IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On:	Pronounced On:
19.08.2026	22.09.2026

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

CRL RC.No.1427 of 2026
and Crl.M.P.No.12300 of 2026

1.Mr.M.R.K.Panneerselvam
Muttam Village, Kattumannarkoil Taluk, Cuddalore.

2.Mrs.P.Senthamizselvi
W/o M.R.K.Panneerselvam, Muttam Village,
Kattumannarkoil Taluk, Cuddalore.

3.Mr.P.Kathiravan
S/o M.R.K.Panneerselvam, Muttam Village,
Kattumannarkoil Taluk, Cuddalore. Petitioner(s)

Vs

The State of Tamil Nadu,
Represented by its Deputy Superintendent of Police,
Vigilance and Anti-Corruption, Cuddalore District.
Crime No.08 of 2011 Respondent(s)

PRAYER

To call for the records in Crl.MP.No.7539 of 2025 on the file of the Principal Sessions Judge, Cuddalore and set aside the order dated 30.06.2026 passed by the Principal Sessions Judge, Cuddalore in Crl.MP.No.7539 of 2025 in Spl.CC.No.01 of 2025 and consequently discharge the petitioners from the case in Spl.CC.No.01 of 2025 and pass such further or other orders as this Hon'ble Court may deem fit and proper in circumstances of the case and thus render justice.

For Petitioner(s):	Mr.R.Shanmughasundaram Senior Counsel Assisted by Mr.Sona Sathishkumar for Mr.C.Prakasam
For Respondent(s):	Mr.Arun Anbumani Additional Public Prosecutor for respondent for V And AC M/s.Poonguzhali Standing Counsel For High Court of Madras

ORDER

This revision assails the order passed by the learned Principal District and Sessions Judge, Cuddalore, in dismissing the application filed by the petitioners seeking to reject the charge sheet and to discharge the petitioners from the charges levelled against them. The petitioners had invoked Section 19(1) of the Prevention of Corruption Act for the said purpose.

2.The 1st petitioner is the first accused. The 2nd petitioner is his wife and the 3rd petitioner is his son. They have been arrayed as A1 to A3 in Spl.C.C.No.1 of 2025.

3.The 1st petitioner was a Member of Legislative Assembly between the years 2006 and 2011. He was also the Minister for Health and Family Welfare in the Government of Tamil Nadu. It is not in dispute that he is a public servant. The petitioners 2 & 3 are private individuals. On the basis of the allegation that the petitioners have acquired properties disproportionate to the known source of income, which they cannot account for, investigation was commenced by the respondent. The check period was from 15.04.2006 to 21.03.2011.

4.According to the respondent, at the beginning of the check period, the petitioners were in possession of the properties worth Rs.61,49,659.30. At the end of the check period, they had properties worth Rs.4,41,64,586/-. They are alleged to have acquired assets worth Rs.3,80,14,926.70. The income of the family during the check period was Rs.2,33,84,734/-. The expenditure incurred by them was Rs.1,55,26,805.50. The potential saving being Rs.78,57,928.50. Hence, the prosecution concluded that the petitioners are not in a position to satisfactorily account for the difference. As the assets that had been acquired during the check period was more than the savings from the known sources of income, it was concluded by the prosecution that the petitioners cannot satisfactorily account for the aforesaid amount.

5.As the 1st petitioner is a public servant, alleging that he had committed offence of criminal misconduct by acquiring and possessing wealth standing in his name as well as his wife and son, the prosecution concluded that he has committed offence under Section 13(2) read with 13(1)(e) of the Prevention of Corruption Act. Insofar as the private persons are concerned, as they abetted and aided the 1st petitioner to acquire these wealth, they were alleged to have committed offence punishable under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act read with Section 109 of IPC. To that effect, a final report was filed before the learned Chief Judicial Magistrate (hereinafter referred to as Ld. CJM) at Cuddalore. Cognisance was taken by the Ld. CJM on 04.07.2012. This was in Spl.C.C.No.3 of 2012.

6.The petitioners filed Crl.M.P.Nos.146 to 148 of 2013 seeking discharge. By an order dated 03.02.2016, the Ld. CJM discharged the petitioners. Aggrieved by the said order, the respondent preferred three revisions before this Court. They were in Crl.R.C.Nos.583 to 585 of 2016.

7.After hearing both sides, this Court, by an order dated 25.04.2025, allowed the criminal revisions and set aside the order of discharge. It directed the Special Court to frame charges against the accused and proceed with trial in accordance with law. The Court further directed that as the check period is between 2006 to 2011 and as the case is of the year 2012, the Trial Court should conduct the trial on a day-to-day basis and dispose of the matter within a period of six months from the date of receipt of a copy of that order.

8.Feeling aggrieved by this order, the petitioners herein preferred Special

Leave Petitions in SLP(Criminal).Nos.11644 to 11646 of 2025. By an order dated 12.08.2025, the petitioners were permitted to withdraw the SLPs with liberty to approach the appropriate forum. Thereafter, petitions were filed under Section 528 of BNSS to quash Spl.Case Nos.1 & 2 of 2025, pending on the file of the Principal District and Sessions Court at Cuddalore. These were in Crl.O.P.Nos.24021 & 24028 of 2025.

9.When the petitions came up for hearing on 20.11.2025, the petitioners, sought permission to withdraw these petitions with liberty to agitate all the grounds before the appropriate forum. Permission was granted and consequently, the criminal original petitions were dismissed as withdrawn.

10.Thereafter, the petitioners herein filed Crl.M.P.No.7539 of 2025 before the learned Principal District Judge cum Special Judge for DVAC cases at Cuddalore, (hereinafter referred to as Ld. PDJ) seeking the relief as aforesaid. The Ld. PDJ received a counter from the respondent. She heard the arguments of the parties and dismissed the petition on 30.06.2026. Hence, the present revision.

11.After narrating the facts leading to the revision, Mr.R.Shanmughasundaram, learned Senior Counsel appearing for

Mr.C.Prakasam, submitted as follows:-

(i)When cognisance was taken by the Ld. CJM on 04.07.2012, it was only under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act and not under Section 109 of IPC. Therefore, the Court ought not to have proceeded against the petitioners.

(ii)Though the chargesheet refers to one R.Deivasigamani as a dependant of the 1st petitioner, he was neither cited as an accused nor has had been arrayed as a witness.

(iii)Transfer of special cases from the file of the Ld. CJM to that of the Ld. PDJ on the basis of an official memorandum issued by the High Court is impermissible. Such a transfer is contrary to the order passed by this Court in Suo Motu.Crl.RC.No.1419 of 2023 dated 10.08.2023. If a transfer is to be done, it can be only under Sections 406 or 407 of Code of Criminal Procedure. Administrative transfer of cases is unknown to criminal law.

(iv)Referring to the order passed by the Ld. PDJ dated

30.06.2025, issuing fresh summons to the petitioners, he submitted such issuance is impermissible without fresh cognisance being taken again by that Court.

(v)Furthermore, if fresh cognisance is to be taken, as the Prevention of Corruption Act has suffered an amendment in 2018, fresh sanction is necessary. This is because the provision as it stands now, not only contemplates sanction for those in office, but also to those who have in the past held office at the time of commission of the alleged offence.

(vi)The informant cannot be the Investigating Officer as it will lead to bias in investigation. In the present case, Mr.V.V.Thirumal, who was the Investigating Officer, is also the complainant.

(vii)Finally, relying upon the judgment of the Supreme Court in ***Krishnanand Agnihotri Vs. State of Madhya Pradesh, (1977) 1 SCC 816***, he submitted that as the excess is 10% or less than the known sources of income, it will not attract the provisions of the Prevention of Corruption Act.

12.Rejecting these arguments, Mr.Arun Anbumani, learned Additional Public Prosecutor submitted as follows:-

(i)FIR was registered on 03.10.2011. Final report was filed on 18.06.2012. Cognisance was taken on 04.07.2012. Insofar as the 1st petitioner is concerned, he was not in office on the date on which cognisance was taken and therefore, there was no necessity to take sanction. Insofar as petitioners 2 and 3 are concerned, they are not public servants. Hence, it is permissible for the Special Court to frame charges against them under Section 109 of IPC. He relies upon the judgment in ***P.Nallammal Vs. State, (1999) 6 SCC 559*** for this purpose. He added that there is time enough for the accused, at the time of framing of charges, to contest that it does not attract Section 109 of IPC.

(ii)Insofar as sanction under Section 197 of the Code of Criminal Procedure is concerned, the allegation is that A1 had amassed wealth more than the known sources of income and that amassing such wealth cannot be treated as acting or purporting to act in discharge of his official duty. Hence, such sanction is not necessary.

(iii)Under Section 3 of the Prevention of Corruption Act, the Principal District Judge, Additional District Judge and the Chief Judicial Magistrate can be notified as Special Judges. Pursuant to the order passed by the Supreme Court in ***Ashwini Kumar Upadhyay Vs.Union of India, (2019) 11 SCC 683***, Special Court for MLA, MP was created and for the District of Cuddalore, it is the Court of the Ld. PDJ. As the first accused was a Member of Legislative Assembly and Minister to the Government of Tamil Nadu, the case stood transferred to the file of that Court. No grievance can be taken as the Ld. PDJ at Cuddalore is a notified Court.

(iv)The action of the Ld. PDJ was only an act of re-numbering and not a case of second cognisance.

13.As there had been an indirect challenge to the official memorandum issued by this Court on its administrative side, transferring the case from the CJM to the file of the PDJ, notice was issued to the Registrar General, Madras High Court, to hear the opinion of the High Court.

14.Ms.Poonguzhali, Standing Counsel for the High Court of Madras, submitted that in exercise of the power conferred under Article 227 of the Constitution of India, this Court, on its administrative side, has the power to order transfer of cases. She produced a series of Government Orders issued before and after ***Ashwini Kumar Upadhyay***'s case and pointed out from 2019 onwards, the Ld. PDJ has the jurisdiction to deal with corruption matters and therefore, no error had been committed by this Court in passing an administrative order of transfer by issuance of an official memorandum.

15.In response, Mr.R.Shanmughasundaram submitted that the action of the High Court in transferring the case was behind the back of the petitioners. Therefore, they are entitled to the benefit of the order passed in ***A.R.Antulay Vs. R.S.Nayak and another, (1988) 2 SCC 602***.

16.On a pointed question put forth by this Court as to how the second application for discharge was maintainable after the order was passed by this Court in Crl.R.C.Nos.583 to 585 of 2016 dated 25.04.2025, Mr.R.Shanmughasundaram submitted that as this order has been set aside by the Supreme Court in SLP(Crl.).Nos.11644 to 11646 of 2025 dated 12.08.2025, no reliance can be placed upon the same.

17.I have carefully considered the submissions on all sides. I have gone through the records in detail.

18.Let me deal with each of the issues that have been presented in this revision, one by one.

19.The first issue is that cognisance was taken by the Ld. CJM under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 and therefore, the Court cannot proceed under Section 109 of IPC against A2 and A3.

20.It is a settled principle of criminal jurisprudence that cognisance is taken only of the offence and not of the offender or of any Section of a legislation. At the time of taking cognisance, a Magistrate under Section 190 of Code of Criminal Procedure or under Section 210 of Bharatiya Nagarik Suraksha Sanhita, 2023, takes judicial notice of the facts that constitute a crime.

21.What is the role of the Court at the time of taking cognisance? The Court evaluates whether on the basis of the materials presented, a criminal act / offence has taken place or not. It matters not as to the specific provision of law or the Section of the Code that the police claim in the report. It is too well settled, but I would reiterate for the purpose of this case that while taking cognisance, all that the Judge does is applying his judicial mind to the facts and decide whether to initiate further proceedings or not.

22.In the final report, the police might suggest that the actions of the accused attract certain provisions. This does not bind the learned Magistrate. After application of his mind, the Court, when it takes cognisance, can do so for the offence(s) actually revealed from the materials presented before it. Cognisance is tied to the facts presented before the Court. In fact, the Court retains the power to change or alter sections, even at a later stage. All that I need to do is to refer to Section 216 of Code of Criminal Procedure (corresponds to Section 239 of BNSS) which enables the Court to modify the charges at any time before the judgment is pronounced. Therefore, the submission of Mr.R.Shanmughasundaram that as cognisance has ben taken only under Section 13(2) read with Section 13(1)(e) of Prevention of Corruption Act and not under Section 109 of IPC, the case cannot proceed further, does not have any legs to stand.

23.At this stage, I should point out that the reliance placed on the interim order passed by the Supreme Court in ***I.Periyasamy Vs. The State Directorate of Vigilance and Anti Corruption*** in ***SLP(Criminal).No.3690 of 2024*** dated 18.03.2024, is also misplaced. That was a case where the petitioner before the

Supreme Court was a Minister and sanction had been taken from the Speaker instead of the Governor. Mr.I.Periyasamy, during the relevant point of time was a Minister and hence, it was urged that sanction would be necessary from the Governor. In the case on hand, it is admitted that when the cognisance was taken, the 1st petitioner was not a public servant, but had demitted his office by then. Under the unamended Prevention of Corruption Act, sanction was not necessary for a former Minister. Hence, this plea is also rejected.

24.I will now proceed to the next issue that on account of the order passed by the Ld. PDJ, the prosecution ought to obtain fresh sanction in terms of the amended Prevention of Corruption Act [Act No.16 of 2018]. The order passed by the Ld. PDJ on 30.06.2025 reads as follows:-

> "*Entire case records received by transfer*
>
> *From the Chief Judicial Magistrate, Cuddalore as per the Hon'ble High Courts official memorandum R.O.C.No.26691/C/2022/Cr3; R.O.C.No.97136/A/2019/G3 & R.O.C.No.36877/2024/G3 Dated 29/05/2025*
>
> *The Hon'ble High Court of Madras passed Judgement in Crl.R.C.No.583 to 585 of 2016 dated 25/04/2025 against the learned Chief Judicial Magistrate, Cuddalore in Crl.M.P.Nos.146, 147 and 148 of 2013*

in Spl.C.No.3/2012 dated 03/02/2016 is hereby set aside and the Special Court is directed to frame charges against the accused and proceed further, since the check period is between 2006 & 2011 and the case is of the year 2012, the Trial Court is directed to conduct trial on a day to day basis and dispose of the matter on merits in accordance with law within a period of six months from the date of receipt of a copy of this order.

Issue fresh summons to A1 to A3 and notice to SPP
8.7.25
30.6.25"

25.A perusal of the order shows that all that the Ld. PDJ has done on the receipt of the records in Spl.CC.No.3 of 2012, from the Ld. CJM, was to re-number the same as Spl.CC.No.1 of 2025 onto its file in obedience to the orders passed by this Court in Crl.R.C.Nos.583 to 585 of 2016 dated 25.04.2025 and the official memorandum issued by this Court. The Ld. PDJ had issued summons to the accused for their appearances and to proceed further for framing of charges. The order issuing summons on transfer of the case from the file of one Court to another cannot be treated as if it is taking fresh cognisance. It is impermissible in criminal law for a Judge to pass a second or a separate order taking cognisance of an offence of which cognisance has already been taken. As the order dated 30.06.2025 cannot be treated as taking fresh cognisance, the question of the prosecution applying for fresh sanction on the basis of the 2018 amendment to the Prevention of Corruption Act, does not arise at all.

26.This Court is in entire agreement with Mr.Arun Anbumani on his submission that sanction under Section 197 of the Code of Criminal Procedure (which corresponds to Section 218 of BNSS, 2023) is necessary only when the alleged offence has a reasonable connection or nexus with the discharge of the official duties by a public servant. The allegation in the present case is under Sections 13(2) read with 13(1)(e) of the Prevention of Corruption Act. Amassing wealth beyond known sources of income cannot be treated as one having nexus to discharging official duty. While Section 197 of Code of Criminal Procedure has been engrafted for the purpose of protecting serving and retired public servants, it is not necessary to take such sanction when the alleged offence has no nexus to the discharge of official duties. (See, ***Bhagwan Prasad Srivastava Vs. N.P.Misra, AIR 1970 SC 1661***).

27.The fact that Mr.V.V.Thirumal is the informant as well as the Investigating Officer is not in dispute. Mr.R.Shanmughasundaram is correct in his submission that the Supreme Court held in ***Mohan Lal Vs. The State of***

Punjab, (2018) 17 SCC 627 that in such cases the proceedings will stand vitiated. However, what has escaped his attention is the subsequent judgment of a Constitution Bench of the Supreme Court in ***Mukesh Singh Vs. State (Narcotic Branch of Delhi), (2020) 10 SCC 120***.

28.Doubting the correctness of the view expressed in ***Mohan Lal***'s case, a three Judges Bench of the Supreme Court referred the matter for consideration to a Constitution Bench. By an order dated 12.09.2019. Justice M.R.Shah, speaking for the Constitution Bench, explicitly overruled the judgment in ***Mohan Lal***'s case. The Bench opined, merely because the informant and the Investigating Officer are one and the same person, it cannot be held the investigation is prejudiced and the trial is vitiated. Therefore, that ground too, fails.

29.I will now turn to the last plea as to whether this Court could have transferred the case administratively through an official memorandum from the file of the Ld. CJM, where it was pending to the file of the Ld. PDJ.

30.Under Section 3 of the Prevention of Corruption Act, the Central Government or the State Government is empowered to appoint as many Special Judges as may be necessary for an area or areas or for such case or group of cases as may be mentioned in the notification. The qualification for a Special Judge is found under Section 3(2) of the Prevention of Corruption Act. A person is entitled to be a Special Judge, if he / she is or has been a Sessions Judge or an Additional Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1973.

31.The State of Tamil Nadu had issued a Notification in G.O.Ms.No.548, Home (Courts.II) Department, dated 16.04.1997, notifying the Additional District and Sessions Judge cum Chief Judicial Magistrate, Cuddalore, as the Special Judge to deal with Prevention of Corruption cases for the area of South Arcot Vallalar District (as Cuddalore District was then called). This was followed up by G.O.Ms.No.561, Home (Courts.II) Department, dated 30.05.2000, whereby the Additional District and Sessions Judge cum Chief Judicial Magistrate, Cuddalore, was continued as the Special Judge for Cuddalore District. This was amended by way of a Notification in G.O.Ms.No.477, Home (Courts.II) Department, dated 02.06.2003, amending the word "Additional District and Sessions Judge cum Chief Judicial Magistrate" with the expression "Judges" and the Chief Judicial Magistrate, Cuddalore was notified as the Special Judge for Cuddalore District.

32.The next relevant Government Order is G.O.Ms.No.666, Home

(Courts.II) Department, dated 10.09.2014, whereunder in supersession of all the earlier Notifications, the Chief Judicial Magistrate, Cuddalore was notified as the Special Judge. It was hence, that cognisance in this matter was taken by the Chief Judicial Magistrate in the year 2012, as he was empowered to do so by virtue of the said Notification issued by the State of Tamil Nadu.

33.A few years later, a Public Interest Litigation ("PIL") was initiated before the Supreme Court by one, Aswini Kumar Upadhyay. This was in W.P.(Civil).No.699 of 2016. On 01.11.2017, the Supreme Court called upon the Union of India to come up with a 'Scheme' for setting up of Courts exclusively to deal with criminal cases involving political persons. This was done to decongest the regular Courts of the cases dealing with this class of persons. Consequent to this direction, the Registrar General of this Court addressed a letter to the Government of Tamil Nadu on 21.02.2018 proposing setting up of a Special Court at Chennai for trial of criminal cases relating to elected Members of the Parliament and Members of the Legislative Assembly of Tamil Nadu.

34.The Government considered the proposal and issued G.O.Ms.No.697, Home (Courts.II) Department, dated 09.07.2018. Under this Notification, the Government of Tamil Nadu accepted the proposal of the Registrar General and accorded sanction for such a Special Court at Chennai to be constituted. The

Registrar General was informed that necessary notification for the constitution of the aforesaid Court will be issued separately. This Notification was issued in G.O.Ms.No.1423, Home (Courts.II) Department, dated 06.09.2018. It was declared that the Special Court created at Chennai will have jurisdiction over the entire State of Tamil Nadu, to try criminal cases involving elected MPs and MLAs. This Special Court was further empowered to deal with cases arising under the following seven categories:-

> SC / ST (Prevention of Atrocities) Act, POCSO Act, Offences against women, Prevention of Corruption Act, Communal clash cases, Bomb Blast cases and land grabbing cases related to elected MPs and MLAs.

35.In order to implement the directions given by the Supreme Court in ***Ashwini Kumar Upadhyay***'s case, it was decided to constitute one more Special Court at Chennai as Special Court No.II in the cadre of Sessions Judge and one Additional Special Court at Chennai in the cadre of Assistant Sessions Judge (Senior Civil Judge cadre) to try all the cases involving elected Members of the Parliament and the State Legislative Assembly. Accordingly, G.O.Ms.No.210, Home (Courts.II) Department, dated 26.04.2019 came to be issued. On the same day, these two Courts were also empowered to try all the criminal cases, including Sessions cases and those arising from the aforesaid seven category of cases.

36.In addition, all the Principal District and Sessions Courts / District Courts in every sessions division in the State of Tamil Nadu were notified as Special Courts to try all criminal cases including Sessions cases and cases arising from the seven category of cases as noted above. This was in G.O.Ms.No.212, Home (Courts.II) Department, dated 26.04.2019. Therefore, from the year 2019 onwards, the Principal District Judge of Cuddalore was empowered to deal with cases relating to Prevention of Corruption Act.

37.It is the plea of Mr.R.Shanmughasundaram that the case has been sent from the file of the Chief Judicial Magistrate to that of the Principal Sessions Court and it had been done without taking the accused into confidence. It is one of the basic tenets of criminal jurisprudence that an accused has no choice of Court or venue of trial. (See, ***M.Palani Vs. State, Crl.O.P.(MD).No.19181 of 2023 dated 01.11.2023***). Jurisdiction of the criminal Court is determined strictly on the basis of the Code of Criminal Procedure and the Notification issued under the Prevention of Corruption Act. It is certainly not based on the preferences of the accused.

38.If I were to accept this plea of Mr.R.Shanmughasundaram, then it would amount to allowing an accused to select a Court where he / she should be tried. Constitutional law accords to an accused the right to a fair trial and the right to counsel. It does not contemplate the accused to have the right to choose the Court where he / she must be tried. Therefore, in the light of G.O.Ms.No.212, Home (Courts.II) Department, dated 26.04.2019, the Principal District and Sessions Court, Cuddalore is certainly empowered to deal with the matter.

39.Insofar as the plea that the High Court could not have transferred the case administratively to the file of the Ld. PDJ, Cuddalore from the file of the Ld. CJM, by its proceedings dated 11.11.2025 is concerned, this submission fails to take note of the judgment of the Supreme Court in ***Ranbir Yadav Vs. State of Bihar, (1995) 4 SCC 392***. The case arose in the following circumstances:-

40.Violent clashes took place in Bihar on account of land dispute between two communities. This led to the prosecution of the offenders. As many as 152 accused persons were involved in the case. Considering the number of accused and other issues involved in the case, the Patna High Court exercised its administrative power under Article 227 of the Constitution of India and transferred and clubbed all the cases before one Single Court. Post trial, the accused were convicted. Their appeals to the High Court proved futile. Hence, the appeals to the Supreme Court.

41.One of the specific issues argued by the redoubtable lawyer, Mr.Ram Jethmalani, was that the High Court had no power to transfer the case from one Court to another and that too, by an administrative order, especially when the trial had already commenced. Mr.Justice M.K.Mukherjee, speaking for himself and for Dr.Justice A.S.Anand (as he then was), held that under Article 227 of the Constitution of India, the High Court had plenary administrative power to transfer cases from one Court to another for bigger and better arrangement in matters relating to trial and no exception can be taken to the same.

42.The Supreme Court rejected the plea of Mr.Ram Jethmalani that it cannot be exercised once the trial had commenced by holding that so long as the power is exercised purely for administrative exigency without impinging upon and prejudicially affecting the rights or interests of parties in judicial proceedings, there is nothing in law to hold that administrative powers must yield place to judicial powers simply because they co-exist. It is not in dispute that till date, this case has not proceeded for framing of charges.

43.It was also pointed out that under certain circumstances, administrative powers are required to be exercised more effectively, expediently and efficaciously. It was also observed that if the High Court has to exercise its judicial power of transfer under Section 407 of Code of Criminal Procedure, it would delay the proceedings, leading to further incarceration of some of the accused.

44.This judgment had been specifically referred to and approved in ***Ajay Singh and another Vs. State of Chhattisgarh and another, (2017) 3 SCC 330***. I am referring to these two judgments since the Supreme Court itself had referred to the judgment in ***A.R.Antulay***'s case in these verdicts and had held that administrative transfer from one competent Court to another Court is permissible. Therefore, heavy reliance placed on ***A.R.Antulay***'s case is of no avail. Further, in ***A.R.Antulay***'s case, the trial had been transferred by the Supreme Court from the Special Court to the High Court, which was not competent to deal with the Prevention of Corruption cases. Therefore, when the Supreme Court itself had distinguished ***A.R.Antulay***'s case in ***Ranbir Yadav***'s case as well as in ***Kamlesh Kumar and others Vs. State of Jharkhand and others, (2013) 15 SCC 460***, the plea of Mr.Shanmughasundaram has to be rejected. On this aspect, useful reference may also be made to ***Neena Aneja and another Vs. Jai Prakash Associates Ltd. and others, (2022) 2 SCC 161***.

45.Having said this, I have to refer to an article written by Mr.Justice P.N.Prakash, a former Judge of this Court and Mr.Sharath Chandran, an Advocate of this Court, titled "*Conundrums in the new criminal laws*", ***(2024) 3***

MLJ (Crl) 10 (journal). The learned authors had identified certain issues which arise on account of enactment of three new criminal laws, namely Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS) and Bharatiya Sakshya Adhiniyam (BSA). One such issue was whether the Courts of the Chief Metropolitan Magistrate, Additional Chief Metropolitan Magistrate and Metropolitan Magistrates should be abolished from 01.07.2024. The authors, relying upon Section 531 of BNSS, pointed out that the inquiries and trials pending before the Chief Metropolitan Magistrate and other Metropolitan Magistrates would have to be brought to their logical end, rather than transferring the case to other Courts.

46.The purpose for creating Special Courts for trying offences relating to the elected Members of the Parliament and Legislature, on the directions of the Supreme Court, was to ensure that these cases are not stuck in the system which is already clogged with cases. On account of the administrative transfer of the cases, which are pending before the Chief Judicial Magistrates to the Principal District Judges, the situation which prevailed before the CJM's Court now prevails before the PDJ's Court. Thus, defeating the purpose for which the scheme for trying offences relating to the elected MPs and MLAs was evolved by the Supreme Court.

47.BNSS did away with subordination of criminal courts only after 01.07.2024. It did not abolish the courts which were functioning under the Code of Criminal Procedure. On account of the transfer of cases through the official memorandum, the position which prevailed before the directions issued in ***Ashwini Kumar Upadhyay***'s case has been revived. Thus, defeating the mandate of the Supreme Court to have Special Court for dealing with cases relating to MPs and MLAs. Therefore, this Court is of the view that the administrative transfer of all the cases from the Ld. CJM to the Ld. PDJ made by this Court on 11.11.2025 require a re-look. Hence, the Registry is directed to place this issue before My Lord Hon'ble The Chief Justice to take a suitable decision in this regard.

48.When the Principal District Judges are being identified as Courts empowered to try offences relating to MPs and MLAs, it matters not to the facts of the present case that cases had been administratively transferred in exercise of the power under Article 227 of the Constitution of India from the file of the Ld. CJM to the file of the Ld. PDJ, Cuddalore.

49.One further point remains, namely, the filing of the present application under Section 19 of the Prevention of Corruption Act, after the order had been passed by this Court in Crl.R.C.No.583 to 585 of 2016. This Court on

25.04.2025 had specifically directed the Special Court to frame charges and to proceed in accordance with law. This order had been challenged before the Supreme Court. The challenge was withdrawn. Hence, I am not in a position to accept the statement of Mr.R.Shanmughasundaram that the Supreme Court, by granting permission to move the appropriate forum, had set aside the order passed by this Court. On the contrary, the petitioners had withdrawn the SLP with such a liberty. The effect of a withdrawal of the SLP is that the order of this Court dated 25.04.2025 stood confirmed. Nowhere did the Supreme Court hold the order passed in allowing the revision is set aside.

50.After orders had been reserved, Mr.C.Prakasam circulated two further judgments in ***Central Bureau of Investigation Vs. Ashok Kumar Aggarwal, (2014) 14 SCC 295*** and ***Nanjappa Vs. State of Karnataka, (2015) 14 SCC 186***.

51.Both these judgments relate to sanction under Section 19 of the Prevention of Corruption Act. I have already pointed out that on the date of taking cognisance, it was the unamended provisions of Prevention of Corruption Act, 1988, that would apply. Under the old regime, sanction would not be necessary for a person who was not holding office. Hence, there is no necessity to take sanction. Therefore, these two judgments are inapplicable.

52.Insofar as the issues relating to non-inclusion of Mr.R.Deivasigamani and the extent of alleged disproportionate income being less than 10% are concerned, these are not matters which can be dealt with in an application for discharge. They have to be gone into only after post-trial. At the stage of discharge, the scope of enquiry is whether the allegations made against the petitioners herein are groundless. This Court is not able to come to the conclusion that it is so.

53.In the light of the above discussions, as all the issues raised by the revision petitioner has been rejected, this Criminal Revision stands dismissed. The Trial Judge is reminded of the directions given by this Court in Crl.R.C.Nos.583 to 585 of 2016 dated 25.04.2025. Accordingly, it shall frame charges and proceed as directed by this Court earlier. Consequently, the connected miscellaneous petition is closed. No costs.

22.09.2026

krk
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
To
1.The Principal Sessions Judge, Principal Sessions Court, Cuddalore.

2.The Deputy Superintendent of Police, Vigilance and Anti-Corruption, Cuddalore.
3.The Public Prosecutor, High Court of Madras, Chennai.

V.LAKSHMINARAYANAN J.

krk

CRL RC.No.1427 of 2026
and Crl.M.P.No.12300 of 2026

22.09.2026