2026:KER:68229

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

TUESDAY, THE 8TH DAY OF SEPTEMBER 2026 / 17TH BHADRA, 1948

CRL.REV.PET NO. 524 OF 2025

AGAINST THE ORDER DATED 07.02.2025 IN CMP 488/2021 IN CC NO.2 OF 2016 OF SPECIAL C SPE/CBI- II & 4 ADDITIONAL DISTRICT COURT, ERNAKULAM

REVISION PETITIONER/PETITIONER:

C.MADHAVAN
AGED 71 YEARS
S/O. LATE.P.RAMAN, 60/26, ST. FRANCIS XAVIER CHURCH ROAD, ERNAKULAM, PIN - 682018

BY ADVS.
SRI.GEO PAUL
SRI.C.R.PRAMOD
SRI.S.ASHOK KUMAR.
SHRI.JACOB GEORGE PALLATH
SHRI.HARIKRISHNAN A.S.
SHRI.AKSHAI.K.R.
SHRI.C.B.GAUTHAM
SMT.MARIYAM MATHEWS

RESPONDENT/RESPONDENT:

CBI
CENTRAL BUREAU OF INVESTIGATION (CBI) CBI REPRESENTED BY INSPECTOR OF POLICE, CBI/SPE/ACB, KOCHI, BY STANDING COUNSEL, CBI, PIN - 682017

SPL PP SREELAL N WARRIER.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 13.08.2026, ALONG WITH Crl.Rev.Pet.546/2025, 810/2025, THE COURT ON 08.09.2026 DELIVERED THE FOLLOWING:

2026:KER:68229

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

TUESDAY, THE 8TH DAY OF SEPTEMBER 2026 / 17TH BHADRA, 1948

CRL.REV.PET NO. 546 OF 2025

AGAINST THE ORDER DATED 07.02.2025 IN Crl.M.Appl 487/2021 IN CC NO.2 OF 2016 OF SPECIAL C SPE/CBI- II & 4 ADDITIONAL DISTRICT COURT, ERNAKULAM

REVISION PETITIONER/ACCUSED NO.8:

DR S ANIL KUMAR
AGED 46 YEARS
KRISHNA BHAVAN, KAITHAVALAPPIL HOUSE, THATHAMPALLY POST ALAPPUZHA DISTRICT, KERALA, PIN - 688013

BY ADVS.
SRI.A.SUDHI VASUDEVAN (SR.)
SMT.CHANCHAL SERAPHINE
SHRI.JOSE JONES JOSEPH

RESPONDENT/COMPLAINANT:

CENTRAL BUREAU OF INVESTIGATION (CBI)
CENTRAL BUREAU OF INVESTIGATION, ACB, COCHIN, REPRESENTED BY PUBLIC PROSECUTOR OF CBI, HIGH COURT OF KERALA, PIN - 682017

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 13.08.2026, ALONG WITH Crl.Rev.Pet.524/2025 AND CONNECTED CASES, THE COURT ON 08.09.2026 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

TUESDAY, THE 8TH DAY OF SEPTEMBER 2026 / 17TH BHADRA, 1948

CRL.REV.PET NO. 810 OF 2025

CRIME NO.RC14(A)//2013 OF CENTRAL BUREAU OF INVESTIGATION,

KOCHI, Ernakulam

AGAINST THE ORDER/JUDGMENT DATED 07.02.2025 IN CRMP 195/2022 IN CC NO.2 OF 2016 OF SPECIAL C SPE/CBI- II & 4 ADDITIONAL DISTRICT COURT, ERNAKULAM

REVISION PETITIONER/PETITIONER.ACCUSED NO.11:

AHMED SUHAIL
AGED 40 YEARS
S/O SULTHAN AHMED, MAILANDHIKAL HOUSE, PAYANGADI, KANNUR - 670303, NOW RESIDING AT K.P.M ENCLAVE, NEW NO. 21, 3RD STREET, KODAMBAKKAM, CHENNAI, TAMIL NADU, PIN - 600024

BY ADVS.
SRI.V.JOHN SEBASTIAN RALPH
SHRI.VISHNU CHANDRAN
SHRI. RALPH RETI JOHN
SHRI.GIRIDHAR KRISHNA KUMAR
SMT.GEETHU T.A.
SMT.MARY GREESHMA
SMT.LIZ JOHNY
SMT.KRISHNAPRIYA SREEKUMAR

RESPONDENT/RESPONDENT/COMPLAINANT:

CENTRAL BUREAU OF INVESTIGATION
REP BY INSPECTOR OF POLICE, ANTI CORRUPTION BUREAU COCHIN, KATHRIKADAVU, P.O.KALOOR, COCHIN, KERALA, PIN - 682017

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 13.08.2026, ALONG WITH Crl.Rev.Pet.524/2025 AND CONNECTED CASES, THE COURT ON 08.09.2026 DELIVERED THE FOLLOWING:

2026:KER:68229

'C.R'

ORDER

[Crl.Rev.Pet Nos.524/2025, 546/2025, 810/2025]
Dated this the 8th day of September, 2026

These are revision petitions filed by accused Nos.1, 8 and 11 in C.C.No.2 of 2016 on the files of the Additional Special Court (SPE/CBI) – II, Ernakulam challenging common order in Crl.M.P.Nos.488/2021, 487/2021, 8/2022, 33/2022, 195/2022 & 461/2021 dated 07.02.2025. As per the common order, the learned Special Judge dismissed the discharge plea raised by the revision petitioners/accused Nos.1, 8, 9, 11 and 15.

2. Heard the learned Counsel for the respective revision petitioners and the learned Special Public Prosecutor appearing for the respondent. Perused the records and also the common order impugned.

3. The prosecution allegation against the 1st accused is that, while he was working in Air Cargo Complex (ACC), he had held the additional charge of Air Intelligence Unit of Customs (AIU) and Administration and he was having effective control over the passenger clearance section in Cochin International Airport from May 2013 to September 2013. While so, the petitioner along with other accused persons hatched criminal conspiracy to smuggle gold into India. It is further alleged that in pursuance to the said criminal conspiracy, the 1st

accused had made arrangements for the smooth passage of the smugglers without customs checking, through the officers he had posted in the Airport. It is also alleged that the 1st accused obtained illegal gratification from the 4th accused and in furtherance of the same and as an outcome of the aforesaid conspiracy, abetted smuggling of 56 Kgs. of gold worth Rs.17.86 crores without customs clearance and thereby caused wrongful loss to the Union of India. Similarly, the said smuggling operations caused loss of Rs. 1.83 crores @ 10% customs duties on 17.86 crores plus 3% cess to the government of India and caused equivalent wrongful gain to him and other accused persons. The further allegation of the prosecution is that the 8th accused Dr.Anil Kumar also received gifts for the unholy assistance, he had rendered to the 4th accused and the seizure made on the strength of the disclosure statement given by 9th accused and consequential recovery from the residence of the 9th accused would go against the 8th accused. That apart, the 4th accused had transferred a sum of Rs.5 lakh to the bank account of the 8th accused and in addition, the 4th accused had provided an Innova vehicle, including its fuel cost and a driver, free of cost for the purpose of using it during the marriage of the 8th accused. This was in reciprocal to the assistance extended by the 8th accused for smuggling activities which caused loss to the tune of Rs.17,86,49,732/- to the Government of India. CDR speak volumes as to the frequent contact between the accused especially during the dates of smuggling. The documents seized from the Customs department established that the 8th accused facilitated A4 to import 42" LED TV on a very lesser duty on 21.08.2013. Thus, the prosecution alleges commission of offences punishable u/Ss 201, 120B r/w.420 of the Indian Penal Code (for short 'the IPC', hereinafter) and Section 7, 12, 13(2) r/w.13(1) (d) of the Prevention of Corruption Act, 1988 ('P. C. Act, 1988', for short hereinafter).

4. The allegation against accused Nos.11 and 15 is that the 11th accused visited Cochin airport from Dubai on 20.08.2013 accompanied by the 7th accused, who had smuggled 4 Kgs of gold from Dubai. As instructed by the 4th accused, witness No.24 Rafeeq picked A7 and A11 from Cochin International Airport at around 3.30 hours on 20.08.2013 from the arrival gate of the Airport in a BMW car along with the luggage carried by them containing one packed LED TV and proceeded to Hotel Flora near the Airport and dropped them in the hotel with luggage except TV and after sometime the 11th accused handed over the packet containing smuggled gold of 4 Kgs to witness No.24 and directed him to handover the same along with TV to a person waiting in Calicut and also gave his identity and mobile number to whom it had to be handed over. Accordingly, the same was handed over to A14 in Calicut.

5. The learned counsel for the 1st accused argued that no materials available to see *prima facie* the allegations levelled against the 1st accused. According to him, in the departmental proceedings, the 1st accused was exonerated. Therefore, *prima facie* the allegations raised in final report are found against and therefore, the 1st accused is liable to be discharged in this case, after setting aside the common order. The learned counsel for the 8th accused argued at length mainly contenting that in the instant case though the allegation against the 8th accused is demand and acceptance of Rs.5,00,000/- and also obtainment of 42 inch LED TV, treadmill, camera, Rado watch, camera, sunglass etc., nothing available *prima facie* to find demand of illegal gratification to justify commission of offences under Section 7 as well as 13 of the P.C. Act, 1988. He also reiterated that in the departmental proceedings 8th accused also was exonerated. Therefore, this criminal prosecution based on the same sets of facts, where the departmental proceedings given clean chit the 8th accused could not be proceeded and in this connection he has placed decision of the Apex Court in ***Radheshyam Kejriwal v. State of West Bengal and another [2011 SCC OnLine SC 363]***, with reference to paragraph 38, where 7 principles have been stated by the Apex Court.

6. Apart from that, he has relied on the decision of the Supreme Court in ***Neeraj Dutta v. State (Govt. of N.C.T. of Delhi)***

[2022 (7) KHC 647], to contend that in the absence of materials for demand either the offences under Section 7 or Section 13(1)(d) of the PC Act, 1988 would not lie.

7. The leaned counsel for the 11th accused argued that apart from the statement of witness No.24, to the effect that, 7th accused and 11th accused landed in Cochin International Airport and picked up by him as instructed by the 4th accused and handed over a bag and an LED TV as directed by the 4th accused to deliver them to the 14th accused, no other documents available to fasten criminal culpability upon him. Thus he prayed for discharge of the 11th accused.

8. Whereas, the learned counsel appearing for the CBI zealously opposed the contentions and submitted the relevant points justifying *prima facie* commission of offences alleged against accused Nos.1, 8 and 11. He also submitted that even though the 1st and 8th accused were given exoneration in the departmental proceedings and the appeal thereof had been dismissed, writ petition challenging the same has been pending before this Court for consideration, therefore the same cannot be relied on for any purpose. He zealously pointed out that exoneration in departmental proceedings by itself would not absolve criminal liability of the 1st and 8th accused.

9. In this case, the allegation against 1st accused is that he had abused his official position to enable gold smuggling worth Rs.17.86

crores and caused a customs duty loss of Rs.1.83 crores, while holding charge over the Air Intelligence Unit (AIU) and passenger clearance section in Cochin International Airport in pursuance of a conspiracy hatched between the accused persons. The specific allegation is that he had obtained Rs.2 Lakh, 42” LED TV and dinner set on 20.06.2013 as illegal gratification. The prosecution relied on the statements of witness No.13, Joseph Jaison, a Contingent Staff, Customs Department who spoke about the close relation of A1 with A4; witness No.14, Suresh Babu, Contingent Staff, Customs Department, who spoke about the close relation of A1 with A4 and also about receiving of illegal gratification by A1 and his son from A4; witness Nos.3 and 4, Officers of customs department confirms frequent meetings between A1 and A4; witness No.36, Abdul Latheef, Employer of A4, who stated that A1 had contacted him seeking assistance to save A4 from the custody of the Customs authorities; witness No.28, KT Thomas, Brother-in-law of A1, who spoke about the secret mobile phone of A1 and about receiving of illegal gratification from A4 to A1 which is now kept in his residence by A1’s son. The prosecution also relies on D47, Disclosure Statement of A1, and D48, Seizure Mahazar prepared at the residence of W28. Similarly, the allegation against the 8th accused is that he abused his official position to facilitate gold smuggling without customs checking, knowingly failing to check dubious activities of A4, ad acting as a mute spectator to facilitate the illegal activities in the Airport in pursuance of the conspiracy. He had obtained Rs.5 Lakh, 42" LED TV, Treadmill, Rado Watch, Camera, Sunglass etc., as illegal gratification. The prosecution relies on D54, Disclosure Statement of A8; D55, Search List prepared at the residence of the mother of A8; D56, Seizure of visiting cards of A4 showing transfer of Rs.5,00,000/- to A8 through a cheque issued from Dhanalakshmi Bank; D61, Recovery Mahazar u/s. 27 prepared as per disclosure of A8 at the rented accommodation of A9; MO26 to 37, seized from the residence of A9, K.R Renjith (Driver of A8) – Discharged; W48 to 50, who spoke about the procurement of the Innova car by A4; W51, Abid K, who stated that he delivered the Innova car to A8 at the request of A4.

10. In order to prove the allegation against the 11th accused, *prima facie* the prosecution relies on; D135, Embarkation Card of A11 showing his departure on the relevant date; D141, Disembarkation Card of A11 showing his arrival on the relevant date. According to the prosecution, D118 to 119 would prove the stay of A11 at Koluvans Residency; D120 to 121, would prove the stay of A11 at Flora Airport Hotel, Opp Nedumbassery Airport; W24, Mohammed Rafeeq states that A7 and A11 landed in Cochin International Airport and were picked up by CW24, acting under the instructions of A4. They were dropped at a nearby hotel. A7 and A11 handed over 4 Kg of smuggled gold and the

LED TV to him, and he was directed by A4 to deliver them to A14 (Y.M Subair – Private Person) in Calicut. The delivery was successfully completed. D181, 108 statements of A7 would show the involvement of A11.

11. Going through the charge as against the 8th accused, the specific charges are charge No. VIII, IX and X and are extracted as under:

"***CHARGE - VIII***

That, during the period May 2013 to September 2013, A-8 Dr Anil Kumar while working as a Public Servant in the capacity as Asst. Commissioner of Customs, Cochin International Airport Ltd (CIAL), Nedumbassery, by corrupt or illegal means or by abusing his official position as Public Servant entered into criminal conspiracy with the other accused persons and in pursuance there of A-8 obtained illegal gratification from A-4 in the form of Rs.5 lakhs, a 42" LED TV, Treadmill, Rado Watch, Camera, Sunglass, etc and A-8 accepted an Innova car for the marriage of A-8 free of cost, in contravention to the existing Customs Rules & Regulations for facilitating the smuggling of 56 kilogram gold worth about Rs 17.86 Crores by the accused persons as narrated in Charge 1 as above, thereby A-8 Dr Anil Kumar committing Criminal Misconduct punishable U/s.13(2) sec. 13 (1) (d) of the Prevention of Corruption Act, 1988.

CHARGE - IX

That, during the period May 2013 to September 2013, A-8 Dr Anil Kumar while working as a Public Servant in the capacity as Asst. Commissioner of Customs, Cochin

International Airport Ltd (CIAL), Nedumbassery, demanded and accepted illegal gratification other than legal remuneration in the form of Rs.5 lakhs, a 42" LED TV, Treadmill, Rado Watch, Camera, Sunglass, etc marriage of A-8 free of cost, as a motive or reward for showing favours to the accused persons in contravention to the existing Customs Rules & Regulations and in connivance with other accused persons facilitated the smuggling of 56 kilogram gold worth about Rs 17.86 Crores by them as narrated in Charge -1 above. Thus, A-8 Dr Anil Kumar committed offence punishable U/s.7 of the Prevention of Corruption Act, 1988.

<u>CHARGE X</u>

That, during the period May 2013 to September 2013, A-8 Dr Anil Kumar while working as a Public Servant in the capacity as Asst.Commissioner of Customs, Cochin International Airport Ltd (CIAL), Nedumbassery, cheated Govt. of India by abusing his official position as Public Servant in conspiracy with private accused persons acting as smugglers of gold. A-8 by accepting illegal gratification from A-4 in the form of an Rs.5 lakhs, a 42" LED TV, Treadmill, Rado Watch, Camera, Sunglass, etc and A-8 accepted an Innova car for the marriage of A-8 free of cost, in contravention to the existing Customs Rules & Regulations and facilitated the smooth passage of the smugglers and smuggled 56 kilogram gold worth about Rs 17.86 Crores through Customs area without customs clearance, by the accused persons as narrated in Charge 1 above and thus caused wrongful loss to the tune of about Rs 1.83 Crores @ 10% Custom duty on Rs 17.86 Crores plus 3% cess, to the Govt. of India i.e the amount of customs duty evaded and thus caused equivalent wrongful gain to themselves. Dr Anil Kumar, thus cheated Govt. of India *committing offence punishable U/s. 420 of the Indian Penal Code."*

12. As against the 1st accused, the specific charges are charge Nos. II to IV, which are as under:

"CHARGE - II

That, during the period May 2013 to September 2013, A-1, Shri C. Madhavan while working as a public servant in his capacity as Deputy Commissioner of Customs in charge of Air Cargo section of Cochin International Airport Ltd (CIAL), having the additional charge of Air Intelligence of the Passenger section, by corrupt or illegal means or by abusing his official position as Public Servant conspiracy with the other accused persons and in pursuance thereof A-1 obtained illegal gratification from A-4 in the form of a 42" LED TV and dinner set on 20.06.2013, in contravention to the existing Customs Rules & Regulations for facilitating the smuggling of 56 kilogram gold worth about approximately Rs.17.86 Crores, by the accused persons as narrated in Charge – 1 as above and thereby, Shri.C.Madhavan (A-1) committing Criminal Misconduct punishable U/s.13(2) r/w sec.13 (1) (d) of the Prevention of Corruption Act, 1988.C

CHARGE - III

That, during the period May 2013 to September 2013, A-1. Shri C. Madhavan while working as a public servant in his capacity as Deputy Commissioner of Customs in charge of Air Cargo section of Cochin International Airport Ltd (CIAL), having the additional charge of Air Intelligence of the Passenger section, demanded and accepted illegal *gratification other than legal remuneration in the form a 42" LED TV and dinner set on 20.06.2013 as a motive or reward for showing favours to the accused persons in contravention to the existing Customs Rules & Regulations and in connivance with other accused persons facilitated the smuggling of 56 kilogram gold worth about Rs 17.86 Crores by them as narrated in Charge 1 as above. Thus, Shri C. Madhavan (A-1) committed offence punishable U/s.7 of the Prevention of Corruption Act, 1988.*

CHARGE IV

That, during the period May 2013 to September 2013, A-1, Shri C Madhavan while working as a public servant in his capacity as Deputy Commissioner of Customs in charge of Air Cargo section of Cochin International Airport Ltd (CIAL), having the additional charge of Air Intelligence of the Passenger section cheated Govt. of India by abusing his official position as Public Servant in conspiracy with private accused pet sons acting as smugglers of gold. A-1 by accepting illegal gratification from A-4 in the form of a 42" LED TV and dinner set on 20.06.2013, in contravention to the existing Customs Rules & Regulations and facilitated the smooth passage of the smugglers and the smuggled 56 kilogram gold worth about Rs 17.86 Crores through Customs area without customs clearance, by the accused persons as narrated in Charge 1 above and thus caused wrongful loss to the tune of about Rs 1.83 Crores @ 10% Custom duty on Rs 17.86 Crores plus 3% cess, to the Govt. of India is the amount of customs duty evaded and Shri C Madhavan, thus cheated Govt. of India commiting offence punishable U/s. 420 of the Indian Penal Code."

13. Apart from general charges, as against the 11th accused, the specific charge is charge No.XVIII , which reads as under:

"***CHARGE – XVIII***

That, during the period May 2013 to September 2013, A-11, Shri Ahmed Suhail being a private person involved in smuggling activities between Dubai and India, cheated Govt. of India in conspiracy with other accused persons, private and Public Servants and in pursuance to the conspiracy as narrated in charge 1, A-11 assisted A-4, Shri Faiz in smuggling gold from Dubai to India and along with

A-7, Smt. Asifa smuggled at least 04 Kg of gold worth about Rs. 01.27 Crores on 20.08.2013, which was liable to be confiscated by the Customs authorities and thus caused wrongful loss to the tune of about Rs 12 lakhs @ 10% Custom duty on Rs 01.27 Crores plus 3% cess, to the Govt. of India ile the amount of customs duty evaded and thereby an equivalent wrongful gain to themselves. A-11, Shri Ahmed Suhail, thus committed offence punishable U/s. 420 of the Indian Penal Code."

14. As regards the contentions raised by the learned counsel for the revision petitioners (A1 and A8) that exoneration in the departmental proceedings would be sufficient to grant discharge sought for, the same question has been considered by this Court in a recent decision reported in **R.Balachandran v. State of Kerala [2026 KHC OnLine 749**]. Paragraphs 6 to 13 of the judgment are extract as under:

*"6. While assailing the separate orders passed against the same revision petitioner, a legal question has been raised by the learned counsel for the revision petitioner, based on the three Bench decision of the Supreme Court reported in **Radheshyam Kejriwal v. State of West Bengal and Another [2011 KHC 4144]**, with reference to paragraph Nos. 16, 19, 21, 23 and 24, contending that exoneration of the revision petitioner in departmental proceedings, in a case, where the allegations in the departmental proceedings as well as in the criminal proceedings are identical, the criminal case on the same facts is liable to be quashed. Another three Bench decision of the Supreme Court in **Ashoo Surendranth Tewari v. Deputy Superintendent of Police, EOW, CBI and Another** reported in **[2020 KHC 6539]** also relied on the said point. In fact in both these decisions, the Apex Court considered the earlier two Bench decision of the Apex Court in **P.S. Rajya v. State of Bihar** reported in **[1997 KHC 202 : (1996) 9 SCC 1]** and discussed the same in paragraph No. 7 of the judgment in **Ashoo Surendranth Tewari**'s case (supra) and held as under:-*

> *"7. 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 vs. State of Bihar, (1996) 9 SCC 1, the question before the Court was posed as follows:-*
>
> *"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 S. 5(2) read with S. 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."*
>
> *This Court then went on to state:*
>
> *"17. At the outset we may point out that the learned counsel for the respondent could not but*

accept the position that <u>*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.*</u> *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."*

This being the case, the Court then held:

"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, <u>*on the peculiar facts of this case, the criminal proceedings initiated against the appellant cannot be pursued.*</u> *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."*

In Radheshyam Kejriwal vs. State of West Bengal and Another, (2011) 3 SCC 581, this Court held 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."
xxx xxx xxx
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.
xxx xxx xxx

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."

After referring to various judgments, this Court then culled out the ratio of those decisions in paragraph 38 as follows:-

"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 S.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." It finally concluded:*
>
> > *"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."*
>
> *From our point of view, para 38(vii) is important and if the High Court had bothered to apply this parameter, then on a reading of the CVC report on the same facts, the appellant should have been exonerated."*

7. According to the learned counsel for the revision petitioner, in both cases, the revision petitioner had been exonerated in the departmental proceedings and therefore, the prosecution case against him in the present cases would not lie.

8. Whereas, the learned Special Public Prosecutor appearing for CBI also relied on the above decisions as well as the decision reported in ***State of N.C.T. of Delhi v. Ajay Kumar Tyagi [2012(9) SCC 865]****, contending that departmental proceedings and criminal proceedings are independent and criminal trial must proceed on its own evidence. Apart from that, the learned Special Public Prosecutor has placed a latest decision of the Apex Court reported in* ***Karnataka Lokayuktha Bagalkote District v. Chandrashekar [2026 KHC Online 6021]****, wherein also the Apex court had occasion to consider the decision in* ***State of N.C.T. of Delhi v. Ajay Kumar Tyagi****'s case (supra)and also* ***P.S. Rajya****'s case (supra). Discussing the judgment in paragraph Nos. 12, 13 and 14, the learned two Bench of the Hon'ble Apex Court summarised the principles as under:-*

> *"12. The reference too was answered in* ***Ajay Kumar Tyagi****, (2012) 9 SCC 685. A two-Judge Bench decision of this Court in* **P.S Rajya v. State of Bihar** *(1996) 9 SC 1 was referred to wherein the criminal prosecution was quashed when the departmental proceedings concluded in exoneration. In* **P.S. Rajya** *(1996) 9 SCC 1 , 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***(1996) 9 SCC 1 relying on* **State of Haryana v. Bhajan Lal** *1992 Supp (1) SCC 335; the water shed decision in invocation of the inherent powers under Section 482 of the Code of Criminal Procedure, 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** *1992 Supp (1) SCC 335 categorically held that the quashing of criminal proceedings in* **P.S. Rajya** *(1996) 9 SCC 1 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** *(2012) 9 SCC 685 squarely applies and the ratio decidendi therein is not regulated by the ratio of the earlier judgment in* **Radheshyam Kejriwal** *(2011) 3 SCC 581. In* **Radheshyam Kejriwal** *(2011) 3 SCC 581, the adjudication proceedings and the prosecution were both by the very same entity, the Enforcement Directorate under the FERA. In* **Ajay Kumar Tyagi** *(2012) 9 SCC 685, 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."*

9. Apart from the above decisions, the learned Special Public Prosecutor appearing for CBI also placed another decision reported in State of Uttar Pradesh v. A.K. Gaba etc., [2026 INSC 568], rendered by another two Bench of the Apex Court.

10. The learned Special Public Prosecutor appearing for the CBI stoutly opposed interference with the orders impugned, contending that in these cases, the

allegations in the criminal case are on a different footing for which evidence and trial are necessary and mere exoneration of the revision petitioner in the departmental proceedings, by itself, would not be sufficient to discharge him from the criminal cases.

11. The learned Special Judge addressed the said contention and while dismissing the discharge petition in C.C. No. 8/2014, which is the subject matter in Crl.Rev.P No. 737/2026, observed in paragraph No. 18 of the order dated 30.05.2026 as under:-

> *" 18. I have considered the submissions made by other side. It is relevant to mention that the prosecution has obtained sanction under section 19(1)(c) of PC Act to prosecute the accused Nos. 1, 3, 5 and 6 and the sanction orders has been produced as documents Nos.80 to 83 along with final report. Absolutely there is no objection raised by the accused against the said sanction orders. The fact that accused 1 and 3 were acquitted in the disciplinary proceedings is not at all a sufficient ground to discharge accused No.1 and 3. The statement of Cws. 16 to 19 show that there are entries in the account books of the establishment of the 2nd accused to show that illegal gratification has been paid to the accused Nos.3, 5 and 6 in the form of money and also in the form of gold coins. The writings of the 2nd accused and CWs.16 to 19 in the account books were compared by the expert with their specimen writing and detailed opinion has been given by the expert. The report is produced by the prosecution as document No.70 along with final report. Moreover, the account books of the 2nd accused, which are produced as document Nos.31, 32, 33, 34 and 35, also show that there are entries regarding payment of illegal gratification to accused Nos.3, 5 and 6. Moreover, as stated earlier, gold coins were seized from the house of the 3rd accused and the corresponding invoices issued by the Tanishq show room at Kochi*

was seized from the 2nd accused. The entries in the books of accounts are specific that the illegal gratification in money has been given to accused Nos.3, 5 and 6 and also that the gold coins of 200 grams were given to the 3rd accused. I am not inclined to discard these materials as unreliable at this stage. The bank account statement in respect of bank accounts were also seized during investigation and produced before the Court. The Manager of the Tanishq show room, Ernakulam was also cited as a prosecution witness to prove the sale of gold coin in favour of the 2nd accused. It is to be taken note that in cases of criminal conspiracy, the agreement between the conspirators cannot be generally be directly proved, but can only be inferred from the facts and circumstances proved in the cases on hand. So, the prosecution has to be given an opportunity to lead evidence in that regard. The available materials show that there was dishonest intention on part of all the accused to cheat the Railway and to cause unlawful loss to the Railway and wrongful gain for the accused. The payment and receipt of illegal gratification, as alleged is also prima facie established. Hence, from the available materials on record, I am of the considered view that the prosecution has succeeded in establishing the prosecution case against all the accused, so as to frame a formal charge against them. I am also satisfied that the available materials before the court are sufficient to presume that all the accused have committed the offences alleged against them and absolutely there are no materials to hold that the charge against them is groundless. Therefore, I am of the view that separate charge is to be framed against all the accused. Resultantly, discharge applications filed by the accused Nos.1, 3, 5 and 6 as Crl. M.P Nos. 990/2015, 623/2015, 330/2017 and 528/2023 are liable to be dismissed. Points are answered accordingly.

12. Similarly, in Crl.Rev.P.No. 741/2026, in *paragraph No. 16 of the order dated 30.05.2026, the learned Special Judge narrated his reasoning in disallowing the discharge petition and the same reads as under:-*

> *"16. I have considered the submissions made by other side. It is relevant to mention that the prosecution has obtained sanction under section 19(1)(c) of PC Act to prosecute the accused Nos.1, 2 and 4 and the sanction orders has been produced as documents Nos.51 to 53 along with final report. Absolutely there is no objection raised by the accused against the said sanction orders. The fact that accused 1 and 2 were acquitted in the disciplinary proceedings is not at all a sufficient ground to discharge accused Nos.1 and 2. The statement of the approver clinchingly establishes payment of illegal gratification of ₹.4,00,000/- to the first accused on 02/12/2007 and ₹.10,000/- to the accused No.4 through the bank account of his wife. I am not inclined to discard the statement of the approver at this stage. It is also relevant that the approver has given statement before the JFCM-I, Ernakulam and also before the CJM, Ernakulam in that regard. It is to be taken note that in cases of criminal conspiracy, the agreement between the conspirators cannot be generally be directly proved, but can only be inferred from the facts and circumstances proved in the cases on hand. So, the prosecution has to be given an opportunity to lead evidence in that regard. The available materials show that there was dishonest intention on part of all the accused to cheat the Railway and to cause unlawful loss to the Railway and wrongful gain for the accused. The payment and receipt of illegal gratification, as alleged is also prima facie established. Hence, from the available materials on record, I am of the considered view that the prosecution has succeeded in establishing the prosecution case against all the*

accused, so as to frame a formal charge against them. I am also satisfied that the available materials before the Court are sufficient to presume that all the accused have committed the offences alleged against them and absolutely there are no materials to hold that the charge against them is groundless. Therefore, I am of the view that separate charge is to be framed against all the accused. Resultantly, discharge applications filed by the accused Nos. 1, 2 and 4 as Crl. M.P Nos. 622/2015, 204/2016 and 532/2023 are liable to be dismissed. Points are answered accordingly."

13. The legal position emerges from the above discussion can be summarised as under:-

(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 S.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.

(vii) Exoneration in departmental proceeding ipso facto would not lead to exoneration or acquittal in a criminal case.

(viii) The standard of proof in a department

proceeding is lower than that of criminal prosecution.

(ix) The departmental proceeding or for that matter criminal cases have to be decided only on the basis of evidence adduced therein.

(x) 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.

(xi) The exoneration in the departmental proceeding ipso facto would not result in the quashing of the criminal prosecution. 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."

(xii) 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."

15. Thus the legal position is in the above line.

16. It is the well settled law that when a court considers plea of discharge, the Court has to look into whether the prosecution records *prima facie* would show the ingredients for the offence/offences alleged against the accused or the prosecution records would show a strong suspicion warranting trial. On satisfaction of the same, on verification of the prosecution records, the discharge petition is liable to be dismissed.

On verification of the prosecution records, if the Courts finds that *prima facie* the offences are not made out or a strong suspicion regarding involvement of the accused also not made out in committing the offence/offences by the accused. Then, the plea of discharge is liable to be allowed. The rational behind this legal position is to arrest pre-trial termination of criminal proceedings without allowing the prosecution to adduce evidence in support of the allegations, where atleast a strong suspicion to be made out from the prosecution records, which would likely to be proved while adducing evidence in the case, during trial. It is also equally well settled that a mere suspicion would not be sufficient in the place of 'strong suspicion'. In the instant case, *prima facie* there are materials against the revision petitioners/accused Nos.1, 8 and 11 found by this Court as discussed earlier. Therefore, this Court is of the view that *prima facie* commission of offences alleged against the revision petitioners to be found from the prosecution records. In such a case, the plea of discharge cannot be considered. In the said circumstances, the ratio in **Neeraj Dutta** (supra) is also can be considered after trial, on evaluation of evidence. Therefore, this Court is of the view that the learned Special Judge rightly dismissed the discharge petitions filed by the revision petitioners for the reasons stated in the order assailed. Thus, on merits, no interference in the common order is warranted. That apart, on the facts in the instant revision petitions, merely on the ground of exemption given to the revision petitioners in the departmental proceedings, *ipso facto*, itself is not a reason to grant discharge. Therefore, the impugned order need no interference by this Court by exercising the limited power of revision, as no absolute illegality or arbitrariness to be found therein.

In the result, these revision petitions are dismissed. All interim orders stand vacated. Consequently, the Special Judge is directed to proceed with the trial in the case without much delay, and finalise the same, at any rate, within a period of six months from the date of receipt of this order.

Sd/-A. BADHARUDEEN
JUDGE

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2026:KER:68229

APPENDIX OF CRL.REV.PET NO. 810 OF 2025

PETITIONER ANNEXURES

Certified Copy	**CERTIFIED COPY OF IMPUGNED ORDER DATED 7/2/2025 IN CRL MP 195/2022 IN CC 2/2016 ON THE FILES OF THE SPECIAL JUDGE (PSE/CBI) - II, ERNAKULAM.**