



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE K. NATARAJAN

&

THE HONOURABLE MR. JUSTICE JOHNSON JOHN

MONDAY, THE 15TH DAY OF JUNE 2026 / 25TH JYAISHTA, 1948

WA NO. 1093 OF 2026

AGAINST THE ORDER DATED 10.04.2026 IN CON.CASE (C)
NO.908 OF 2025 OF HIGH COURT OF KERALA

APPELLANT/S:

MOHAMMED HANISH
(AGE AND FATHER'S NAME NOT KNOWN TO THE
PETITIONER), PRINCIPAL SECRETARY,
INDUSTRIES DEPARTMENT (CASHEW),
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 033.

BY ADV
SRI. T.K. VIPINDAS - SENIOR GOVERNMENT PLEADER

RESPONDENT/S:

KADAKAMPALLY MANOJ
AGED 50 YEARS, S/O.KUTTAPPAN,
KADAKAMPALLY HOUSE, VADAKKEVILA POST,
KOLLAM, PIN - 691 010.

BY ADV
SRI. D.ANIL KUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
15.06.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



JUDGMENT

(Dated this the 15th day of June, 2026)

K. NATARAJAN, J.

This writ appeal is filed by the appellant challenging the interim order dated 10.04.2026 in Con. Case (C) No.908/2025, wherein the learned Single Judge of this Court directed the appellant to appear in person before the Court by giving a date.

2. We have heard the arguments of the learned Senior Government Pleader appearing for the appellant and the learned counsel appearing for the respondent.

3. The counsel for the respondent raises preliminary objection regarding the filing of the writ appeal instead of Contempt of Court appeal, and also contended that the Government Pleader cannot be filed the appeal and argue the matter. In this regard, the learned Government Pleader relied upon the judgment of the Kerala High Court in the case of **Jomon**



Puthenpurackal v. Judicial 1st Class Magistrate – III, reported in 2004 KHC 116, contended that the party can also give vakalath and court fee required to be payable. In the counter affidavit, it is stated that it is a curable defect and on the technicalities the Court cannot reject the appeal. Submission of the learned Government Pleader is placed on record.

4. In view of the judgment in a contempt case, where the contemnor has to appear before the court. Both the Counsel relied upon various judgments. However, this is a contempt case, the personal appearance of the appellant is required for answering the charges to be framed by the court, after finding prima facie material for initiating contempt proceeding.

5. Such being the case, it is necessary for the Government Pleader to be appointed specifically in this case to appear and we directed to file vakkalat within a week. Furthermore as per the Rules for payment of court



fee for writ appeal, the appellant is required to pay the required court fee and we permit to pay the required court fee within a week.

6. As regards to the merits of the case, the respondent herein had filed a writ petition challenging the order issued by the present appellant rejecting sanction for prosecution against accused Nos. 1 and 3 in the investigation report submitted by the CBI.

7. Initially, the CBI approached the Principal Secretary, Industries Department (Cashew), Government of Kerala, seeking sanction for prosecution. The request was rejected in the year 2020. Aggrieved thereby, the respondent herein filed W.P.(C) No.25863 of 2020. After hearing the parties, the learned Single Judge, by a detailed judgment dated 24.07.2024, set aside the order of rejecting the sanction and directed the Secretary to reconsider the matter afresh in the light of the observations contained in Annexure A1 judgment.



8. Subsequently, the present appellant again passed Annexure A6 order dated 21.03.2025 rejecting sanction for prosecution. Consequently, the respondent once again approached this Court by filing a Con.Case (C) No. 908 of 2025, contending that the present appellant had failed to follow the observations made by the learned Single Judge in Annexure A1 judgment, and once again rejected the sanction of prosecution. Therefore, prayed for initiating framing of charge for committing the Contempt of Court case against the appellant.

9. In the contempt proceedings, the learned Single Judge passed an interim order dated 21.08.2025, which set aside Annexure A6 order and granted a further opportunity to the appellant to reconsider the matter in accordance with the observations made by the Court. Thereafter, the appellant, being the present Secretary of the concerned Department, passed Annexure A8 order



dated 28.10.2025, once again he has rejected the sanction for prosecution as against accused Nos. 1 and 3 in the criminal case.

10. Subsequently, the learned Single Judge directed the appellant to appear before the Court for hearing on the charges proposed to be framed against him in the contempt proceedings. Being aggrieved by the same, the appellant initially approached the Hon'ble Supreme Court by filing a Special Leave Petition. The Hon'ble Supreme Court disposed of the SLP and directed the appellant to file an appeal before the Division Bench under Section 5(i) of the Kerala High Court Act. Accordingly, the appellant is before this Court.

11. The learned Senior Government Pleader has strenuously contended that the direction contained in Annexure A1 judgment was only to consider the matter afresh and pass an appropriate order. There was no positive direction to grant sanction for prosecution.



Therefore, it was argued that the appellant cannot be said to have committed contempt of court. Consequently, directing the appellant to appear before the Court is not sustainable and it cannot be allowed. Therefore, prayed for setting aside the order in the Contempt case.

12. The learned Government Pleader further contended that there are some Government Orders issued in the year 2007 the same was followed by the appellant. It was contended that the acts attributed to the accused persons were performed in the discharge of their official duties and there is no offence alleged committed by the accused. Therefore, he has rightly rejected the sanction for prosecution and it is contended that there is no such act of contempt committed by the appellant to proceed with. Hence, prayed for allowing the writ appeal and set aside the order.

13. Per contra, learned Counsel for the respondent strenuously contended that Annexure A1 order has not



been challenged, which was attained the finality. The accused persons had challenged the said judgment before the Hon'ble Supreme Court by filing Special Leave Petitions, which came to be disposed of on 10.12.2024. Therefore, the findings recorded by the learned Single Judge are attained finality.

14. It was contended that the learned Single Judge had categorically found that prima facie materials placed on record to show the involvement of accused Nos. 1 and 3 in the alleged offences. And without sanction, the CBI cannot prosecute the criminal case against the accused Nos.1 and 3.

15. Such being the case, the present appellant cannot give any adverse finding, otherwise which would be nothing but superseding or overruling the finding of the learned Single Judge of this court. Therefore it is contended that the act of the appellant is directly attract the contempt of court against him. Therefore, it is the



appellant is required to appear before the learned Single Judge and answer the charges or he can even appear and pray for discharging him in the case by placing the materials before the court. Therefore, this Court cannot interfere at this stage. Hence, prayed for dismissing the appeal.

16. We have perused the order passed by the learned Single Judge in Annexure A1 and orders passed by the appellant in Annexure A6 and Annexure A8 dated 21.03.2025 and 28.10.2025 respectively. The learned Single Judge of this Court in the Annexure A1 Judgment at paragraph No.20 elaborately considered the fact of the case and investigation done by the CBI and has held that there is a prima facie evidence against the accused No. 1 and 3 for violating the store purchase manual and CVC guidelines in procurement of raw cashew nuts, resulting in huge loss to the Kerala State Cashew Nuts Development Corporation and a categorical finding of the learned



Single Judge wherein it was stated at page No. 26 of the order that “the Board of Directors which was presided over by the Chairman the findings further show that the A1 to A3 were taking all decisions regarding procurement of cashew nuts during their respective tenure and investigation revealed that during the period from 2006 to 2015, accused No. 1 and 3, abusing their official capacity as Managing director and Chairman respectively of KSCDC entered into conspiracy with A4 and awarded several contracts to his proprietorship concern for import and supply of raw cashew nuts violating the rules”. And later at paragraph Nos. 22 and 23 of the judgment once again the learned Single Judge has stated that there is material placed on record. Therefore, charges against the accused No.1 and 3 cannot be quashed by invoking the power under Section 482 of CrPC. However, the accused No.1 and 3 are said to be the public servants charged with offences alleged to have been committed in the purported



discharge of their official duty. Therefore, in order to prosecute them under the Prevention of Corruption Act, Section 19 is mandates for getting sanction from the competent authority, and also other than the Prevention of corruption Act in order to prosecute them under the General penal provision Section 197 of CrPC, it is necessary subject to the condition mentioned therein 197(1) of CrPC. Therefore, the learned Single Judge of this Court has categorically held that there are materials placed on record to attract the penal provisions in the general penal provisions as well as Prevention of Corruption Act. Therefore, it is necessary for the competent Authority to grant sanction to prosecute the said accused persons. If at all, the accused persons have not acted intentionally or deliberately by causing any loss, they can have case before the Special Court for seeking discharge. But the present appellant cannot supersede the findings of the High Court in respect of holding that there



is prima facie material on record that, the accused persons were committed the offence and causing the wrongful loss to the Government.

17. Therefore, once the Court has categorically held that there is prima facie material against the accused persons and that they have committed the offence, and the CBI cannot proceed with the prosecution until the sanction is accorded by the competent authorities.

18. Therefore, in this context, the learned Single Judge of this Court directed the appellant to pass a fresh order. In spite of the said direction, the appellant is said to be issued Annexure A6 order, which was set aside by the learned Single Judge in the interim order passed in the contempt case, and once again Annexure A8 is said to be passed by the appellant by rejecting the prayer for granting sanction.

19. Therefore, we do not find any error on the part of the learned Single Judge of this Court in calling the



appellant before the court to answer the charges. If at all, he has not committed any violation or contempt, the appellant is at liberty to seek discharge from the contempt case by placing his bonafide grounds in the order.

20. Such being the case, we do not find any reason to interfere with the order of the learned Single Judge of this Court directing the appellant to appear in person in Contempt Case (C) No.908/2025.

21. Accordingly, the writ appeal is dismissed.

22. After completion of dictation of the judgment of the writ appeal, the learned Senior Government Pleader brought to our notice that the learned Single Judge of this Court, by an interim order dated 10.06.2026 passed in the contempt petition, had directed the appellant to pass the order on or before 19.06.2026. But, the present appellant, Mohammed Hanish, is said to be transferred by the State Government from the said department to another department. Therefore, the present Secretary



may require some more time to comply with the order of the learned Single Judge.

23. In view of the changed circumstances, we direct the appellant to seek an extension of time before the learned Single Judge in respect of the order dated 10.06.2026.

Sd/-

K. NATARAJAN, JUDGE

Sd/-

JOHNSON JOHN, JUDGE