

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

WEDNESDAY, THE 15TH DAY OF MARCH 2023 / 24TH PHALGUNA, 1944

CRL.MC NO. 8766 OF 2022

**(AGAINST FIR NO.VC.06/2022/TSR OF VIGILANCE &
ANTI-CORRUPTION BUREAU, THRISSUR)**

PETITIONERS/ACCUSED 5 TO 10:

- 1 P.T. JOSE
AGED 59 YEARS, S/O. PUNNELIPARAMBIL THOMAN,
PUNNELIPARAMBIL HOUSE,
KOMBODINJAMAKKAL, P.O. THAZHEKKAD,
THRISSUR, PIN - 680697
- 2 P.T. DAVIES
AGED 65 YEARS, S/O. PUNNELIPARAMBIL THOMAN
PUNNELIPARAMBIL HOUSE,
KOMBODINJAMAKKAL, P.O. THAZHEKKAD,
THRISSUR, PIN - 680697
- 3 RINI JOHNSON
AGED 62 YEARS, W/O P.T. JOHNSON (LATE)
PUNNELIPARAMBIL HOUSE,
KOMBODINJAMAKKAL, P.O. THAZHEKKAD,
THRISSUR, PIN - 680697
- 4 GRACY THOMAS
AGED 61 YEARS, W/O P.T. THOMAS PUNNELIPARAMBIL
HOUSE, KOMBODINJAMAKKAL,
P.O. THAZHEKKAD, THRISSUR, PIN - 680697
- 5 P.T. VARGHESE
AGED 62 YEARS, S/O. PUNNELIPARAMBIL THOMAN
PUNNELIPARAMBIL HOUSE,
KOMBODINJAMAKKAL, P.O. THAZHEKKAD,
THRISSUR, PIN - 680697
- 6 P.T. BENNY, AGED 57 YEARS, S/O. PUNNELIPARAMBIL
THOMAN PUNNELIPARAMBIL HOUSE,
KOMBODINJAMAKKAL, P.O. THAZHEKKAD,
THRISSUR, PIN - 680697

Crl.M.C.Nos.8766/2022,
1338 & 1480/2023

-:2:-

BY ADVS.
PAUL JACOB (P)
SHERU JOSEPH
MATHEW THOMAS
ANAND KRISHNA

RESPONDENTS/ STATE & COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM, PIN - 682031
- 2 DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE & ANTI-CORRUPTION BUREAU
NAIKKANAL,
THRISSUR, PIN - 680022

SRI.A.RAJESH.SPL.P.P.VACB,
SMT.S.REKHA.SR.P.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 15.03.2023, ALONG WITH Cr1.MC.1338/2023 & 1480/2023, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

CrI.M.C.Nos.8766/2022,
1338 & 1480/2023

-:3:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

WEDNESDAY, THE 15TH DAY OF MARCH 2023 /24TH PHALGUNA, 1944

CRL.MC NO. 1338 OF 2023

**(AGAINST FIR NO.VC.06/2022/TSR OF VIGILANCE &
ANTI-CORRUPTION BUREAU, THRISSUR)**

PETITIONER/ACCUSED NO.1:

A. P. KIRAN
AGED 55 YEARS
DEPUTY COLLECTOR, AA(LR) KANNUR,
UNDER SUSPENSION), RESIDING AT GOLDENRAY,
PORT, VALLAKADAVU P.O,
THIRUVANANTHAPURAM, PIN - 695008

BY ADVS.JOHNSON GOMEZ
S.BIJU (KIZHAKKANELA)
SANJAY JOHNSON
JOHN GOMEZ
ARUN JOHNY
DEEBU R.
ABIN JACOB MATHEW

RESPONDENT/PROSECUTION:

- 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
ERNAKULAM, PIN - 682018
- 2 DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE & ANTI-CORRUPTION BUREAU
NAIKKANAL, THRISSUR, PIN - 680022

SRI.A.RAJESH.SPL.P.P.VACB,
SMT.S.REKHA.SR.P.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 15.03.2023, ALONG WITH CrI.MC.8766/2022 AND CONNECTED
CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CrI.M.C.Nos.8766/2022,
1338 & 1480/2023

-:4:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

WEDNESDAY, THE 15TH DAY OF MARCH 2023 /24TH PHALGUNA, 1944

CRL.MC NO. 1480 OF 2023

**(AGAINST FIR NO.VC.06/2022/TSR OF VIGILANCE &
ANTI-CORRUPTION BUREAU, THRISSUR)**

PETITIONER/ACCUSED NO.2:

GEORGE JOSEPH, AGED 54 YEARS
RESIDING AT MEKKATTIL (H),
THRIKKALATHOOR P.O, PIN - 683541

BY ADVS.
JOHNSON GOMEZ
S.BIJU (KIZHAKKANELA)
SANJAY JOHNSON
JOHN GOMEZ
ARUN JOHNY
DEEBU R.
ABIN JACOB MATHEW

RESPONDENT/PROSECUTION:

- 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
ERNAKULAM, PIN - 682018
- 2 DEPUTY SUPERINTENDENT OF POLICE
VIGILANCE & ANTI-CORRUPTION BUREAU,
NAIKKANAL, THRISSUR, PIN - 680022

SRI.A.RAJESH.SPL.P.P.VACB,
SMT.S.REKHA.SR.P.P

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 15.03.2023, ALONG WITH CrI.MC.8766/2022 AND CONNECTED
CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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“C.R.”

O R D E R

Dated this the 15th day of March, 2023

All these three Crl. M.Cs have been preferred to quash F.I.R. in V.C.No.06/2022/TSR of VACB, Thrissur.

2. The petitioners are the accused Nos. 1, 2 and 5 to 10. The offences alleged are punishable under Sections 13(2) r/w 13(1)(d) (i,ii,iii) of the Prevention of Corruption Act, 1988 and Section 7 of the Prevention of Corruption (Amendment) Act, 2018, along with Section 120B of the Indian Penal Code, 1860.

3. The accused No.1 is the Taluk Land Board Chairman and Deputy Collector (LR), Thrissur. The accused No.2 is the Tahsildar, Thrissur Taluk, who is the Ex-officio member of the Taluk Board . The accused Nos.3 and 4 are Taluk Land Board members, Thrissur Taluk. The accused No.5 is the managing director, and the accused Nos. 6 to 10 are the directors of M/s.Thomson Granites Pvt. Ltd (for short ‘the Company’), a private limited company registered under the Indian Companies Act engaged in the quarrying business. The accused No. 11

is described as 'Public servants in various departments'.

4. The prosecution case, in short, is that the accused Nos.5 to 11 conspired together since 2003 to undertake mining activity illegally in 19.0938 hectares of assigned forest land at Ollukkara Village, which was purchased and registered in the name of the Company, paid land tax and generated other certificates for production before the Mining and Geology department, thereby obtaining mining sanction wrongfully. It is further alleged that, in the year 2019, the accused Nos. 1 to 4, being the Chairman and Members of the Taluk Land Board, Thrissur, as such being public servants, connived and conspired with the accused Nos.5 to 11 by misusing their official capacity and by violating Section 81 of the Kerala Land Reforms Act, 1963 (for short 'the KLR Act'), and Rule 3 of the Kerala Land Assignment Special Rules 1993 and also by suppressing the report of the Tahsildar Ceiling and Return, illegally issued order No.LR1-4070/18 dated 2/4/2019 (for short 'the impugned order), in favour of the Company for exempting the company-owned forest land of 19.0938 hectares mentioned above as a commercial site for quarrying purposes by way of accepting pecuniary benefits without

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public interest involved and for performing the official duty improperly.

5. I have heard Sri.Johnson Gomez, the learned counsel for the accused Nos. 1 and 2, Sri. Paul Jacob, the learned counsel for the accused Nos. 5 to 11 and Sri. A.Rajesh, the learned Special Public Prosecutor.

6. The learned counsel for the accused Nos. 1 and 2 Sri. Johnson Gomez submitted that the allegations in the FIR, even if they are taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out any case against the accused Nos. 1 and 2. The learned counsel further submitted that accused No.1 being the Chairman and accused No.2 being the Ex-officio member of the Taluk Land Board, which is a quasi-judicial authority constituted under Section 100A of the KLR Act, are entitled to protection against prosecution. F.I.R was registered without obtaining sanction under Section 17-A of the Prevention of Corruption Act, added the counsel.

7. The learned counsel for the accused Nos. 5 to 10 Sri. Paul

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Jacob submitted that the averments in the FIR do not constitute any offence whatsoever against the accused Nos. 5 to 10. The learned counsel further submitted that accused Nos. 5 to 10 have been roped in their official capacity as directors of a duly incorporated Company and without the Company in the array of the accused, a criminal prosecution against the directors alone could not stand. The counsel also submitted that the prosecution is bad since no previous sanction of the State Government was obtained.

8. The learned Special Public Prosecutor Sri. A. Rajesh submitted that this court under the exercise of its inherent power under section 482 of Cr.P.C should not interfere with the investigation when the FIR discloses the commission of a cognizable offence.

9. As stated already, accused No.5 is the managing director and accused Nos. 6 to 10 are the directors of the Company which is engaged in the business of quarrying. It also runs a crusher unit. 19.0938 hectares of land situated in Ollukkara Village, Thrissur Taluk in Thrissur district mentioned in the F.I.R. admittedly belong to the

Company. The Company purchased the said land through 16 separate sale deeds during the period 2003-2014. It is not in dispute that all those 16 sale deeds traced their title to the land assignment that happened under the Kerala Land Assignment Rules, 1964. It is also not in dispute that a granite quarry and crusher unit are functioning on the above-said land. For the said purpose, the company has obtained a quarrying license, which expired on 27/10/2018. It appears that the Director of Mining and Geology insisted for a Ceiling Limit Certificate to renew the license on the premises that the company possessed land more than the ceiling limit under the Land Assignment Act. Accordingly, the Company filed the Ceiling Limit Return at the Taluk Land Board, Thrissur. The Company also filed an application under Section 85 A of the KLR Act at the Taluk Land Board Thrissur, seeking a declaration that the land in question is used for commercial purposes as provided under Section 81(1)(q) of the KLR Act. The Company claimed before the Taluk Land Board that the whole land is used as a quarry and there is a crusher unit therein as well and thus eligible for exemption under Section 81(1)(q). The Taluk Land Board called for three reports from the concerned

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Tahsildars for deciding the issue. The three reports were filed by Deputy Tahsildar (Ceiling Return) dated 4/1/2019, Tahsildar (LR) dated 13/11/2018 and Tahsildar (LR) dated 29/3/2019. Over and above those reports, the accused No.1, who is the Chairman of the Taluk Land Board, himself conducted a personal inspection of the land in question. Ultimately, after hearing both sides, the Taluk Land Board, as per the impugned order, allowed the application in favour of the Company. A declaration sought was granted. It was thereafter the FIR was registered.

10. The scope and ambit of the power by the High Court under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India to quash the FIR/investigation has been expounded by the Apex Court in a catena of decisions. In ***Kurukshetra University v. State of Haryana*** (1977 KHC 711), the Apex Court observed and held that inherent powers under Section 482 Cr.P.C. do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice; that statutory power has to be exercised sparingly, with circumspection and in the rarest of rare cases. In ***State of Karnataka v. L. Muniswamy and Others*** [(1977) 2 SCC 699],

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considering the scope of the inherent power of quashing under S.482, the Apex Court held that in the exercise of this wholesome power, the High Court is entitled to quash proceedings if it comes to the conclusion that ends of justice so require. It was observed that in a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice and that the ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. In ***State of West Bengal & Others v. Swapan Kumar Guha & Others*** (AIR 1982 SC 949), the three Bench of the Apex Court laid down the following principle:

" 21....the condition precedent to the commencement of investigation under S.157 of the Code is that the F.I.R. must disclose, prima facie, that a cognizable offence has been committed. It is wrong to suppose that the police have an unfettered discretion to commence investigation under S.157 of the Code. Their right of inquiry is conditioned by the existence

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of reason to suspect the commission of a cognizable offence and they cannot, reasonably, have reason so to suspect unless the F.I.R., prima facie, discloses the commission of such offence. If that condition is satisfied, the investigation must go on... The Court has then no power to stop the investigation, for to do so would be to trench upon the lawful power of the police to investigate into cognizable offences."

In ***Madhavrao Jiwajirao Scindia and Others v. Sambhajirao Chandrojirao Angre and Others*** [(1988) 1 SCC 692], it was held that while exercising inherent power of quashing under S.482, it is for the High Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where in the opinion of the Court, chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the Court may, while taking into consideration the special facts of a case, also quash the proceedings. In the celebrated decision ***State of Haryana v. Bhajan Lal*** (1992 KHC 600), the Apex Court considered in detail

the scope of the High Court's powers under Section 482 Cr.P.C. and/or Article 226 of the Constitution of India to quash the FIR and referred to several judicial precedents and held that the High Court should not embark upon an inquiry into the merits and demerits of the allegations and quash the proceedings without allowing the investigating agency to complete its task. At the same time, the Court identified the following cases in which FIR/complaint can be quashed:

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence

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and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

In ***State of A.P v. Golconda Linga Swamy*** (2004 KHC 1342),

after considering the decision in **Bhajan Lal** (supra) and other decisions on the exercise of inherent powers by the High Court under Section 482 Cr.P.C., it was held that exercise of power under Section 482 of the Code is the exception and not the rule. In **Ajay Mitra v. State of Madhya Pradesh & Others** [(2003) 3 SCC 11], the Apex Court held that where the complaint or FIR does not disclose the commission of any cognizable offence against the accused, the same would be liable to be quashed. In **Rukmini Narvekar v. Vijaya Satardekar and Others** (2009 KHC 240), it was observed that the width of the powers of the High Court under S.482 of the Cr.P.C and under Art.226 of the Constitution of India, was unlimited and that the High Court could make such orders as may be necessary to prevent abuse of the process of any Court, or otherwise to secure the ends of justice. It was further observed, that under S.482 of the Cr.P.C, the High Court was free to consider even material, that may be produced on behalf of the accused, to arrive at a decision. In **M/s.Neeharika Infrastructure Pvt. Ltd v. State of Maharashtra & Others** (AIR 2021 SC 1918), it was held that when a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the

power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose the commission of a cognizable offence or not. It was further observed that the court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR.

11. A careful reading of the above-noted judgments makes it clear that the High Court should be extremely cautious and slow to interfere with the investigation and/or trial of criminal cases and should not stall the investigation and/or prosecution. However, when it is convinced beyond any manner of doubt that FIR does not disclose the commission of any offence or that the allegations contained in the FIR do not constitute any cognizable offence or that the prosecution is barred by law or where a criminal proceeding is manifestly attended with *malafides* or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance or that it is necessary to interfere to prevent abuse of the process of the Court, the High Court is entitled to quash the FIR/investigation

under the exercise of its wholesome power u/s 482 of Cr.P.C.

12. Even though the petitioners have taken up a contention that the prosecution is bad since there is no sanction under Section 17-A of the PC Act, a perusal of the CD, which is made available to me by the learned Special Public Prosecutor, would show that sanction has been obtained.

13. The FIR contains two parts. In the first part, the offences under the unamended PC Act of 1988 have been invoked, and in the second part, the offence under the amended Act of 2018 has been invoked. The allegation in the first part is that the accused Nos.5 to 10 conspired with public servants in various departments from 2003 onwards to illegally perform mining activities in the land in question purchased in the name of the company, paid land tax and generated other certificates to produce before the Mining and Geology Department for getting mining sanction wrongfully. The allegation in the second part is that the accused Nos.1 to 4 conspired with the accused Nos. 5 to 10 by misusing their official capacity and by violating certain provisions and suppressing the report of the

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Tahasildar (Ceiling and Return), issued the impugned order in favour of the company for exempting the land in question as a commercial site for the quarrying purpose by accepting pecuniary benefits, without public interest.

14. The offences alleged under the first part are punishable under Sections 13(2) r/w 13(1)(d) (i, ii iii) of the PC Act, 1988 and Section 120B of IPC. To attract Section 13(d) (i), (ii) & (iii), there must be an allegation that the public servant by corrupt or illegal means or by abusing his official position as a public servant or without any public interest, obtained for himself or for any other person any valuable thing or pecuniary advantage. As stated already, the only allegation in the first part of the FIR is that the accused Nos.5 to 10 conspired with public servants of various departments from 2003 onwards for illegally performing mining activities on the land purchased in the name of the Company. The said allegation is so vague. The allegation does not speak about any illegal gratification, nor does it say that any specified public servant obtained any pecuniary advantage or valuable thing either for himself or for the company by abusing their official position. There is also no allegation

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that the accused Nos.5 to 10 bribed any of the public servants for obtaining various certificates for performing mining activities in the land in question. In the investigation conducted so far, the investigating agency could not locate or pinpoint the so-called public servants who were allegedly involved in the offences that fall within the first part. Thus, there is absolutely nothing to attract Section 13(1) (d) (i), (ii) & (iii) of the PC Act, 1988. To bring home the charge of conspiracy within the ambit of Section 120B of IPC, it is necessary to establish that there was an agreement between the parties for doing an unlawful act, which is also lacking in the FIR. Hence, Section 120B of the IPC is also not attracted.

15. Regarding the second part of the FIR as well, the allegation is vague. The precise allegation is that the accused Nos.1 to 4 colluded with the accused Nos.5 to 10, misusing their official capacity and in violation of the statutory provisions passed the impugned order exempting the land owned by the company on the ground that it is a commercial site which falls within Section 8(1)(q) of the KLR Act. The Taluk Land Board is a quasi-judicial authority. The accused No.1 is the Chairman, the accused No.2 is the Ex-officio

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member and the accused Nos.3 and 4 are the members of the Taluk Land Board. They were performing statutory duties vested in them while passing the impugned order. The records would show that when the company applied for renewal of its quarrying licence, the Mining and Geology Department insisted for a Ceiling Certificate. It was in these circumstances, the company submitted a ceiling return and also filed an application under Section 85(A) of the KLR Act, seeking a declaration that the land is used for a commercial purpose and thus eligible for exemption under Section 81(q) of the KLR Act. It is seen from the records that the Taluk Land Board under the exercise of its quasi-judicial function conducted an enquiry, called for a report from the Tahasildar and after perusal of all the records and also after hearing the parties, passed the impugned order. The said order is amenable to statutory appeal. It is submitted that an appeal filed by the Government is still pending. A criminal proceeding cannot be initiated merely on the ground that a wrong or incorrect order was passed by the public servant. If a public servant acting as a quasi-judicial authority under a statute passes an order and if such order is in favour of a person other than the Government, any pecuniary

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advantage obtained by such person by virtue of such order, cannot be the basis for prosecution of the public servant under the PC Act, unless there is an allegation that he was actuated by extraneous considerations or oblique motives in passing the order (See ***Sunil Kumar v. State of Kerala*** 2021 (4) KLT 51). There is no case for the prosecution that the accused Nos. 1 to 4 is actuated by any such extraneous considerations or oblique motives in passing the impugned order. Even though it is vaguely alleged in the second part of the FIR that the impugned order was passed by the Taluk Land Board by accepting pecuniary benefits, there is no specific allegation that the accused Nos.5 to 10 made any payment to the accused Nos.1 to 4. That apart, Section 8 of the PC Act was not invoked. There is nothing on record to suggest that the order in question was passed by the accused Nos.1 to 4 obtaining or accepting any undue advantage from the accused Nos.5 to 10 as a reward for passing such an order. Hence, Section 7 of the Amended Act also is not attracted.

16. As stated already, the impugned order was passed by accused No.1 and 2 in their capacity as the Chairman and Member of the Taluk Land Board which is a quasi-judicial authority constituted

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under Section 100A of the KLR Act. No doubt, the proceeding under Section 85(A) of the KLR Act is a legal proceeding. Hence, the Chairman and Member of the Taluk Land Board would fall within the definition of the 'Judge' in Section 2 of the Judges (Protection) Act, 1985 which refers to every person who is empowered by law to give a definitive judgment in a legal proceeding. The Chairman and Member of the Taluk Land Board are entitled to get protection under Section 3(1) of the Judges (Protection) Act, 1985 in respect of the order passed by them under the exercise of their quasi-judicial functions (See ***Santhosh Kumar v. State of Kerala*** 2021 (4) KLT 547). The criminal prosecution against the accused Nos.1 and 2 is, thus, barred under law and not maintainable.

17. It was the Company which approached the Taluk Land Board with an application for exemption. The order passed was in favour of the Company which is a legal entity. The accused Nos.5 to 10 have been arrayed as an accused in their official capacity as directors of the Company. In short, vicarious liability is sought to be imposed on them. However, the Company as such has not been arrayed as accused. The allegations in the FIR are essentially

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attributable to the acts purportedly committed by the accused Nos.5 to 10 in their official capacity as directors of the Company. There is no allegation that they independently or in their personal capacity gained out of the transaction. It is settled that in the absence of a specific allegation against the managing director or directors of vicarious liability, no criminal proceedings can be initiated against them in the absence of Company being arrayed as a party. When a complainant intends to rope in a managing director or any officer of a Company, it is essential to make requisite allegations to constitute vicarious liability [See ***Sharad Kumar Sanghi v. Sangita Rane*** (2015) 12 SCC 781 and also ***Sushil Sethi and Another v. State of Arunachal Pradesh and Others*** (2020) 3 SCC 240]. Here also, there is no specific averment to constitute vicarious liability. There is also no averment that the accused Nos. 5 to 10 were in-charge of and responsible for the business of the Company and by virtue of their position, they are liable to be proceeded with. Hence, without the Company in the party array, the prosecution against the accused Nos.5 to 10 in their official capacity as directors of the Company cannot be sustained.

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18. In the light of the above findings, the prosecution against the petitioners is not sustainable. No purpose will be served in proceeding with the matter any further. Accordingly, all further proceedings against the petitioners in FIR No.VC-6/2022/TSR of VACB, Thrissur are hereby quashed.

The Crl.M.Cs are allowed.

Sd/-

DR. KAUSER EDAPPAGATH

JUDGE

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APPENDIX OF CRL.MC 8766/2022

PETITIONER ANNEXURES

Annexure A1	TRUE COPY OF THE CERTIFICATE OF INCORPORATION ISSUED TO M/S. THOMSON GRANITES PVT. LTD BEARING NO. U14102KL2003PTC016464
Annexure A2	TRUE COPY OF THE LATEST TAX PAID RECEIPTS DATED 02.05.2018
Annexure A3	TRUE COPY OF THE APPLICATION DATED 16.07.2018 IN FORM NO. 1A FILED BY THE PETITIONER
Annexure A4	TRUE COPY OF THE PETITION DATED 16.07.2018 PRESENTED BEFORE THE TALUK LAND BOARD, THRISSUR
Annexure A5	TRUE COPY OF THE REPORT DATED 04.01.2019 OF THE DEPUTY TAHSILDAR (CEILING RETURN)
Annexure A6	TRUE COPY OF THE REPORT DATED 13.11.2018 OF THE DEPUTY TAHSILDAR (LR)
Annexure A6(a)	TRUE COPY OF THE REPORT DATED 29.03.2019 OF THE DEPUTY TAHSILDAR (LR)
Annexure 7	TRUE COPY OF THE ORDER DATED 02.04.2019 NUMBERED AS NO. LR1-4070/18 OF THE TALUK LAND BOARD, THRISSUR
Annexure 8	TRUE COPY OF THE FIR NO. VC.06/2022/TSR DATED 15.09.2022
Addl.Annexure A9	TRUE COPY OF THE COMMUNICATION NO. 4981/M3/2018 DATED 10.07.2018 ISSUED BY THE DIRECTOR, MINING AND GEOLOGY, THIRUVANANTHAPURAM.
Addl.Annexure A10	TRUE COPY OF THE JUDGEMENT DATED 20.02.2019 IN WP(C). NO. 5113 OF 2019.
Addl.Annexure A11	TRUE COPY OF THE SUSPENSION ORDER DATED 06.02.2023 NUMBERED AS 594/2023/RD ISSUED BY JOINT SECRETARY REVENUE.
Additional Annexure A12	TRUE COPY OF THE REPORT ISSUED BY THE SECRETARY OF THE LAND BOARD TO THE LAND REVENUE COMMISSIONER, THIRUVANANTHAPURAM DATED 17.02.2023 AND NUMBERED AS L.B. EFILE-2264/22/E2.

Crl.M.C.Nos.8766/2022,
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APPENDIX OF CRL.MC 1338/2023

PETITIONER ANNEXURES

Annexure A1	A TRUE COPY OF THE FIR IN CRIME NO. VC-6/2022/TSR OF VACB, THRISSUR
Annexure A2	A TRUE COPY OF THE JUDGMENT DATED 20-02-2019 IN WP(C) NO. 5113 OF 2019
Annexure A3	A TRUE COPY OF THE QUASI-JUDICIAL ORDER LR1-4070/18 DATED 02-04-2019
Annexure A4	THE CASE STATUS OF THE CIVIL REVISION PETITION (LR NO 16 OF 2021)

Crl.M.C.Nos.8766/2022,
1338 & 1480/2023

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APPENDIX OF CRL.MC 1480/2023

PETITIONER ANNEXURES

Annexure A1	A TRUE COPY OF THE FIR IN CRIME NO. VC-6/2022/TSR OF VACB, THRISSUR
Annexure A2	A TRUE COPY OF THE JUDGMENT DATED 20-02-2019 IN WP(C) NO. 5113 OF 2019 PASSED BY THE HON'BLE HIGH COURT OF KERALA
Annexure A3	A TRUE COPY OF THE QUASI-JUDICIAL ORDER LR1-4070/18 DATED 02-04-2019
Annexure A4	THE CASE STATUS OF THE CIVIL REVISION PETITION (LR NO 16 OF 2021)