IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

SATURDAY, THE 24TH DAY OF OCTOBER 2026/2ND KARTHIKA, 1948

WP(CRL.) NO. 570 OF 2026

PETITIONER:

M. R. AJAYAN
AGED 61 YEARS
S/O M. K.RAGHU, EDITOR, GREEN KERALA NEWS,
THEKKETHALAKKAL HOUSE, CHERIYAPALLAMTHURUTHU,
NORTH PARAVOOR P.O., PIN - 683513

BY ADV SRI.V.R.MANORANJAN (MUVATTUPUZHA)

RESPONDENTS:

1. **THE DIRECTOR**
   CBI (CENTRAL BUREAU OF INVESTIGATION)
   PLOT NO 5-B, CGO COMPLEX, LODHI ROAD,
   NEW DELHI, PIN - 110003

2. **THE SUPERINTENDENT OF POLICE**
   VIGILANCE AND ANTI-CORRUPTION BUREAU
   CENTRAL RANGE OFFICE ERNAKULAM, PIN - 682017

BY ADV SREELAL N.WARRIER, SPL.PUBLIC PROSECUTOR FOR CBI, REPRESENTED BY ADV.REKHA S.

BY ADV ROY THOMAS (MUVATTUPUZHA, SR.PUBLIC PROSECUTOR, VACB FOR R2

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 16.10.2026, THE COURT ON 24.10.2026 DELIVERED THE FOLLOWING:

CR

JUDGMENT

Dated this the 24th day of October, 2026

This writ petition (criminal) has been filed under Article 226 of the Constitution of India, seeking the following reliefs:

> *"(i) Issue a writ of mandamus or any other appropriate writ, order, or direction, directing Respondent Nos. 1 and 2 to duly incorporate, examine, and investigate the involvement of Sri.P.M.A. Sameer (Mob: 97443 30044), Smt.Renu Gopinath (Mob.: 62383 62021), Adv.Mohammed Shah, and Sri.Vikas C. Mehta (Deputy Director, Enforcement Directorate) (Mob.: 98737 36000/9319823600), as part of the ongoing enquiry against the officials of the Enforcement Directorate, Cochin Zonal Office, in connection with the alleged corruption and malpractices referred to in Exhibit-P1 FIR, in terms of Exhibit-P2 representation dated 23.05.2026 submitted by the Petitioner;*
>
> *(ii) Dispense with translation of documents produced in vernacular language and*
>
> *(iii) Issue such other writs, orders or direction which this Hon'ble Court may deem fit and proper to issue in the facts and circumstances of the case;"*

2. Heard the learned counsel for the petitioner and the learned Special Public Prosecutor in detail.

3. In this matter, a statement has been filed by the Dy.S.P., Vigilance and Anti-Corruption Bureau, Central Range Ernakulam. Paragraphs 2 to 7 of the statement are relevant and the same read as under:

> *"2. It is humbly submitted that the petitioner herein has filed this Writ Petition, by arraying the Superintendent of Police, Central Range, Ernakulam, as the 2nd respondent, alleging inaction on the part of the respondents in considering his representations* ***(Exhibits P2 and P3).*** *Through the said representations, the petitioner has sought for initiating an enquiry into the allegation of corruption by certain officials of the Enforcement Directorate, Kochi Office, and has further requested that the role of certain individuals be examined and incorporated in the investigation of the Vigilance Case No. VC 09/2025/EKM* ***(Ext. P1)****, registered by the Vigilance and Anti-Corruption Bureau, Ernakulam Unit under Section 7(a) of the Prevention of Corruption Act, 1988*

and Section 61(2) of the Bharatiya Nyaya Sanhita, 2023. Consequently, in the present Writ Petition, the petitioner has prayed for issuance of a writ of mandamus or other appropriate directions for including the persons mentioned in his representation as part of the ongoing enquiry.

3. It is respectfully submitted that VC No. 09/2025/EKM was registered on 15.05.2025 at 18:00 hours based on a complaint lodged by Sri. Aneesh Babu, S/o Babu George, alleging that Accused No. 1, Sri.Sekhar Kumar, Assistant Director, Enforcement Directorate, Kochi Zonal Office, demanded a bribe of ₹2 Crores through an intermediary, Sri.Wilson Varghese (Accused No. 2), for settling a case against him. Acting on the complaint, and upon pre-trap verification which prima facie substantiated the allegation, a trap was duly arranged and executed, resulting in the apprehension of Accused No. 2 while accepting ₹2 Lakhs as illegal gratification. During investigation, based on disclosures made by Accused No. 2 and supporting materials, Sri.Mukesh Jain (hawala agent) and Sri.Ranjith R. Warrier (Chartered Accountant, Ernakulam) were identified, arrested, and arrayed as Accused Nos. 3 and 4 respectively.

4. It is further submitted that the

investigation in the aforesaid case is progressing in a systematic, lawful, and diligent manner under the supervision of competent authorities of the Vigilance and Anti-Corruption Bureau. Several witnesses have been examined and their statements recorded in accordance with law, and the investigation is being conducted with due care, objectivity, and adherence to established legal procedures.

5. With regard to the representations relied upon by the petitioner, it is submitted that Ext. P2 dated 30.05.2025 has not been received in the office of the Superintendent of Police, Vigilance and Anti-Corruption Bureau, Central Range, Ernakulam so far. However, ***Ext. P3 dated 23.03.2026*** *was received at the office of the 2nd respondent on 24.03.2026 by post. The allegations levelled in the said* ***Ext. P3*** *representation is with regard to the involvement of Sri.P.M.A.Sameer, Smt.Renu Gopinath, Adv. Mohammed Shah, and Sri. Vikas C.Mehta, Deputy Director, Enforcement Directorate, in hawala transactions, financial irregularities, and undue interference in official enquiries, including matters relating to Chandrika Daily. The said representation has been duly forwarded to the Director, Vigilance & Anti-Corruption Bureau, Thiruvananthapuram on*

25.03.2026 for consideration and for issuance of appropriate further orders.

6. It is respectfully submitted that the scope of investigation in VC No. 09/2025/EKM is confined to the allegations relating to the demand and acceptance of illegal gratification and the consequential conspiracy connected therewith. The allegations now sought to be projected by the petitioner, insofar as they concern, the persons proposed to be implicated, do not disclose any tangible or proximate connection with the subject matter under investigation. No reliable or legally acceptable material has emerged to link the said individuals into the alleged offences in VC-09/2025/EKM. In such circumstances, any attempt to rope them into the ongoing investigation would be devoid of factual foundation and unsustainable in law.

7. It is respectfully submitted that the investigation carried out so far in VC No. 09/2025/EKM has not disclosed any material indicating the involvement of the persons referred to by the petitioner herein either in the present Writ Petition or in Exhibit P3 representation. During the course of investigation while interrogating the A2, Sri. Wilson Varghese, an ED intermediary and other

> *witnesses, nowhere in their depositions did they make any substantial lead to connect the above said 4 individuals have been made out."*

4. Even though instruction from the 1st respondent, the Director of the Central Bureau of Investigation, was called for, so far no instruction has been received.

5. Heard both sides in detail on 16.10.2026 and perused the available records.

6. First of all, it is relevant to consider certain pertinent legal aspects involved in this matter, in view of the submission made at the Bench regarding the powers of the High Court in a writ petition filed under Article 226 of the Constitution of India, seeking registration of FIR, or investigation.

7. As perceivable, in the instant case, the petitioner wants to issue a writ of mandamus or any other

appropriate writ, directing respondent Nos.1 and 2 to investigate upon the involvement of Sri.P.M.A.Sameer, Smt.Renu Gopinath, Adv.Mohammed Shah, and Sri.Vikas C. Mehta (Deputy Director, Enforcement Directorate), in terms of Ext.P1 FIR, and Ext.P2 representation submitted by the petitioner. However, the above persons are not arrayed as respondents in this case.

8. Now, the questions arise for consideration are:

1) *Whether the power of the High Court to issue a writ of mandamus or any other appropriate writ or direction filed for under Article 226 of the Constitution of India is restrained by any other statutory prohibitions or provisions? and*

2) *Whether in a writ petition filed under Article 226 of Constitution of India, seeking registration of FIR, filed before the High Court, the restrictions under the*

Prevention of Corruption Act, or the right of hearing as provided under Sections 175 and 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023, or any other statutory restrictions would be a rider or its compliance is an absolute mandate to issue a writ of mandamus commanding the authorities to do an act, when they fail to do their legal obligation?

9. In this connection, it is relevant to refer the Constitution Bench decision of the Hon'ble Apex Court in **State of West Bengal and Ors.** Vs. **The committee for Protection of Democratic Rights, West Bengal and Ors.,** reported in **(2010) 3 SCC 571 : MANU/SC/0121/2010,** wherein the Constitution Bench addressed the matter, after referring multiple earlier decisions of the Apex Court and Section 6 of the

Delhi Special Police Establishment Act, 1946 and in paragraph No.44, made the following conclusions:

> "(i) The fundamental rights, enshrined in Part III of the Constitution, are inherent and cannot be extinguished by any Constitutional or Statutory provision. Any law that abrogates or abridges such rights would be violative of the basic structure doctrine. The actual effect and impact of the law on the rights guaranteed under Part III has to be taken into account in determining whether or not it destroys the basic structure.
>
> (ii) Article 21 of the Constitution in its broad perspective seeks to protect the persons of their lives and personal liberties except according to the procedure established by law. The said Article in its broad application not only takes within its fold enforcement of the rights of an accused but also the rights of the victim. The State has a duty to enforce the human rights of a citizen providing for fair and impartial investigation against any person accused of commission of a cognizable offence, which may include its own officers. In certain situations even a witness to the crime may seek for and shall be granted protection by the State.
>
> (iii) In view of the constitutional scheme and the jurisdiction conferred on this Court under Article 32 and on the High Courts under Article 226 of the Constitution the power of judicial review being an integral part of the basic structure of the Constitution, no Act of Parliament can exclude or

curtail the powers of the Constitutional Courts with regard to the enforcement of fundamental rights. As a matter of fact, such a power is essential to give practicable content to the objectives of the Constitution embodied in Part III and other parts of the Constitution. Moreover, in a federal constitution, the distribution of legislative powers between the Parliament and the State Legislature involves limitation on legislative powers and, therefore, this requires an authority other than the Parliament to ascertain whether such limitations are transgressed. Judicial review acts as the final arbiter not only to give effect to the distribution of legislative powers between the Parliament and the State Legislatures, it is also necessary to show any transgression by each entity. Therefore, to borrow the words of Lord Steyn, judicial review is justified by combination of "the principles of separation of powers, rule of law, the principle of constitutionality and the reach of judicial review".

(iv) If the federal structure is violated by any legislative action, the Constitution takes care to protect the federal structure by ensuring that Courts act as guardians and interpreters of the Constitution and provide remedy under Articles 32 and 226, whenever there is an attempted violation. In the circumstances, any direction by the Supreme Court or the High Court in exercise of power under Article 32 or 226 to uphold the Constitution and maintain the rule of law cannot be termed as violating the federal structure.

(v) Restriction on the Parliament by the Constitution and restriction on the Executive by the Parliament under an enactment, do not amount to restriction on the power of the Judiciary under Article 32 and 226 of the Constitution.

(vi) If in terms of Entry 2 of List II of The Seventh Schedule on the one hand and Entry 2A and Entry 80 of List I on the other, an investigation by another agency is permissible subject to grant of consent by the State concerned, there is no reason as to why, in an exceptional situation, court would be precluded from exercising the same power which the Union could exercise in terms of the provisions of the Statute. In our opinion, exercise of such power by the constitutional courts would not violate the doctrine of separation of powers. In fact, if in such a situation the court fails to grant relief, it would be failing in its constitutional duty.

(vii) When the Special Police Act itself provides that subject to the consent by the State, the CBI can take up investigation in relation to the crime which was otherwise within the jurisdiction of the State Police, the court can also exercise its constitutional power of judicial review and direct the CBI to take up the investigation within the jurisdiction of the State. The power of the High Court under Article 226 of the Constitution cannot be taken away, curtailed or diluted by Section 6 of the Special Police Act. Irrespective of there being any statutory provision acting as a restriction on the powers of the Courts, the restriction imposed by Section 6 of the Special Police Act on the powers

> of the Union, cannot be read as restriction on the powers of the Constitutional Courts. Therefore, exercise of power of judicial review by the High Court, in our opinion, would not amount to infringement of either the doctrine of separation of power or the federal structure."

The Apex Court followed the said ratio in many subsequent decisions, including a Three-Judge Bench decision of the Apex Court in **Manohar Lal Sharma** Vs. **The Principal Secretary and Ors.,** reported in **(2014) 2 SCC 532 : MANU/SC/1306/2013.**

10. That apart, in the decision in **Legislative Council UP Lucknow** v**. Sushil Kumar,** reported in **2025 KHC OnLine 6877,** it has been reiterated by the Apex Court that an order of CBI investigation or enquiry should not be passed in routine manner on mere allegations levelled by the parties. The exercise of such power by the High Court or by this Court must be made sparingly, cautiously and in an exceptional situation when credibility of investigation is in

question and to repose confidence in investigation. It was held further that the Court may exercise such discretion for enforcing the fundamental rights.

11. Thus going by the law laid down in the decision in **State of West Bengal and Ors.'**s case (*supra),* and followed in the subsequent decisions of the Apex Court, it is well settled that the power of judicial review being an integral part of the basic structure of the Constitution, and no Act of Parliament or legislatures can exclude or curtail the powers of the Constitutional Courts with regard to the enforcement of fundamental rights. As a matter of fact, such a power is essential to give practicable content to the objectives of the Constitution embodied in Part III and other parts of the Constitution. Moreover, in a federal constitution, the distribution of legislative powers between the Parliament and the State Legislature involves limitation on legislative

powers and, therefore, this requires an authority other than the Parliament to ascertain whether such limitations are transgressed. Judicial review acts as the final arbiter not only to give effect to the distribution of legislative powers between the Parliament and the State Legislatures, it is also necessary to show any transgression by each entity with a view to uphold the powers, rule of law, the principle of constitutionality and the reach of judicial review. Thus, as held by the Constitution Bench decision of the Apex Court, **the power of the High Court under Article 226 of the Constitution cannot be taken away, curtailed or diluted by Section 6 of the Special Police Act. Irrespective of there being any statutory provision acting as a restriction on the powers of the Courts, the restriction imposed by Section 6 of the Special Police Act on the powers of the Union, cannot be read as restriction on the**

powers of the Constitutional Courts.

12. In view of the above legal position, the High Court exercising power under Article 226 of the Constitution of India, in no way, to be restrained by any other statutory provisions. Therefore, non-impleadment of the so called persons against whom the investigation is sought for, or non-hearing of them in view of the statutory mandates, if any, as provided in any other law in force, not at all a rider for the High Court to order an investigation, once the High Court satisfies from the materials available before the Court that cognizable offence or offences made out, warranting investigation and registration of FIR.

13. Holding the law so, when the report filed by the Dy.S.P. is gone through, investigation in V.C.No.09/25/EKM has been progressing, and insofar as the prayers sought for by the petitioner

are concerned, the investigation has not yet disclosed any material indicating the involvement of the persons referred to by the petitioner herein, as contended. Therefore, as of now, the reliefs sought for cannot be allowed.

However, the investigating officer is free to investigate the involvement of any other persons in this crime on getting materials thereon.

Holding so, the writ petition stands disposed of.

Sd/-
A. BADHARUDEEN
JUDGE

nkr

APPENDIX OF WP(CRL.) NO. 570 OF 2026

PETITIONER EXHIBITS

Exhibit-P1	**A TRUE COPY OF THE FIR NO. 09/2025 DATED 15/05/2025 REGISTERED WITH VACB ERNAKULAM UNIT**
Exhibit-P2	**A TRUE COPY OF THE REPRESENTATION DATED 30.05.2025**
Exhibit-P3	**A TRUE COPY OF THE REPRESENTATION DATED 23/03/2026 FILED BY THE PETITIONER BEFORE THE RESPONDENT NO. 1 & 2**