluating the evidence, so as to determine whether the additional assets disclosed by the



accused could be treated as his income or whether any deduction therefrom is required, which can be decided only on the basis of the evidence. Thus the order is liable to be interfered, so as to allow the prosecution to proceed with the trial.

6. Apart from that the respondent raised contentions by filing an argument note as under:

“1. Respondent joined in government service as Assistant Engineer in PWD, Idukki Block on 13.4.1982. He was promoted as Assistant Executive Engineer on 11.1.2002 and posted at District Panchayat Division, Idukki and while working as Assistant Executive Engineer, PWD (National Highway Division), he retired, on attaining the age of superannuation on 31.3.2011.

2. The check period was from 1.8.1992 to 29.7.2009. The marriage of the accused was on 14.4.1985 with Reena K.S. The father of the accused namely P.M. Hassan was a PWD contractor. The father in law of the respondent was K.M. Seethi and he was a contractor in forest department.

3. As per Paragraph 2 of Annexure-IV of the final report (at page 44), at the time of marriage, 100 sovereigns of gold ornaments were gifted to the wife of the respondent by her father.

4. The respondent purchased 15 cents of land on 15.6.1992 at Velloorkunnam Village of Muvattupuzha Taluk, as per Document



No.2365/92 of SRO, Muvattupuzha, on payment of Rs. 16,000/-. Another 24 cents was also purchased by the respondent as per Document No.2608/92 of the same Sub Registry,for the consideration of Rs.16,000/-, which is stated in the 5th paragraph in page 45 of the Annexure IV of the Final Report.

5. The wife of the respondent namely Reena K.S. secured 35 cents of land with the residential building from her parents as ancestral property on 6.9.1991 as per Document No.3144/91 of SRO, Muvattupuzha. A shop room of 218 sq.ft. and another shop room of 446.8 sq.ft. were situated in the said property inherited by Reena K.S., the wife of the respondent from her father.

6. A residential house was constructed in the plot purchased by the respondent in 1992 and its cost of construction was Rs.23,44,901/-.The 6th paragraph in Page 46 of Annexure IV of the final report admits those details.

7. A search was conducted in the house of the respondent on 29.7.2009 and the household articles worth Rs.3,92,975/- and gold ornaments having 274.1 gm were detected and the cash of Rs.55,393/- was noticed in the SB account of the respondent.

8. Respondent constructed his residential house during 2002 by making use of the financial assistance rendered from the State Bank of Travancore. Later, he secured the financial assistance from Punjab National Bank, worth Rs. 15,00,000/-.

9. Document No.54 (Ext.54) in the charge sheet produced along with the final report, the deposit of rent from the shop rooms owned by the wife of the respondent for the period from 2000 to 2006, was enumerated. This amount was utilized by the respondent during the



check period. A total amount of Rs.7,48,460/- was credited to the account of the respondent as per Document No.54. This was considered by the learned Judge while considering the discharge petition.

10. During the check period, the respondent's wife was in possession of 100 sovereigns. However, 186.310 grams of gold was sold on 02.04.2002, 44 grams of gold on 02.05.2002, 36 grams of gold on 02.05.2002, 110.620 grams of gold on 18.05.2002, and 210.530 grams of gold on 28.05.2002, for a total sum of Rs. 1,95,056/-. Exts. No. 130 and 135, produced by the prosecution, would support the said sale proceeds.

11. The respondent secured a housing loan of Rs.5,00,000/- from the SBT in the year 2002, which was not shown as income for the check period. The respondent has repaid an amount of Rs.2,82,116/- towards the said loan. Document No. 146 (Ext. 146) shows the details of the loan availed by the respondent from SBT, Paippra branch.

12. The respondent was not in possession of a car during the check period. Ext. 123, produced by the revision petitioner along with the charge sheet, shows the RC details of the car bearing registration No. KL-17-E-2662, which is registered in the name of the father of the respondent. The vehicle was valued at Rs.6,35,023/-, which needs to be excluded from the assets of the respondent.

13. Further, an amount of Rs.5,32,087/- was added to the expenditure of the respondent, as if the car were owned by the respondent. The father of the respondent was holding a driving licence since 1951 and was a timber merchant by profession, having sound financial



capacity. Document No. 139, the invoice of the car purchased by the father of the respondent, has no nexus with the respondent and neither the said car nor its documents were detected from the house or possession of the respondent. Therefore the said amount would have been deducted from the expenditure of the respondent

14. The Hon'ble Supreme Court in **State by the Inspector of Police, Chennai v. S.Selvi and Another (2017 KHC 6899)** held that:

vi) At the stage of S.227 and S.228, the Court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value discloses the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the Trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.

15. In **State of Tamil Nadu v. N Sureshraj and Others (2014 KHC 4010)**, it was held by the Hon'ble Supreme Court that:

"The court can only examine the materials produced, and relied on by the prosecution to see whether framing of a charge would justifiable or to see whether the offence alleged by the prosecution against the accused are, prima facie, made out by the materials"

In the instant case, the learned court below had relied upon the document produced by the prosecution, for discharging the



applicant/accused from prosecution. In the said judicial proceeding. there was no mini trial of evidence. Even if the respondent were compelled to undergo the lengthy ordeals of prosecution by adducing evidence and examining the witnesses, it would be very much possible for the learned court below to discharge the accused, without even adducing any fresh document, and without examining any witness, but upon relying upon the documents adduced by the prosecution itself, in support of their case.

Therefore, absolutely no meaningful purpose would be served by compelling the accused to undergo the procedures of trial. Hence the order of the learned court below was strictly in accordance with law, to meet the ends of justice.”

7. Apart from that, it is submitted by the learned counsel for the 1st respondent/accused that the Special Court rightly considered the income of the accused by taking income from some other sources, which were omitted to be considered by the Investigating Officer on getting the same addressed. Thus the finding of the Special Court holding the view that the accused did not amass any amount disproportionate to his known source of income is only to be justified and no interference with the order of discharge is required.



8. While addressing the contention, first of all it is necessary to look into the statements of the prosecution, which do form part of the final report, as extracted hereunder:

“The A to D statement are as follows:-

A. Assets at the beginning of the check period :

Rs.36,750.00 +274.1 Gms of Gold Ornaments

B. Assets at the end of the check period:

Rs.36,38,042.00 + 274.1 grams of Gold Ornaments

(B-A) Assets acquired during the check period :Rs.36,01,292.00

C. Income during the check period: *Rs.49,21,282.60*

D. Expenditure during the check period: *Rs.39,70,103.00*

Disproportionate assets of A.O for the check period

i.e (B-A)+D)-C

Rs.36,01,292.00+39,70,103.00-49,21,282.60=Rs.26,50,112.00

The percentage of disproportionate assets to the known sources of income of the AO is 53.85%.”

9. Going by the impugned order, the learned Special Judge addressed the contention raised by the prosecution that income to the tune of Rs.1,95,056/- obtained by sale of



gold ornaments is not included in the income. In this regard, the learned Special Judge addressed document Nos.130 and 131 in the list of documents shown in pages 29 and 30 of the final report, as pointed out by the learned counsel for the 1st respondent. On evaluating the above said documents, it is found by the learned Special Judge that witness No.53 had given statements proving sale of such ornaments by the petitioner and his wife to witness No.53 and an amount of Rs.1,95,056/- was obtained by the 1st respondent/accused. According to the prosecution, even though this amount is the amount belonged to the wife of the petitioner, since the accused and his wife resided together during the check period, it ought to have been shown as the assets of the accused as well.

10. Regarding this argument, this court is of the view that, whether the gold ornaments belonging to the wife were sold to witness No.53 and how those ornaments



came into her possession, etc. are matters of evidence to be ascertained by examining witness No.53 during trial. Therefore, merely based on the statement that the wife of the accused sold her gold ornaments for Rs.1,95,056/- to witness No.53, the said amount should not be added as the income of the accused at the pre trial stage. Therefore this finding of the Special court is not sustainable.

11. The learned Special Judge has included Rs.1,11,350/- as the amount obtained by the accused by selling timber as per document No.137 produced by the prosecution and as per the statement of witness No.56. The learned Special Judge observed that witness No.56 given statement that he had purchased Thani timber from the accused on 12.10.1999 as per 2 bills, copies of which were produced; one item was purchased for Rs.66,155/- and another item was purchased for Rs.45,195/-.

12. However, the Special Court did not consider this amount since witness Nos.61 and 62 had given statement to



the police that they had sold the property to the accused in the year 1992 and at the relevant time some Coco palms and a mango tree alone were in the property. So the 1st respondent could not sell Thani timber trees during 1999, as contended.

13. Regarding the loan amount of Rs.5 lakh availed by the accused and his wife from SBT in the year 2002 is concerned, it was observed by the learned Special Judge that the said amount to be included in the income of the respondent since no documents were produced to show that the said amount was taken over by Punjab National Bank while granting Rs.15 lakh. In this regard, it is submitted by the learned counsel for the respondent/accused that the respondent had repaid an amount of Rs.2,82,116/- and document No.146 (Ext.146) produced by the prosecution would show the details of the loan availed by the respondent from the SBT, Paippra Branch.

14. Regarding this amount it could be seen that this



is a disputed fact which would require adjudication by adducing evidence and the same is not a matter to be considered during pre-trial stage. The learned Special Judge also reduced Rs.7,48,460/- received as rent (document No.54) from the shop rooms owned by the wife of the respondent for the period from 2000 to 2006 which was used by the respondent during the check period. According to the learned Special Judge, another ground raised by the counsel for the respondent is that the respondent had acquired two shop rooms and another six cents of land and a residential building, which were shown as items 5, 6 and 7 at page 49 of Annexure IV of the final report, the income received from the above three buildings were not taken into account. The rents from those buildings are deposited in account number 00871 of Muvattupuzha Urban Co-operative Bank. Those amounts are reflected in bank statements produced as document numbers 53 and 54 in Annexure II. This comes to Rs.7,48,460/-, which must be added to the income of the



petitioner. The counter statement of the petitioner in this regard is that the wife of the respondent was not an income tax payee; the landed property statement of Government servant must include the property and income of his wife, relative etc. and the respondent had not declared any of his above mentioned claims in his landed property statements. Reference is made to Section 13 of the PC Act, 1988. The prosecution had produced the account statement of the respondent in the above bank. The statement would show that on 19th August, 2008 by closure of fixed deposits Rs.7,48,460/- had been credited to the account of the respondent. The only objection is that the same had not been shown in the property statement of the respondent. The petitioner has no case that the respondent had not received the above amount by way of rent. It is already conceded by the investigating officer that some building were in the name of the wife of the respondent and it has been taken as the property of the respondent. The learned Special Judge



observed that there is no rule that the income received by way of rent shall be shown in the property statement of a government servant and accordingly found that this ground of the respondent is sustainable.

15. According to the learned Special Public Prosecutor, if at all this amount is liable to be added to statement C, the contention of the learned Special Public Prosecutor is that the same amount had not been shown in the property statement of the respondent. Further if at all this amount was deducted, that alone would not take the culpability of the accused for the offence punishable under Section Section 13(1)(e) r/w 13(2) of the PC Act, 1988.

16. In paragraph No.14 of the order, the learned Special Judge addressed the contention raised by the respondent/accused that car bearing Reg.No.KL 17 C 2662 in the name of the father of the respondent named P.M.Hassan was wrongly shown as that of the respondent.



A sum of Rs.6,35,023/- had been shown as that of the respondent towards the value of the car and the said amount was shown in statement D as expenditure of the respondent. The contention raised by the accused is that the said car was purchased by his father and he was a timber merchant having his own income, but the contention raised by the prosecution is that sale price for the car was paid by the respondent though witness No.58, the Assistant Manager of the vehicle dealer who sold the vehicle, had given statement to the police that the vehicle was purchased by Sri P.M.Hassan. Coming to Rs.6,35,023/-, shown in statement B and Rs.5,83,324/- shown in statement D regarding the value of the car and the purchase price thereof also are disputed facts and in this regard also evidence to be adduced.

17. It is true that at the stage of discharge of an accused, the court has the power to evaluate the available materials on record with a view to find out whether the facts emerging there from taken at their face value discloses the



existence of all the ingredients constituting the alleged offence/offences and for this limited purpose, evaluation of the evidence as done after trial could not be expected. It is true that when evaluating the prosecution materials for the purpose of considering discharge if two views are possible one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge would be empowered to discharge the accused as held in [2017 KHC 6899], *State by the Inspector of Police, Chennai v. S.Selvi & another*. It is equally well settled that when disputed facts are involved as regards to calculation of assets, it could not be addressed by the learned Special Judge at the pre-trial stage without adducing evidence. In the instant case, the facts discussed herein above would go to show that the addition and subtraction made by the learned Special Judge at the pre-trial stage, in fact, is akin to a mini trial where disputed facts are involved, for which adducing of evidence is absolutely necessary by examining witnesses and



tendering documents in support of the rival contentions.

Thus it has to be held that the learned Special Judge went wrong in discharging the respondent and therefore the order of the learned Special Judge is liable to be interfered.

19. In the result, this petition succeeds and the impugned order is set aside. The respondent/accused is directed to appear before the Enquiry Commissioner and Special Judge (Vigilance), Muvattupuzha on 15.02.2026, to cooperate with trial.

20. Registry is directed to forward a copy of this judgment to the Enquiry Commissioner and Special Judge, Muvattupuzha, for compliance and further steps.

Sd/-

A. BADHARUDEEN, JUDGE

rtr/



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APPENDIX OF CRL.REV.PET NO. 555 OF 2024

PETITIONER'S ANNEXURES

Annexure A **CERTIFIED COPY OF CRL.M.P.**
NO.1387/2017 DATED 06/01/2024 IN CC
NO.354/2016 ON THE FILE OF THE
ENQUIRY COMMISSIONER AND SPECIAL
JUDGE, MUVATTUPUZHA.

RESPONDENT'S ANNEXURES : NIL