

[Cash-For-Job Scam] Madras High Court Refuses To Discharge Minister Senthil Balaji, Orders Fresh Enquiry

2022 LiveLaw (Mad) 450

IN THE HIGH COURT OF JUDICATURE AT MADRAS

V. SIVAGNAM; J.

31.10.2022

V. Senthil Balaji versus State

Crl.R.C.No.224 of 2021 & Crl.M.P.Nos.5050 of 2021, 15788 of 2022 & 10504 of 2021 & Crl.O.P.No.13914 of 2021 & Crl.M.P.Nos.10505 of 2021, 12532 of 2022, 10210 of 2021,10209 of 2021, 15787 of 2022 & 7593 of 2021 & Crl.O.P.Nos.15122 of 2021 & Crl.M.P.Nos.8249 of 2021, 9398 of 2021, 9400 of 2021, 12528 of 2022, 10818 of 2021, 11925 of 2021, & 15790 of 2022 &Crl.O.P.No.6621 of 2021 & Crl.M.P.Nos.10808 of 2021, 4393 of 2021, & 15795 of 2022

Prayer in Crl.R.C.No.224 of 2021 : The Criminal Revision Case has been filed under Section 397 r/w 401 of Criminal Procedure Code to set aside the order dated 26.08.2020 in Crl.M.P.No.7968 of 2020 in C.C.No.19 of 2020 on the file of the Assistant Sessions Judge in the Court of Additional Special Court cases related to elected members of Parliament and Member of Legislative Assembly of Tamil Nadu Chennai.

Prayer in Crl.O.P.No.13914 of 2021: This Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for all the records in C.C.No.19 of 2020 on the file of Additional Special Court for Trial of Cases related to Members of Parliament and Member of legislative assembly of Tamil Nadu, Chennai and quash the same.

Prayer in Crl.O.P.No.15122 of 2021: This Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records in connection with C.C.No.24 of 2021 pending on the file of Additional Special Court for the Trial of Members of Parliament and Members of Legislative Assembly, Chennai and direct the respondent to conduct a de-novo reinvestigation in C.C.No.24 of 2021.

Prayer in Crl.O.P.No.6621 of 2021: This Criminal original Petition has been filed under Section 482 Cr.P.C. to call for the records in the FIR, Final report in C.C.No.24 of 2021 on the file of the Additional Special Court for trial of Criminal Cases, related to elected M.P's and M.L.As of Tamil Nadu, Chennai and quash the same.

*Crl.R.C.No.224 of 2021 For Petitioner Mr. S. Prabhakaran Senior Counsel for M/s. N Bharanikumar
Crl.O.P.No.13914 of 2021 For Petitioner Mr.K.Sukumaran for M/s.J.Chelladurai Caldwell
Crl.O.P.No.15122 of 2021 For Petitioner Mr.Sriram Panchu Senior Counsel for M/s.Priyanka Dorothy Varma
Crl.O.P.No.6621 of 2021 For Petitioner . Mr.S.Kamalakkanan for M/s.Jayasudha*

For Respondent No.1. Mr. R. Raj Thilak Additional Public Prosecutor For Respondent No.2 Mr. T. Mohan Mr. Rameemudeen

COMMON ORDER

The Criminal Revision in Crl.R.C.No.224 of 2021 has been filed by Mr.V.Senthil Balaji to set aside the order dated 26.08.2020 in Crl.M.P.No.7968 of 2020 in C.C.No.19 of 2020 on the file of the Assistant Sessions Judge in the Court of Additional Special Court cases related to elected members of Parliament and Member of Legislative Assembly of Tamil Nadu, Chennai.

2. This Criminal Original Petition in Crl.O.P.No.13914 of 2021 has been filed by Mr.R.Sahayarajan to call for all the records in C.C.No.19 of 2020 on the file of Additional Special Court for Trial of Cases related to Members of Parliament and Member of legislative assembly of Tamil Nadu, Chennai and quash the same.

3. This Criminal Original Petition in Crl.O.P.No.15122 of 2021 has been filed by Mr.Devasagayam to call for the records in connection with C.C.No.24 of 2021 pending on the file of Additional Special Court for the Trial of Members of Parliament and Members of Legislative Assembly, Chennai and direct the respondent to conduct a de-novo reinvestigation in C.C.No.24 of 2021.

4. This Criminal original Petition in Crl.O.P.No.6621 of 2021 has been filed by Mr.M.Vetrichelvan to call for the records in the FIR, Final report in C.C.No.24 of 2021

on the file of the Additional Special Court for trial of Criminal Cases, related to elected M.P's and M.L.As of Tamil Nadu, Chennai and quash the same.

5. In Crl.R.C.No.224 of 2021 (C.C.No.19 of 2020), Anti Corruption Movement filed an impleading petition in Crl.M.P.No.10504 of 2021 to implead it as a respondent in the abovesaid criminal revision.

6. In Crl.O.P.No.13914 of 2021 (C.C.19 of 2020), Mr.A.Nambi Venkatesh, Anti Corruption Movement, Mr.Dharmaraj and Deputy Director, Directorate of Enforcement, filed impleading petitions namely, Crl.M.P.Nos.10210 of 2021, 10505 of 2021, 10209 of 2021 and 12532 of 2022 respectively, to implead them as the respondents in the abovesaid criminal original petition.

7. In Crl.O.P.No.15122 of 2021 (C.C.No.24 of 2021), Mr.Gobi, Mr. R.B.Arunkumar, Deputy Director, Directorate of Enforcement, Anti Corruption Movement and A.Nambi Venkatesh, filed the impleading petitions in Crl.M.P.Nos.9398 of 2021, 9400 of 2021, 12528 of 2022, 10818 of 2021 and 11925 of 2021 to implead them as respondents in the abovesaid criminal original petition.

8. In Crl.O.P.No.6621 of 2021 (C.C.No.24 of 2021), Anti Corruption Movement filed impleading petition in Crl.M.P.No.10808 of 2021 to implead it as a respondent in the abovesaid criminal original petition.

9. In all the abovesaid cases namely, Crl.R.C.No.224 of 2021 and Crl.O.P.Nos.13914 of 2021, 15122 of 2021 & 6621 of 2021, the State Public Prosecutor filed vacate stay petitions namely, Crl.M.P.Nos.15788 of 2022, 15787 of 2022, and 15795 of 2022 respectively, to vacate the stay granted in all the above criminal cases.

10. The abovesaid Crl.R.C.No.224 of 2021, Crl.O.P.No.13914 of 2021 are connected with C.C.No.19 of 2020. Crl.O.P.No.15122 of 2021 and Crl.O.P.No.6621 of 2021 are connected with C.C.No.24 of 2021. The impleading petitions are related to Crl.R.C. No.224 of 2021 and Crl.O.P.No.13914 of 2021. Therefore, since all the matters are interconnected with the facts and law, they are taken up together and pronounced in common order.

11. Facts as reveals from the available records are as follows:

During the period 2014-2015, recruitment for the post of Reserve Crew Drivers, Crew Conductors, Juniors Trades Men (JTM), Junior Assistant (JA), Junior Engineer (JE) and Assistant Engineer (AE) was conducted in all the Transport Corporations in the State of Tamil Nadu.

12. The Division Bench of the Hon'ble High Court of Madras, while disposing a Writ Appeal in W.A.No.1027 of 2013 dated 09.06.2014, issued directions to all the Government Departments to make appointments by issuing open advertisement in newspaper and media and also to notify the District Employment Office.

13. In pursuance of the directions issued by this Court, the Principal Secretary to Government, Transport Department vide its letter dated 30. 07.2014 directed all the Managing Directors of the State Transport Corporation undertakings to follow the directions of the Division Bench in the process of recruitment.

14. Notification for open recruitment was issued by the Managing Director of MTC and other officials of MTC. Simultaneously, category wise sponsored lists were called for from the District Employment Offices of Chennai, Thiruvallur and Kanchipuram.

15. In the process, a total number of 16,081 applications were received, out of which, 12,765 candidates attended interview and 2209 appointment orders were issued to the selected candidates.

16. Now, The Tamil Nadu Minister for Electricity, Prohibition and Excise, Mr.V.Senthil Balaji was then functioning as Tamil Nadu Transport Corporation Minister at Selvi J.Jayalalithaa's Cabinet in 2014.

17. In the said appointments, various officials of the Transport Corporation colluded severally and jointly with Mr.V.Senthil Balaji the then Transport Corporation Minister and his close associates in the matter of appointment of candidates, in the process of recruitment and committed malpractices and irregularities by abusing their official positions. In this regard, three complaints were given by three persons namely,

(i)The first complaint is given by one S.Devasagayam S/o. Samuvel. Upon his complaint, a case in Crime No.441 of 2015 for the offences punishable under Sections 406, 420, r/w 34

IPC is registered. (C.C.No.24 of 2021)

(ii).The Second complaint is given by V.Ganesh Kumar S/o.Venkatesan. Upon his complaint, a case in Crime No.298 of 2017 for the offences punishable under Sections 406, 420,

506(i) IPC is registered. (C.C.No.19 of 2020)

(iii).The third complaint is given by one Arulmani S/o.Kuppusamy. Upon his complaint, a case in Crime No.344 of 2018 for the offences punishable under Sections 406, 420 and 506(i) IPC is registered. (C.C.No.25 of 2021)

18. The gist of the allegation in the abovesaid three complaints are, accusations against the then Transport Corporation Minister Mr.V.Senthil Balaji and his brother Ashok Kumar and Shanmugan (P.A.to the Minister) and other names mentioned in the FIR as recipients of money from the complainants and other individuals, on the promise of obtaining them Government jobs as Drivers, Conductors and Technicians in the State Transport Corporation. Thus, they committed cheating against gullible job seekers and thereby, got money from unlawful sources given for unlawful consideration.

19. Arguments of the learned counsel in CRI.R.C.No.224 of 2021 (Crl.M.P.No.7968 of 2020 in C.C.No.19 of 2020)

1. The learned Senior Counsel Thiru.S.Prabakaran Senior Counsel for Mr.N.Bharanikumar appearing for the petitioner would submit that the defacto complainant Mr.V.Ganesh Kumar initially filed one complaint on 06.07.2016 against Mr.Sasikumar, Mr.Sahayarajan and Mr.Annaraj, not against the petitioner herein namely, Mr.V.Senthil Balaji. Subsequently, the same defacto complainant gave next complaint on 26.12.2016 with improved version by implicating this petitioner Mr.V.Senthil Balaji in that case.

2. The contention in the two complaints is not similar. Suppressing the contention in earlier complaint dated 06.07.2016, the second complaint was given. The second complaint dated 26.12.2016 is a motivated one.

3. As per the FIR, the alleged occurrence took place between the period from 21.12.2014 to 10.01.2015, for which, the FIR was registered on 09.09.2017 with a

delay of two years and eight months and the delay would vitiate the entire proceedings.

4. The learned Senior Counsel would further contend that the petitioner has nothing to do with the appointments and he is not an appointing authority but the board of appointment committee alone empowered to make appointments from the eligible candidates participated in the interview. The petitioner cannot be held responsible or prosecuted for the act of some unknown persons or third parties. The petitioner never met any victims and the defacto complainant. The defacto complainant himself has collected money from various individuals. There is no material to show that the petitioner received any amount from them and to connect the petitioner to the alleged cash-for- job scam.

5. The learned counsel further contended that the statement of witnesses would show that receiving of money was between other persons only. Roping the petitioner with receiving money is unbelievable version. This petitioner neither promised nor gave assurance to any job seekers.

6. The learned Senior counsel further contended that the petitioner became MLA on the AIADMK decade at 14th Legislative Assembly Election during the period 2016. Subsequently in the year 2017, speaker by using Anti Defection Law expelled him. In the year 2018, he joined DMK party and elected as DMK MLA during bye-election in the year 2019. The FIR in Crime No.298 of 2017 was registered on 09.09.2017 against four persons namely, this petitioner, Prabhu, Sahayarajan and Annaraj on the direction of this Court in Crl.O.P.No.18773 of 2017. Thereafter, the petitioner was roped by the investigating officer due to the change of political scenario. Due to the malice from political intention, this petitioner has been roped with these three criminal cases.

7. The trial Court failed to consider the fact properly and also failed to note the guidelines issued by the Supreme Court in the case of ***State of Haryana and others Vs. Bhajan Lal and others (1992 Supplementary 1 SCC page 335)*** and thus, pleaded to allow the Criminal Revision and discharge the petitioner from the case in C.C.No.19 of 2020.

20. The argument of the learned counsel in Crl.O.P.No.13914 of 2021 (C.C.No.19 of 2020)

1. The learned Senior Counsel Mr.K.Sukumaran for Mr.J.Chelladurai Caldwell appearing for the petitioner would contend that the petitioner Sahayarajan is the third accused in C.C.No.19 of 2020. He filed this Crl.O.P.No.13914 of 2021 seeking a relief of quash of criminal case in C.C.No.19 of 2020 pending on the file of the Additional Special Court cases related to elected members of Parliament and Member of Legislative Assembly of Tamil Nadu Chennai and quash the same.

2. The learned counsel would contend that the defacto complainant Mr.V.Ganesh Kumar and this accused Mr.Sahayarajan now settled the matter out of the Court. They filed a compromise memo. Besides that the defacto complainant along with 20 list of witnesses jointly filed a memo of consent to quash the petition on the ground that they do not want to proceed with their complaint as they have received back their money from Sasikumar.

3. Considering the case of the parties, this Court granted Interim stay in all further proceedings in C.C.No.19 of 2020. Now, the parties to the criminal proceedings

settled the dispute out of the Court amicably. Irrespective of the fact of such offence, this Court may, within the frame work of its inherent power, quash the criminal proceedings or criminal complaint or FIR, if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

4. The learned counsel to support his argument placed reliance upon the judgment of the Supreme Court in ***Gian Singh Vs. State of Punjab and another (2012) 10 Supreme Court cases 303 and Narinder Singh and others Vs. State of Punjab and another (2014) 6 Supreme Court Cases 466*** Thus, pleaded to allow this Criminal Original Petition and quash the criminal proceedings in C.C.No.19 of 2020 pending on the file of the Additional Special Court for Trial of Cases related to Members of Parliament and Member of legislative assembly of Tamil Nadu, Chennai.

21. The argument of the learned counsel in Crl.O.P.No.15122 of 2021 (C.C.No.24 of 2021)

1. The learned counsel Mr.Sriram Panchu, Senior Counsel for M/s.Priyanka Dorothy Varma appearing for the petitioner would submit that the petitioner Mr.Devasagayam is the defacto complainant in Crime No.441 of 2015 for the offences punishable under Sections 406, 420 r/w 34 IPC. Based on the complaint of Devasagayam, the Central Crime Branch (Job Racketing Wing) registered a case in crime No.441 of 2015 for the offences punishable under Sections 406, 420 r/w 34 IPC against Baskar and 9 others on 29.10.2015.

2. The allegation in the complaint was that he was searching Government Job for his son D.Parthiban. For that purpose, he approached the accused C.Palani (A3) in the FIR, who was working as Conductor in Metropolitan Transport Corporation, he demanded Rs.2,50,000/- to arrange Conductor job for his son and also assured to get job through the other accused Baskar (A1 in the FIR), who was working as Junior Assistant at Saidapet Depo, Chennai and Kesavan (A2) in the FIR, who was working as a Driver along with Palani. Since the accused persons did not get appointment and the amount was also not returned for over 6 months, the complainant demanded the accused persons to return the money. On enquiry, he came to know that other accused persons viz., Elumalai, Sridhar, Manokaran, Manivannan, Selvarai, Ramesh, Udaya(A4 to A10 in the FIR) received money from various individuals on the false promise of providing job and appointment and not returned the amounts to individuals. Hence, he preferred the complaint.

3. While it was under investigation, in this regard, another victim Mr.Gobi had preferred a complaint to the Commissioner of Police on 07.03.2016. He further approached this Court by filing Criminal O.P. No.7503 of 2016 seeking direction to the Commissioner of Police, Chennai, to register a case and investigate on his complaint dated 07.03.2016. This Court passed order on 20.06.2016 directing the Assistant Commissioner of Police, Central Crime Branch (Job Racketing) to register the case and to take over the investigation of the case in Crime No.441 of 2015 and further, directed the Deputy Commissioner of Police, Central Crime Branch, to monitor the progress of the case on day to day basis.

4. In pursuance of the order, The Assistant Commissioner of Police, (Job Racketing Wing) took up investigation. After completion of investigation, filed a final report before the Metropolitan Magistrate Court for CCB and CBCID (Metro Cases Chennai) on

13.06.2017 for the offences punishable under Sections 406, 460, 420 r/w 34 IPC against the accused persons namely, A1 Baskar, A2 Kesavan, A3 Palani, A4 Elumalai, A5 Sridhar, A6 Manokaran, A7 Manivannan, A8 Selvaraj, A9 Ramesh, A10 Udhayakumar, A11 Lalith Lulla, and A12 Liyakat Ali Khan. The final report filed before the Metropolitan Magistrate for Exclusive Trial for CCB and CBCID (Metro) Cases, Egmore, Chennai, vide C.C.No.3627 of 2017 was taken cognizance on 20.06.2017.

5. Thereafter, another victim Mr.R.B.Arun Kumar filed a petition in CrI.O.P.No.32067 of 2019 before this Court seeking direction to the police to conduct further investigation in Crime No.441 of 2015 in C.C.No.3627 of 2017 on the file of Metropolitan Magistrate for CCB and CBCID (Metro) Cases, Chennai. This Court vide its order dated 27.11.2019 directed the Assistant Commissioner of Police, Central Crime Branch (Job Racket Wing) to conduct further investigation of the case and to complete the investigation as expeditiously as possible within 6 months. The police, after further investigation, filed a final report against 47 persons for the offences punishable under Sections 406 and 420, r/w 34 IPC @ 406, 419 and 420 r/w 34 IPC @ 120B, 465, 467, 471 & 201 IPC and 7, 12, 13(2) r/w and 13(1)(d) of Prevention of Corruption Act, 1988 and 109 IPC r/w 13(2) r/w and 13 (1) (d) of Prevention of Corruption Act, 1988.

6. The learned counsel would further contend that the abovesaid final report was against the complaint of the defacto complainant and statement of the defacto complaint. It is the specific case against Baskar, Kesavan and others. The investigating Agency deliberately left the persons involved in the crime and filed the final report in C.C.No.24 of 2021.

7. The second final report was filed without following the principles of law laid down by the Supreme Court in ***Bhagwant Singh Vs. Commissioner of Police and another (1985) 2 Supreme Court Cases 537***, which was followed in various judgment of this Court.

8. The learned counsel further contended that the petitioner is the defacto complainant and has lodged a preliminary complaint alleging against people, who have cheated the petitioner, the investigation did not consider the statement recorded from the petitioner and have conducted the investigation as per their own whims and fancies. It could be said, it is the most improper investigation conducted by the police without putting the petitioner on notice. The final report filed by the prosecution is totally misconceived. Further, in the final report submitted under Section 173(8) Criminal Procedure Code irrelevant charges were levelled against the petitioner's case. The final report is totally deviating from the averment of the complaint, which is misconceived with irrelevant facts and does not disclose the real crime occurred. The petitioner's complaint is against the persons, who have introduced themselves for securing job, he had contacted only Baskar and Kesavan but in the new final report, new person namely Mr.Sathiyavan was introduced by the investigating agency and the total crime and facts were ignored. New statements unconnected to the case in Crime No.441 of 2015 are implicated. It has no legal sanctity. In the earlier final report in C.C.No.3627 of 2017, the alleged Mr.Sathiyavan is neither a complainant nor a witness and has no relation with the petitioner.

9. The learned counsel heavily relied upon the law laid down by the Hon'ble Supreme Court in ***H. N. Rishbud And Inder Singh vs The State Of Delhi 1955 AIR 196***. In that case, the Hon'ble Supreme Court laid down a principle for possibility of further

and de-novo investigation even after a Court had taken cognizance of the case in the interest of preventing miscarriage of justice. Further, contended that the statement of the petitioner as a complainant cannot be brushed aside and ignored by the investigating agency. The statement of the petitioner as a complainant is more important and pertinent to real trial but the investigating agency has completely ignored the case of the petitioner and diverted itself to some other irrelevant issues with ulterior motive, for which, the petitioner cannot be a new spectator. Hence, in the interest of justice, it is a duty of the petitioner to bring it to the knowledge about his own grievance in the case as per the settled proposition of law.

10. Further submitted that this Court, while admitting the Criminal Original Petition recorded that the investigation in this case was conducted in a deficit manner and the petitioner's grievance ought to be redressed, finds there is a prima facie case made in favour of the petitioner and admitted the petition and also granted stay of all further proceedings in C.C.No.24 of 2021.

11. Further, contended that the final report filed in C.C.No.3627 of 2017 and final report in C.C.No.24 of 2021 are completely different in substance. In the final report filed in C.C.No.3627 of 2017, the investigating officer cited S.Baskar, R.Kesavan, Palani, C.Elumalai and 7 others as accused for the offences punishable under Sections 406, 419 and 420, r/w 34 IPC but after the complaint of R.B.Arunkumar, on 08.03.2021, the investigating agency filed final report in C.C.No.24 of 2021 for the same crime number and cited 47 accused punishable under sections 406 and 420, r/w 34 IPC @ 406, 419 and 420 r/w 34 IPC @ 120B, 465, 467, 471 & 201 IPC and 7, 12, 13(2) r/w and 13(1)(d) of Prevention of Corruption Act, 1988 and 109 IPC r/w 13(2) r/w and 13 (1) (d) of Prevention of Corruption Act, 1988.

12. Further contended under the guise of further investigation that the original final report cannot be wiped out. By further investigation, investigating officer can supplement or add to the original final report but cannot substitute it with an altogether new report. It is apparent that the order dated 27.11.2019 in CrI.O.P.No.32067 of 2019 allowing further investigation.

13. Further, contended that the complainant Devasagayam was neither called nor informed about the further investigation by the investigating officer yet fresh final report was filed on 08.03.2021 under Section 173 (8) of the Criminal Procedure Code in C.C.No.3627 of 2017.

In the second final report dated 08.03.2021, the main accused named, in Devasagayam's complaint viz., Baskar and Kesavan were not arrayed as an accused and it included several persons, who were not named in the complaint at all. It is a settled proposition of law that if at all any investigating officer likely to withdraw the prosecution or dropped the prosecution against any accused, he needs to put it to the notice of the complainant and relied upon the judgment of this Court in **C. Ve.Shanmugam S/o. Venugopal vs. The Deputy Superintendent of Police and others 2010 2 MLJ Criminal 833**, the observation of this Court in that case is " **thus undoubtedly, it is a settled law as of now that before accepting a final report, where some of the accused, whose names find a place in the FIR, have been omitted, the learned Magistrate must issue notice to the defacto complainant. On receipt of such notice, the defacto complainant has got right to file a petition known as 'protest petition'. Only after hearing him, the learned Magistrate has to pass an order either accepting the final report in its entirety or rejecting the**

same and to proceed to take cognizance of the offence on the basis of the materials on record and the Court can direct further investigation or to treat the protest petition as a complaint in terms of Chapter XV of the Code of Criminal Procedure.”

14. Further, the learned counsel relied upon the judgment of the Hon'ble Supreme Court in **Bhagwant Singh Vs. Commissioner of Police and Another AIR 1985 SC 1285** followed in **Union Public Service Commission Vs. S.Papaiah and others, AIR 1997 SC 3876** and relied the proposition that on the mandatory requirement not being fulfilled, the entire process of taking up cognizance will be vitiated.

15. Further, the learned counsel relied upon the decision in **Samaj Parivartan Samudaya and others Vs. State of Karnataka and others in (2012) 7 SCC 407** and also contended that the basic purpose of an investigation is to bring out the truth by conducting fair and proper investigation in accordance with law and to ensure that the guilty are punished, it had held further that the jurisdiction of the Court to ensure fair and proper investigation in an adversarial system of criminal administration is of a higher degree than in an inquisitorial system and it has to take precaution that interested or influential persons are not able to misdirect or hijack the investigation so as to throttle a fair investigation resulting in the offenders escaping the punitive course of law. Any lapse it was proclaimed would result in error of jurisdiction.

16. Further, the learned Counsel contended that the expression “fair and proper investigation” in criminal jurisprudence was held by the Hon'ble Supreme Court in **“Vinay Tyagi Vs. Irshad Ali and Ors. @ Deepak and others (2013) 5 SCC 762** and submitted that in this judgment, it is observed to encompass two imperatives with regard to fair and proper investigations. Firstly, the investigation must be unbiased, honest, just and in accordance with law and secondly, the entire emphasis has to be to bring out the truth of the case before the Court of competent jurisdiction.

17. Further, contended that it is judicially acknowledged that fair trial includes fair investigation as envisaged by Article 20 and 21 of the Constitution of India and the learned counsel relied upon the judgment of the Hon'ble Supreme Court in **Pooja Pal Vs. Union of India (UOI) and Ors (2016) 3 SCC 135** and with regard to fair investigation, he cited the abovesaid judgments, in which, the relevant portion in para 67 is as follows:

“It was reiterated in Babubhai (supra) that in exceptional circumstances, the court in order to prevent the miscarriage of criminal justice, may direct investigation de novo, if it is satisfied that non-interference would ultimately result in failure of justice.”

Thus pleaded to order for de-novo investigation in all the Criminal cases.

22. The argument of the learned counsel in CrI.O.P.No.6621 of 2021 (C.C.No.24 of 2021)

1. The learned counsel Mr.S.Kamalakaran for Ms.Jayasudha appearing for the petitioner would submit that the petitioner is a Public Servant within the meaning of Section 2(c) of the Prevention of Corruption Act, 1988. His first appointment was in 1998 as Assistant Public Relations Officer in the Department of Information, Tamil Nadu. In 2010, he was promoted as Public Relations Officer in the same department. Following recommendation to serve in the State Transport Department, the petitioner functioned in Metropolitan Transport Corporation as Public Relations Officer, first from 16.11.2012 to 26.06.2013 and thereafter from 2014 to 31.07.2015. In 2020, the

petitioner was promoted as Joint Director in the Information and Public Relations Department, in which post he is currently working.

2. While so, one Devsahayam, the 3rd respondent in this CrI.O.P, preferred a complaint on 08.05.2015 to the Commissioner of Police, Vepery, Chennai. The gist of that complaint for cheating is that large sums of money were received by several persons on the representation that jobs would be secured in the Transport Department. The allegations were that the persons involved in cheating had played fraud and appropriate action be taken against the individuals. The complaint was forwarded to the 2nd respondent, the Inspector of Police, (Job racketing wing), Central Crime Branch. A case in Cr.No.441 of 2015 for offences under Sections 406, 420 r/w. 34 Indian Penal Code was registered by the Inspector of Police on 29.10.2015. It may be stated that in that complaint, Devasahayam had not said a word against the petitioner.

3. When the investigation in the above Cr.No.441 of 2015 was pending, one Mr.Gopi approached this Hon'ble Court by filing CrI.O.P.No.7503 of 2016. In that CrI.O.P, Gopi sought directions to the Commissioner of Police, Chennai to register a case on his complaint made to the Commissioner of Police dated 04.04.2015 followed by representation dated 07.03.2016, Mr.Gopi had also alleged payment of money to persons, who had promised to get a job, but did not.

4. By an order dated 20.06.2016, this Hon'ble Court directed investigation be taken up in regard to Gopi's complaint without registering fresh crime number. There was also a direction that the Assistant Commissioner of Police, Central Crime Branch (Job Racketing Wing) should take over the investigation of the case in Cr.No.441 of 2015 and that the Deputy Commissioner of Police, Central Crime Branch would monitor the progress of the case on a day-to-day basis.

5. Subsequent to the order in CrI.O.P.No.7503 of 2016, the Assistant Commissioner of Police (Job Racketing Wing) Crime Branch, Chennai, the 1st respondent herein took up investigation and after completion of the same, laid final report before the Court of the Metropolitan Magistrate, Chennai for trial of CCB and CBCID (Metro) Cases. The learned Magistrate took cognizance of the case in C.C.No.3627 of 2017 against 12 persons. In this case too the petitioner did not figure as accused.

6. At this stage, one R.B.Arun Kumar filed CrI.O.P.No.32067 of 2019 in this Hon'ble Court for further investigation. Orders were passed on 27.11.2019 directing the 1st respondent to conduct further investigation in the case and to complete the probe within 6 months. Pursuant to the above directions, on 08.01.2020 the 1st respondent took up further investigation. The proceedings in C.C.No.3627 of 2017 were ordered to be kept in abeyance by this Hon'ble Court in the order in CrI.O.P.No.32067 of 2017.

7. Thereafter, on two occasions first on 26.09.2020 and next on 29.09.2020 the petitioner was summoned by the 1st respondent, in terms of Section 41-A Cr.P.C. to appear for questioning in relation to the investigation in FIR No.441/2015. On 03.10.2020, the 1st respondent handed over to the petitioner an acknowledgement which described the petitioner as a suspect and stated he appeared for enquiry. The acknowledgement is in page No.31 of the 1st typed set.

8. Thereafter, in March 2021 the petitioner came to know that steps were on the anvil to prosecute him for offences under the Prevention of Corruption Act and Indian Penal Code and for this Purpose the Commissioner of Police had addressed letter to Government seeking sanction for prosecution. It also came to light that on 05.03.2021

Secretary to Government passed orders granting sanction for prosecution of the petitioner and another person. The said order had come into public domain which enabled the petitioner to access the same.

9. Further contended that the petitioner no way connected with the cash-for-Job Scam and the Prevention of Corruption Act 17 (a) came into effect on 26.07.2018. The application of Section 17 (a) P.C.Act in this case is unsustainable. Though the alleged offences had been committed allegedly in the year 2014-2015 and action against the petitioner commenced only in September 2020. The investigating Agency had not followed the mandate in Section 17 (a) of the P.C. Act. In the light of the amendment of 2018, under Section 19 (1)(b) sanction to prosecute the petitioner was obtained. The investigating Agency not complied with the requirement of Section 17 (a) of the P.C.Act.

10. To support of his argument, he relied upon the following judgments:

(a). Kailash Chandra Agarwal & ors Vs. State of Rajasthan & ors, S.B.Criminal Misc (Pet) No.159/2018 rendered by the Hon'ble High Court of Rajasthan.

(b). Hemant Nimbalkar Vs. State of Karnataka & ors, reported in 2021 (2) AKR 629.

(c). Yashwat Sinha & Ors Vs. CBI & Ors, reported in (2020) 2 SCC 338.

11. Further contended that there is no valid sanction by the competent authority to prosecute the petitioner. The purported sanction by the Secretary to the Government on 05.03.2021 to prosecute the petitioner is not valid since no sanction was accorded by the authority and there being a legal bar against the institution or continuation of the proceedings against the petitioner under Section 19(1)(b) and Section 197 Cr.P.C. Its continuance may amount to abuse of the Court and therefore, proceedings against the petitioner is to be quashed to secure ends of justice. The petitioner places reliance on the decision of the Hon'ble Supreme Court in **Anil Kumar and ors Vs. Aiyappa & ors reported in (2013) 10 SCC 705.**

12. Further the learned counsel for the petitioner contended that the prosecution is launched against the petitioner in 2021 for offences which, it is true, were in the Prevention of Corruption Act, 1988, but were no longer part of the Act, as and from 26.07.2018. A perusal of the sanction order passed to prosecute the petitioner and the Charge-sheet filed by the 1st respondent arraying the petitioner as A-10, as stated above, is principally under section 13(1) (d) of the Act along with other I.P.C offences. The respectful submission of the petitioner is that it is not in law open to the Police to charge the petitioner for offences allegedly committed by him under Section 13(1)(d) of the Act as it stood before 26.07.2018, after that date. After the substitution of section 13(1)(a) for sec.13(1)(d) of the Act on 26.07.2018, no prosecution could be instituted even in respect of an act which was an offence when the substituted provision was in force since the new provision inserted by legislature manifest an intention incompatible with the provisions of the section that stood prior to the amendment. Further, Section 6 of the General Clauses Act only saves legal proceedings instituted before the repeal of the provision in respect of offence committed during the time when the provision was in force and not substituted provisions. It is further submitted that Sec 6A of the General Clauses Act, 1897 saves amendment by Substitution of any Central Act only if the intention of the new provision is not different. The ingredients of the new sec 13(1) and the erstwhile sec 13(1)(d) of the PC Act are being completely different, the institution of prosecution for offence under 13(1)(d) of the Act after

26.07.2018 is not permissible and thus, pleaded to quash the criminal proceedings in the Criminal Original Petition.

23. The argument of the learned counsel for the petitioner (Directorate of Enforcement, Ministry of Finance, Department of Revenue)

1. The learned counsel for the petitioner would submit that the petitioner have filed two Crl.M.P.Nos.12532 of 2022 and Crl.M.P.No.12528 of 2022 to implead them as a party in Crl.O.P.Nos.13914 of 2021 and in Crl.O.P.No.15122 of 2021 respectively.

2. The Directorate of Enforcement issued summon to Mr.Senthil Balaji and others in pursuance of an investigation under Enforcement Case Information Report bearing No.ECIR /MDSZO/21/2021 dated 29.07.2021 was recorded by the department and thereafter, investigation under the provisions of PML Act was initiated. It is registered on the basis of the abovesaid three FIRs namely, Crime Nos.298 of 2017, 441 of 2015 and 344 of 2018 as the FIRs were registered for scheduled offences as specified in paragraph-1 and 8 of Part – A of the Schedule appended under Prevention of Money-Laundering Act.

3. Directorate of Enforcement had filed three Criminal Miscellaneous Petitions in Crl.M.P.No.20053, 20054 and 20055 of 2021 against C.C.No.25 of 2021, C.C.No.19 of 2020 and C.C.No.24 of 2021 respectively under Rule 210 of Criminal Rules of Practice, 2019 for furnishing the certified copies of FIR, the statements of witnesses recorded under Section 161(3) and 164 of Cr.P.C., final report filed by the CCB, Chennai under Section 173 (2) Cr.P.C., copies of the data recorded in digital evidences, relied upon documents and the copies of e-mail correspondences recovered during the course of investigation by the CCB Chennai. The Additional Special Court partially allowed the petitions by its order dated 09.11.2021 by granting the certified copies of FIR, the statements of witnesses recorded under Section 161(3) and 164 of Cr.P.C and the final report filed by the CCB, Chennai under Section 173(2) of Cr.P.C., however the trial Court declined to grant certified copies of the unmarked documents. Hence, the department filed criminal original petition in Crl.O.P.Nos.5725 to 5727 of 2022 before the High Court seeking a direction to the Additional Special Court to grant the certified copies of the unmarked documents.

4. This Court by its order dated 30.03.2022 setting aside the order passed by the trial Court, allowed the Department to inspect the records under Rule 237(1) and to take extracts and notes which was challenged by the third accused Mr.M.Karthikeyan in C.C.No.24 of 2021 before the Supreme Court in SLP (Crl) Diary No.9957 of 2022 and in turn the Supreme Court by its order dated 19.04.2022 granted interim stay of operation of the order of the High Court.

5. Further contended that the registration of the FIR is enough, if the offences comes under the scheduled offence, they are having jurisdiction to conduct investigation and further contended that the Prevention of Money Laundering Act is a special statute and separate offence. Since a stay has been granted in respect of the proceedings in C.C.No.19 of 2022 and C.C.No.24 of 2022 are concerned, the department is not in a position to proceed against the accused. Hence, the department has to be impleaded in the quash proceedings and pleaded to dismiss the quash proceedings filed by the petitioner in Crl.O.P.No.13914 of 2021 and also contended that denovo investigation is not required as the case is already investigated and filed a detailed final report. Therefore, seeking de-novo investigation trial is also not sustainable and pleaded to

dismiss the Crl.O.P.No.15122 of 2021 and thus, pleaded to implead them as a party to the proceedings.

24. The argument placed by the learned counsel appearing for Anti Corruption Movement Rep.by its Central Secretary in the impleading petitions.

1. The learned counsel appearing for the petitioner would submit that the petitioner has filed Criminal Miscellaneous Petitions in Crl.M.P.Nos.10504 of 2021, 10808 of 2021 and 10818 of 2021 to implead them as a party in Crl.R.C.No.224 of 2021, Crl.O.P.No.6621 of 2021 & Crl.O.P.No.15122 of 2021 respectively.

2. The learned counsel would contend that the petitioners, namely Mr.Devasagayam, Mr.Gobi, Mr.Arunkumar colluded and have conspired to mislead this Court by filing these petitions to escape the first accused from the clutches of the criminal cases.

3. The defacto complainant Mr.Devasagayam gave a complaint, initially based on which, the case has been registered in FIR No.441 of 2015, thereafter, he was won over by the first accused Mr.V.Senthil Balaji. Initially the police are not going beyond the low level officers in order to find out where the money trail ends. This Court directed the Assistant Commissioner of Police to take over the investigation in Crime No.441 of 2015 and also directed the Deputy Commissioner of Police, Central Crime Branch to monitor the same. Further, this Court directed not to register another FIR based upon the complaint dated 04.04.2015 and 07.03.2016 as FIR has been registered in Crime No.441 of 2015. Therefore, Devasagayam had lost the status of the defacto complainant and he has no locus standi to file these petitions and he cannot rely upon the decision of the Supreme Court in ***Bhagwant Singh Vs. Commissioner of Police and another (1985) 2 Supreme Court Cases 537.*** Devasagayam is knowingly making false statement to commit fraud on this Court, in order to escape the then Transport Corporation Minister.

4. The contention of Devasagayam that the accused persons namely Baskar and Kesavan included in C.C.No.3627 of 2017 were left out after further investigation and filed C.C.No.24 of 2021 has no merit on that ground fresh investigation is not required. This Court on 27.11.2019 in Crl.O.P.No.32067 of 2019 directed further investigation only in respect of the selection and appointment of Junior Engineers only. Therefore, further investigation report in C.C.No.24 of 2021 is no way related to the complaint of Devasagayam. Therefore, he does not have any locus to challenge C.C.No.24 of 2021. Further, the first accused V.Senthil Balaji not challenged the C.C.No.24 of 2021, he challenged only C.C.No.19 of 2020. Devasagayam is abusing the process of this Court in filing this criminal original petition and able to get interim stay in the Crl.O.P. with false representation and he has committed perjury as well as criminal contempt of this Court and liable to be punished for the same and in another Crl.O.P., prayer for seeking quashment of charges and direction for de-novo enquiry is unsustainable.

5. The Criminal Revision filed by Mr.V.Senthil Balaji is also unsustainable. The criminal original petition filed by R.Sahayarajan for quashing the criminal proceedings in C.C.No.19 of 2020 on the ground of compromise is also unsustainable and Crl.M.P.No.9398 of 2021 filed by Gobi is attempting to commit fraud upon this Court, the petitioner has to be impleaded in the interest of justice. If the petitioner is not impleaded in the petition, this Court will be left out without any assistance which may result in miscarriage of justice. Therefore, pleaded to implead the petitioner as one of the respondent in the abovesaid Criminal Revision Case and Criminal Original Petitions and thus, pleaded to allow these criminal miscellaneous petitions.

25. The argument of the learned counsel in impleading petitions namely, Crl.M.P.Nos.10209 of 2021, 10210 of 2021 & 11925 of 2021 filed by Dharmaraj & Nambi Venkatesh in Crl.O.P.Nos.13914 of 2021 and 15122 of 2021 respectively.

1. The learned counsel appearing for the petitioners submitted that the petitioner Dharmaraj complainant has completed Mechanical Engineering from KSR College of Technology with 76% of marks, he is eligible to be appointed as Assistant Engineer in the State Transport Corporation undertaking and he fulfilled his requisite qualification for the said post. In the year 2014, the MTC Chennai issued advertisement No.101-05- MTC – 2014 dated 02.11.2011 for filling up the vacancies in various posts. The petitioner also applied for the post of Assistant Engineer on this notification vide application No.A1A1 400 208 and also participated in the interview conducted by the selection committee. He was awarded 57% out of 75% and he was awarded 23 marks in the interview, his total marks was 80. Hence, he was eligible to be appointed to the post of Assistant Engineer. But his name was not included in the selection list. He was informed that he scored only 59 marks. Therefore, he was not selected.

2. Thereafter, he came to know that FIR has been registered against the officials of Transport Corporation Department including the Ministers and Transport Corporation Officers. During the time of investigation, the Assistant Commissioner of Police sent a letter to him to appear for enquiry in relation to the complaint of some of the victims, who had paid cash to the intermediaries to obtain job in the Transport Corporation undertaking of this State. The petitioner along with one M.Govindaraju had filed a writ petition in W.P.No.8991 of 2021 before this Court seeking to quash the selection of candidates and their appointments as Assistant Engineers in MTC pursuant to the recruitment notice in 2014. Thereafter, he came to know the Assistant Commissioner charge sheeted 47 persons after completion of investigation in C.C.No.24 of 2021 before the Additional Special Court to try the criminal cases involving member of legislative Assembly Tamil Nadu. The issue involved in three cases i.e. C.C.Nos.25 of 2021, 24 of 2021 and 19 of 2020.

3. Further contended that Nambi Venkatesh petitioner in Crl.M.P.No.10210 of 2021 in Crl.O.P.No.13914 of 2021 is a Diploma Holder in Mechanical Engineer with 83% marks. He has completed his apprentice training from TVS Motor company in Madurai in the year 2002. He is eligible to be appointed as Junior Engineer in the State Transport Corporation undertakings and he fulfill all requisite qualification for the said post. He also applied for the post of Junior Engineer by his application No.JI 402261 and also participated in the interview but he was not selected and he was informed that he had only secured 47 marks. Thereafter through newspaper he also came to know about the registration of three complaints against the Minister as well as Transport Corporation officials. He also filed writ petition in W.P.No.9061 of 2021 before this Court seeking to quash the selection of candidates and their appointments as Junior Engineer in MTC, pursuant to the recruitment notice in 2014. He also gave statement before the Assistant Commissioner of police during the time of investigation of case in Crime No.441 of 2015 in C.C.No.24 of 2021, he is arrayed as one of the prosecution witnesses as LW87 in C.C.No.24 of 2021. Under the above circumstances, the complainant and the accused colluded with each other and filed this case to quash the criminal proceedings.

4. The learned counsel further contended that in view of the law declared by the Hon'ble Supreme Court in ***Gian Singh Vs. State of Punjab and another (2012) 10***

Supreme Court Cases 303, offence of serious nature cannot be permitted to be compounded. Therefore, this petitioner has to be impleaded as a respondent. The prayer for reinvestigation is not legally sustainable. The offences involved are serious offences of corruption under Prevention of Corruption Act, which are not compoundable and thus, pleaded to implead the petitioner as one of the respondents in the concerned criminal original petition and the learned counsel further pleaded to dismiss the criminal original petition and the criminal revision petition.

26. The argument of the learned Senior Counsel in impleading petitions viz., Crl.M.P.Nos.9398 of 2021 &Crl.M.P.No.9400 of 2021 in Crl.O.P.No.15122 of 2021 filed by Mr.Gopi and Mr.Arunkmar.

The learned Senior Counsel Mr.P.S.Raman submitted that the petitioner Mr.Gobi is the affected person/victim, he gave a complaint about the cash-for-job scam to the respondent police, since the police did not take action, filed a petition in criminal O.P.No.7503 of 2016 under Section 482 Cr.P.C. before the High Court seeking a direction to register a case and investigate on his complaint dated 07.03.2016. Accepting the prayer, this Court passed orders on 20.06.2016 directing the police to investigate and also ordered, the Assistant Commissioner of Police, Central Crime Branch (Job Racket Wing) to take over the investigation of the case in Crime No.441 of 2015 besides directed the Deputy Commissioner of Police, Central Crime Branch to monitor the progress of the case. The respondent police after investigation has filed final report before Metropolitan Magistrate Court for CCB and CBCID (Metro) cases, Chennai on 13.06.2017 against 1.Baskar 2. Kesavan, 3.C.Palani 4.P.Elumalai 5.Sridhar 6. P. Manokaran 7. M. Manivannan 8. S.Selvaraj 9. Ramesh 10. Udaya Kumar 11. Lalit Lulla and 12.Ligath Ali Khan. The case was taken on file in C.C.No.3627 of 2017 on 20.06.2017. At this juncture, another petitioner Mr.R.B.Arun Kumar filed a petition in Crl.O.P.No.32067 of 2017 before this High Court seeking to direct the police to conduct further investigation. This High Court accepting his prayer by its order dated 22.11.2019 directed the Assistant Commissioner of Chennai, Central Crime Branch (Job Racket Wing) to conduct further investigation. The respondent police, after completing further investigation, filed final report, which was taken on file in C.C.No.24 of 2021 on 08.01.2020.

2. The learned Senior Counsel further contended that the further investigation was not conducted properly. The facts of the case are that the police has investigated into the allegations of irregularities in the selection of large number of candidates for the post at State Transport Corporation. The respondent police seized the register used for entering the interview marks and sent it for Forensic Analysis in order to find out the manipulations but without getting report from the Forensic Department filed the final report improperly. They have examined witnesses as a formality. In support his arguments, the learned Senior Counsel cited the para – 10 of the affidavit filed by Mr.S.Surendaran, Assistant Commissioner of Police, CCB (Job Racket Wing) in Crl.O.P.No.15122 of 2021 and Crl.M.P.No.8249 of 2021. The learned counsel further contended that not only fair trial but fair investigation is also part of Constitutional rights guaranteed under Article 20 and 21 of the Constitution of India. In this case, the investigation is not fair and transparent. The Investigating Agency cannot be permitted to conduct an investigation in a tainted and biased manner. In this case, the investigation is not in accordance with law. In such a situations, in the interest of justice, this High Court should order a fresh investigation. Thus, pleaded to order de-novo investigation in all the criminal cases to find out the truth.

27. The learned Additional Public Prosecutor Mr.E.Raj Thilak, for the State submitted that the State police in compliance with the order of this Court collected all material evidence in all the three criminal cases and filed a final report. Because of the stay granted by this Hon'ble Court the trial Court is unable to proceed further with the trial of the abovesaid criminal cases. Thus, pleaded to vacate the interim stay granted in all cases to proceed further in the trial of the case pending before the trial Court.

28. Having heard learned Senior Counsel at length and having gone through the records of the case available with this Court it appears that irregularities have been committed in the matter of recruitment of candidates at Tamil Nadu State Transport Corporation during the period 2014-2015, at the relevant period of time one of the accused Mr.V.Senthil Balaji for the State Transport Corporation Minister at AIADMK Cabinet, now functioning as Tamil Nadu State Minister for Electricity, Prohibition and Excise, other accused are his brother, personal assistant and other State Transport Corporation officials and their associates, thus it is alleged as a cash-for-job scam in recruitment and appointment at the State Transport Corporation.

29. With regard to the abovesaid cash-for-job scam, three criminal complaints are registered. 1. The first complaint is given by one Mr.Devasagayam, which is registered in FIR No. 441 of 2015 for the offences under Section 406, 420 r/w 34 IPC. Final report filed in C.C.No.24 of 2021 for the offences under Sections 406 and 420, r/w 34 IPC @ 406, 419 and 420 r/w 34 IPC @ 120B, 465, 467, 471 & 201 IPC and 7, 12, 13(2) r/w and 13(1)(d) of Prevention of Corruption Act, 1988 and 109 IPC r/w 13(2) r/w and 13 (1) (d) of Prevention of Corruption Act, 1988. 2.The Second complaint is given by one Mr.Ganesh Kumar, which is registered in FIR No.298 of 2017 for the offences under Sections 406, 420, 506(i) IPC. Final report filed in C.C.No.19 of 2020 for the offences punishable under Sections 406, 420, 506(i) IPC. 3.The third complaint is given by one Mr.Arul Mani, which is registered in FIR No.344 of 2018 for the offences punishable under Sections 405, 420 and 506(i) IPC. Final report is filed in C.C.No.25 of 2021 for the offences punishable under Section 405, 420 and 506(i) IPC.

30. In C.C.No.19 of 2020, the accused Mr.V.Senthil Balaji, had filed a discharge petition in Crl.M.P.No.7968 of 2020 before the trial Court, which was dismissed by passing the impugned order dated 26.08.2020, which is under challenge now in Crl.R.C.No.224 of 2021.

31. With regard to the abovesaid criminal case in C.C.No.19 of 2020 one of the accused Mr.Sahayarajan (A3) filed a Crl.O.P.No.13914 of 2021 to quash the abovesaid criminal proceedings on the ground that the offence in the case is compoundable besides he had settled the dispute with the defacto complainant Mr.Ganesh Kumar and other Victims connected with the complaint in FIR No.298 of 2017.

32. With regard to C.C.No.24 of 2021 (Crime No.441 of 2015) one of the accused Mr.Vetrichelvan (A10) filed Crl.O.P.6621 of 2021 to quash the abovesaid criminal proceedings against him on the ground that he was only a Public Relation Officer and not participated in the recruitment process besides the alleged sanction for prosecution does not meet the mandatory requirement of law and invalid which vitiated the criminal proceedings against him.

33. Further, with regard to C.C.No. 24 of 2021 the complainant Mr.Devasagayam filed Crl.O.P.No.15122 of 2021 wherein he seeks for a de-novo investigation of the case in C.C.No.24 of 2021 on the ground that while filing the final report on 13.06.2017 in

C.C.No.3627 of 2017 the Investigating Agency cited 7 accused alone for the offences punishable under Sections 406, 419 & 420 r/w 34 IPC in pursuance of Mr.R.B.Arun Kumar's criminal original petition filed before this Court, further investigation was ordered in CrI.O.P.No.32067 of 2019 on 27.11.2019. During the further investigation, the Investigating Officer not examined him and other victims, while filing final report without notice to him dropped two main accused namely, Mr.Baskar and Mr.Kesavan. The final report is completely different in substance and form of the previous report, which vitiated the criminal proceedings.

34. Deputy Director, Directorate Enforcement, Anti Corruption Movement, Mr.A.Nambi Venkateshan, Mr.Dharmaraj, Mr.Gobi and Mr.R.B.Arun Kumar are filed the abovesaid criminal miscellaneous petitions to implead them as respondents in the abovesaid proceedings before this Court on the ground that they are victims of the corrupt practice employed in the recruitment process and appointment at the State Transport Corporation. Mr.Gobi and Mr.R.B.Arun Kumar seeking de-novo investigation of all criminal cases and other impleading petitioners seeking the criminal proceedings would not be quashed de-novo investigation not required and pleaded, to dismiss the abovesaid criminal revision and criminal original petitions filed by the accused persons.

35. I have considered the matter in the light of the submissions made by the learned Senior Counsel for the parties in all the matters.

36. The undisputed fact is that all the criminal cases in FIR No.441 of 2015 (C.C.No.24 of 2021), FIR No.298 of 2017(C.C.No.19 of 2020), FIR No.344 of 2018 (C.C.No.25 of 2021) are inter connected with same recruitment irregularities in the appointment at State Transport Corporations during the year 2014 - 2015 and all the criminal cases involved in cash-for-job scam.

37. My attention at this juncture was drawn by learned Senior Counsel for the petitioner in CrI.O.P.No.15122 of 2021 to the order of the Hon'ble Supreme Court in CrI.A.No.1514 of 2022 (Special Leave Petition (CrI.) No.1354 of 2022) (P.Dharmaraj Vs. Shanmugam & Ors.) wherein, the Hon'ble Supreme Court set aside the order of quashing the criminal case in C.C.No.25 of 2021 by this Court order dated 30.07.2021 in CrI.O.P.No.13374 of 2021 filed by Mr.Shanmugam (A3) in C.C.No.25 of 2021. Further held that the remaining two criminal cases i.e. C.C.No.19 of 2020 and C.C.No.24 of 2021 are also with corruption allegation and all criminal complaints arose out of the very same cash-for-job scam as a matter of fact the State ought to have undertaken a comprehensive investigation into the entire scam.

38. In view of the abovesaid pronouncement of the Hon'ble Supreme Court in one of the criminal cases i.e. C.C.No.25 of 2021, the judgment has directed bearing upon this remaining two criminal cases i.e. C.C.No.19 of 2020 and C.C.No.24 of 2021.

39. Criminal Revision Petition No.224 of 2021

The learned Senior Counsel for the Revision Petitioner challenged the impugned order in CrI.M.P.No.7968 of 2020 in C.C.No.19 of 2020 on the ground that the petitioner Mr.V.Senthil Balaji was implicated in the criminal case in political vengeance since he came out of ADAIMK party and joined DMK party then become Minister for Electricity, Prohibition and Excise. Further contention is that no material is available against the petitioner to frame charge against him. I have gone through the impugned order passed by the trial Court. The respondent police prosecuted the petitioner for having committed the offences punishable under Sections 406, 420and

506(i) IPC. The trial Court dismissed the discharge petition on the ground that there are prima facie, sufficient material is available for framing of charge against the petitioner.

40. As observed by the Hon'ble Supreme Court in “ **State of M.P. Vs.Mohan Lal Soni**”**AIR 2000 SC page 2583**. The crystallised judicial view is that at the stage of framing charge, the Court has to prima facie consider whether there is sufficient ground for proceeding against the accused. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not, for convicting the accused.

41. In view of the above legal principle, I find no infirmity in the impugned order passed by the trial Court in CrI.M.P.No.7968 of 2020 in C.C.No.19 of 2020 and no reason for interference and there is no merit in the Criminal Revision Petition No.224 of 2021 filed by the petitioner, hence, dismissed.

42. Criminal Original Petition No.13914 of 2021

The petitioner is Mr.Sahayarajan (A3) in C.C.No.19 of 2020. His prayer for quashing the abovesaid criminal case in C.C.No.19 of 2020 is on the ground that the offence is compoundable and he had settled the dispute with the complainants and other victims connected with the complaint. The learned Senior Counsel for the petitioner's contention is that power to quash the criminal proceedings may be exercised where the parties have settled their dispute. This criminal case is pertaining to receiving money for providing job at State Transport Corporation; the money givers (victims) received back their money and no grievance for them. The offence is a private in nature and strongly relied upon the decision of the Hon'ble Supreme Court in **Gian Singh case (2012)10 Supreme Court Cases 303**.

43. I have gone through the abovesaid Supreme Court decision, in the above decision, the Hon'ble Supreme Court after analysing the statutory provisions and various decisions of the Supreme Court, summarised the position in paragraph – 61 of its decision, is as follows:

“61.The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences Under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil favour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the

offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

44. Thus, it is clear that the Court has to go slow even while exercising jurisdiction under Section 482 Cr.P.C. or Article 226 of the Constitution of India in the matter quashing of a criminal proceedings on the basis of a settlement reached between the parties, when the offences are capable of having an impact not merely on the complainant and the accused but also on others.

45. A scrutiny and careful analysis of the fact of our case in our hand that the investigation in C.C.No.19 of 2020 is tainted with inconsistencies, contradictions and infractions, Court must have due regard to the nature and gravity of the crime. No doubt, offences under Prevention of Corruption Act committed by the public servants was not included but the nature of the offence alleged in the complaint is cash-for-job scam, therefore, it is not a fit case for quash even though the victims, the complainants and the offenders have settled the dispute. The nature of the offences are not private in nature and have a serious impact on Society, therefore, I find no merit in the argument of the learned counsel for the petitioners besides I find no good reason for quashing the criminal case in C.C.No.19 of 2020 against the petitioner and no merit in the criminal O.P.No.13914 of 2021, hence, dismissed.

46. Criminal Original Petition No. 6621 of 2021 .

The petitioner Mr.Vetrichelvan is the 10th accused in C.C.No.24 of 2021(Crime No.441 of 2015). The petitioner seeks to quash the criminal proceedings in C.C.No.24 of 2021 against him. The learned counsel for the petitioner contention is that the petitioner was working as Public Relation Officer from 16.11.2012 to 26.06.2013 and from 2014 to 31.07.2015 at Metropolitan Magistrate Corporation, Chennai. Now, working as Joint Director in the Information and Public Relations Department, he had not participated in the recruitment process and not a member in the selection board, he no way connected in the selection process and appointment all were done by the recruitment board. Further contended that the sanction to prosecute the petitioner was obtained in the light of amendment to Section 19(i)(b) in 2018 but the alleged offences has been committed in the year 2014-2015. The investigating agency is not complied with the requirement of Section 17(a) of P.C.Act. He also strongly relied upon the judgment of the Supreme Court in ***(a).Kailash Chandra Agarwal & ors Vs. State of Rajasthan & ors, S.B.Criminal Misc (Pet) No.159/2018 rendered by the Hon'ble High Court of Rajasthan.(b).Hemant Nimbalkar Vs. State of Karnataka & ors, reported in 2021 (2) AKR 629.& (c). Yashwat Sinha & Ors Vs. CBI & Ors, reported in (2020) 2 SCC 338.***

47. I have considered the argument in the light of the facts and circumstances of the case in C.C.No.24 of 2021. It is not disputed that at the relevant period, the petitioner was working as Public Relation Officer of Metropolitan Transport Corporation (Chennai). I have perused the final report/ charge sheet. In para 27 of the final report, the investigating officer stated that investigation reveals that Mr.Vetrichelvan (A10) played very crucial role in the process of recruitment as per the direction of Mr.V.Senthil Balaji (A1), the then Minister for Transport Corporation. Mr.M.Vetrichelvan (A10) received e-mail communications relating to the vacancies, sale and receipt of applications and other details through Chairman office, to his mail and he conspired with other accused namely, Mr.R.Naresh Kumar (A16), Mr.S.Ramesh (A26), Mr.M.Sudharsan (A31) and further alleged that he brought the fraudulent list from the accused Mr.Shanmugam and Mr.Karthikeyan and handed over to Mr.Alfred Dhinakaran (A4) and Mr.Arun Ravindra Daniel (A6) for receiving illegal appointment orders.

48. As observed by the Supreme Court in “R.P.Kapur Vs. State of Punjab” – AIR 1960 SC 866. In exercising its jurisdiction under Section 561-A Cr.P.C. (new 482 Cr.P.C.), the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not. That is the function of the trial Magistrate, and ordinarily it would not be open to any party to invoke the High Court’s inherent jurisdiction and contend that on a reasonable appreciation of the evidence, the acquisition made against accused would not be sustained.

49. Further, as held by the Supreme Court in “**Central Bureau of Investigation Vs. V.K.Sehgal**” – **MANU/SC/0650/1999; (1999) 8 SCC 501**. The necessity of a sanction is only as a filter to safeguard public servants from frivolous or malafide or vindictive prosecution. Therefore, the issue of sanction for prosecution would be tested at the time of trial.

50. It is well settled by the Supreme Court in a catena of cases that the power under Section 482 Cr.P.C. has to be exercised sparingly and cautiously to prevent the abuse of process of any Court and to secure the ends of justice. “**The State of Haryana Vs.Bhajan Lal**” **1992 SCC (Cri.) 426**.

51. An overall perusal of the material placed before me makes out no good ground in favour of the petitioner /accused Vetrichelvan (A10) for quashing the criminal proceedings in C.C.No.24 of 2021. At this stage, this Court cannot analysis and meticulously considered the evidence and anticipate whether it will end up in conviction or acquittal, this is not the stage to decide whether there is any truth in the allegations made, the guilt or otherwise of the accused, can be proved only after conducting a fullfledged trial. In the circumstances, in my opinion, it is not proper for this Court to interfere with the criminal proceedings and quash the final report for charge sheet submitted by the police. I find no merit in the argument of the learned counsel for the petitioner and I find no merit in the criminal O.P.No.6621 of 2021, hence, dismissed.

52. Criminal Original petition No.15122 of 2021

The petitioner Mr.Devasagayam is the complainant in Crime No.441 of 2015 in C.C.No.24 of 2021. In this petition, he prayed for a de-novo investigation in C.C.No.24 of 2021. Further, impleading petitioners Mr.Gobi in CrI.M.P.No.9398 of 2021 and another impleading petitioner Mr.Arun Kumar in CrI.M.P.No. 9400 of 2021 also

supporting the petitioner in CrI.O.P.No.15122 of 2021 and seeking de-novo investigation in C.C.NO.24 of 2021.

53. In this regard, the learned Senior Counsel appearing for the petitioner contended that there has been frequent change in the course of investigation at different point of time, initially the petitioner Mr.Devasagayam gave a complaint, which was registered in Crime No.441 of 2014 under Section 406, 420 r/w 34 IPC by the respondent police, while pending investigation, the impleading petitioner Mr.Gobi gave similar complaint raised by Mr.Devasagayam and also filed CrI.O.P.No.7503 of 2016 for taking action upon his complaint before this Court, this Court vide order dated 20.06.2016 directed the Assistant Commissioner of Police, Central Crime Branch (Job Raceting) to take over the investigation in Crime No.441 of 2015 with direction to the Deputy Commissioner of Police, Central Crime Branch, to monitor the same. After completing the investigation, the final report/charge sheet filed in C.C.No.3627 of 2017 for the offences punishable under Sections 406, 419 & 420 r/w 34 IPC cited Mr.Basker, Mr.Kesavan, Mr.Palani, Mr.Elumalai and others as accused. Thereafter, another impleading petitioner Mr.R.B.Arun Kumar filed the CrI.O.P.No.32067 of 2019 before this Court with prayer to conduct further investigation in C.C.No.3627 of 2017, this Court vide order dated 27.11.2019 directed to conduct further investigation in C.C.No.3627 of 2017. Further, investigation was carried out, where after, an additional charge sheet was filed against 47 accused in C.C.No.24 of 2021.

54. The learned Senior Counsel further contended that all the persons involved in the cash-for-job scam are not named, particularly, the FIR named accused persons namely, Mr.Baskar and Mr.Kesavan were dropped by the investigating officer without notice to the complainant Mr.Devasagayam, which is in violation of law declared by the Supreme Court in ***Bhagwant Sing Vs. Commissioner of Police AIR 1985 SC 1285***, the Supreme Court decision in ***Union Public Service Commission Vs. Pappaiah AIR 1997 SC 3876*** and also against the principle stated by our High Court in ***C.Ve.Shanmugam S/o.Venugopal Vs. The Deputy Superintendent of Police, 2010 2 MLJ criminal page 833***.

55. The learned Senior Counsel further contended that the investigating agency seized the register used for entering the interview marks and forwarded to Forensic Department for analysis in order to decipher the manipulations but so far not received the report from the Forensic Department without knowing the result of the report with the formal statement recorded from the stack witnesses filed the final report unfairly. The learned counsel strongly relied upon in para – 10 & 16 of the affidavit filed by the Assistant Commissioner of Police in CrI.O.P.No.15122 of 2021 and CrI.M.P.No.8249 of 2021. Thus, without completing investigation in Crime No.441 of 2015 filed the final report.

56. Further contention of the learned Senior Counsel is that the final report is misconceive with irrelevant facts, it does not disclose the real crime occurred. The petitioner's complaint was against persons namely, Mr.Baskar and Mr.Kesavan, who have introduced themselves and got money, but the investigating agency introduced new persons namely, Mr.Sathiyavan, the investigating agency have conducted the investigation as per their own whims and fancies, the final report is totally misconceived. The charges leveled are irrelevant to the fact of the petitioner's complaint. The learned Senior Counsel strongly placed reliance upon the decision of the Supreme Court in the case of "***H.N. Rishbud Vs.State of Deli***" – ***AIR 1955 SC 196***, wherein, the Supreme Court laid down the principle of a possibility of further and

de-novo investigation even after a Court had taken cognizance of the case in the interest of preventing miscarriage of justice. The learned Senior Counsel further placed reliance upon the judgment of the Supreme Court in “**Vinay Tyagi Vs. Irshad Ali @ Deepak and others**”- (2013) 5 SCC 762, wherein, the Supreme Court explain the expression “fair and proper investigation” to encompass two imperatives; firstly, the investigation must be unbiased, honest, just and in accordance with law and secondly, the entire emphasis has to be to bring out the truth of the case before the Court of competent jurisdiction.

57. The learned Senior Counsel appearing for the impleading petitioners contention is that there is no case for any fresh investigation or de-novo investigation in the instant case relevant material is collected and no material was left over, no accused was dropped. Further, contention is that literal reading of the provisions of Section 173(8) Cr.P.C. it discloses that he does not authorize the Court to direct reinvestigation but the provision enables the investigating agency to further investigate. If any Court is satisfied that any person was liable to answer the prosecution case, the proper provision is made under Section 319 Cr.P.C. If de-novo investigation is allowed, make entire investigation a futile exercise.

58. I have considered the submission of the learned Senior Counsel in the light of the facts and circumstances of the case and the final report.

59. As mentioned earlier, all the three criminal complaints in FIR No.441 of 2015 (C.C.No.24 of 2021); FIR No.298 of 2017 (C.C.No.19 of 2020); FIR No.344 of 2018 (C.C.No.25 of 2021) are inter connected with cash-for-job scam in the same recruitment to the post at State Transport Corporation during the year 2014-2015.

60. It is to be noted that only in C.C.No.24 of 2021 (Crime No.,441 of 2015) the investigating agency in the final report/charge sheet charged the accused under the Prevention of Corruption Act, 1988. In the remaining two criminal cases in C.C.No.19 of 2020 & in C.C.No.25 of 2021) not charged under Prevention of Corruption Act, 1988. This fact was noted by the Hon’ble Supreme Court in Criminal Appeal No.1514 of 2022 (Special Leave Petition (Crl.) No.1354 of 2022) (P.Dharmaraj Vs. Shanmugam & Ors.) and directed to conduct further investigation in C.C.No.25 of 2021.

61. As per the further fact of the case, it would be beyond doubt that the matter in question is interconnected with the matter in C.C.No.25 of 2021 (FIR No.344 of 2018). The Hon’ble Supreme Court, while disposing the abovesaid criminal appeal, made a strong suggestion to the State to undertake a comprehensive investigation with the entire scam. In Para – 48 of the Judgment “**As a matter of fact, the State ought to have undertaken a comprehensive investigation into the entire scam, without allowing the accused to fish out one case as if it was a private money dispute.**”

62. There is a need for maintaining a balance between rights of an accused and the rights of an individual victim and Society.

63. A perusal of the final reports, it is seen that the investigating agency has acted with extraordinary dilatoriness, in the matter by not including the offences under the Prevention of Corruption of Act, in C.C.No.19 of 2020 and C.C.No.25 of 2021, a complaint against the accused is essentially receiving money for providing job. The investigating agency concerned did not act diligently in this matter.

64. Further, the investigating agency, though seized register used for entering the interview marks and forwarded to Forensic Document analysis in order to decipher in manipulations without getting the report from the Forensic Department and knowing the result of the Forensic Document analysis, have filed the final report without material to support the allegations. Para – 10 of the affidavit filed by the Assistant Commissioner of Police, CCB (Job Racketing) Crl.O.P.No.15122 of 2021 in Crl.M.P.No.8249 of 2021 reveals the above fact. For better appreciation is reproduced here, which runs as follows;

“10. It is respectfully submitted that Scrutiny of the Registers used for entering the interview marks reveals that the marks against the eligible candidates have been found manipulated and they have to be sent for Forensic Document Analysis in order to decipher the manipulations...”

65. Further, in the affidavit para- 16, the investigating officer stated that the case in crime No.441 of 2015 has to be investigated in respect of remaining allegation of criminal misconduct by public servants.

66. The above affidavit reflects the fact that the investigation is incompleting one and the investigating agency in formal manner enquired from the witnesses and no careful enquiry has been made. Further, the final report what types of irregularities have been committed were not stated.

67. To eliminate any impression of bias and avoid erosion of credibility of investigation, I am of the view that all the three criminal cases in C.C.No.19 of 2020, C.C.No.24 of 2021 and C.C.No.25 of 2021 the State ought to have taken a comprehensive reinvestigation /de-novo investigation, keeping in mind that the Hon’ble Supreme Court already ordered further investigation in the criminal case in C.C.No.25 of 2021. Further, the case is also not before me, therefore, I am confined with the cases before me i.e. C.C.No.19 of 2020 and C.C.No.24 of 2021 alone.

68. It cannot be disputed that even after filing of the charge sheet and taking cognizance by the Court, the police has ample power to investigate further the crime. Since the ultimate object of every investigation is to find out whether offence alleged have been committed and, if so, who have committed it.

69. The Hon’ble Supreme Court in the Case of ***“Rishbud Vs.State of Delhi” MANU/SC/0049/1954*** has observed that further investigation is not altogether ruled out merely because cognizance of the case has been taken by the Court and further investigation can be ordered even after the charge sheet is submitted.

70. The Hon’ble Supreme Court in the matter of ***Hasanabhai Vallibhai Quresh Vs.State of Gujarat and others”2004 (2) Crimes 145 (SC)*** observed that the factor of delay of trial must not deter the hands of the investigating agency or the Courts where further investigation is necessary.

71. The right of police to make repeated investigation was recognized by this Court as early as in 1919 in the case ***“Divakar Singh Vs.A.Ramamurthi Naidu” MANU/TN/0012/1918”***

72. Therefore, further investigation is not altogether ruled out merely because cognizance of the case has been taken by the Court, defective investigation may be cured by reinvestigation/de-novo investigation.

73. In this case, it is alleged that the irregularities were took place in the recruitment process and in appointment at State Transport Corporation during the period 2014-

2015 besides there was a allegation of cash-for-job scam. An irregularity could take place at any stage. The final report reveals that the investigating agency did not get the Forensic Document Analysis of registers used for entering interview marks in order to decipher the manipulations and the investigating agency in the final report did not identify where the irregularity started and how who are parties to that irregularities for manipulating the interview marks in the registers used at the time of interview.

74. Going through all the papers before me, I am of the opinion that these cases i.e. C.C.No.19 of 2020, C.C.No.24 of 2021 are fit one to direct reinvestigation/de-novo investigation for collecting fresh evidence and mater al to find out the truth.

75. The Hon'ble Supreme Court in **Neetu Kumar Nagaich Vs. The State of Rajasthan and Ors. AIR 2020 SC 5267**" in para – 9 of the its judgment observed in such exceptional circumstances, the Court may in order to prevent miscarriage of criminal justice direct the de-novo investigation. The relevant portion is as follows:

"9 . Normally when an investigation has been concluded and police report submitted Under Section 173(2) of the Code, it is only further investigation that can be ordered Under Section 173(8) of the Code. But where the constitutional court is satisfied that the investigation has not been conducted in a proper and objective manner, as observed in Kashmeri Devi v. Delhi Administration, MANU/SC/0237/1988 : (1988) Suppl. SCC 482, fresh investigation with the help of an independent agency can be considered to secure the ends of justice so that the truth is revealed. The power may also be exercised if the court comes to the conclusion that the investigation has been done in a manner to help someone escape the clutches of the law. In such exceptional circumstances the court may, in order to prevent miscarriage of criminal justice direct de novo investigation as observed in Babubhai v. State of Gujarat, MANU/SC/0643/2010 : (2010) 12 SCC 254. A fair investigation is as much a part of a constitutional right guaranteed Under Article 21 of the Constitution as a fair trial, without which the trial will naturally not be fair. "

76. Further, the Hon'ble Supreme Court in **State of Punjab Vs. Central Bureau of Investigation and other (2011) 9 Supreme Court Cases 182**, while considering Section 173(8) Cr.P.C. observed that the language of Section 173(8) Cr.P.C cannot limit or affect the inherent powers of the High Court to pass an order under Section 482 Cr.P.C. for fresh investigation or reinvestigation if the High Court is satisfied that such fresh investigation or reinvestigation is necessary to secure the ends of justice.

77. In the present criminal cases, the investigation has significantly suffered for not getting Forensic Document Analysis report with regard to registers used for entering the interview marks besides suffered due to peace meal and disruptive approach of the investigating agencies. The invest gation has most importantly suffered due to multiple petition filed before this High Court and further investigations at the instance of different parties at different stages it is important to keep in mind that all the criminal complaints in C.C.No.19 of 2020, C.C.No.24 of 2021 and C.C.No.25 of 2021 arise from the same cause of action and the allegation in all these cases are similar and one and the same. That is all are cash-forjob scam.

78. The investigation in the above criminal cases so far is neither effective nor purposeful nor objective nor fair as observed by the Supreme Court in the criminal appeal No.1514 of 2022.

79. Therefore, I am of the view that reinvestigation to be started *abinitio* wiping out the earlier investigation altogether and to collect fresh evidence and material in the above

criminal cases. Hence, I allowed the CrI.O.P.No.15122 of 2021 in C.C.No.24 of 2021 for de-novo investigation along with C.C.No.19 of 2021.

80. Therefore, it is directed the investigation should be conducted *ab-initio* comprehensively without reference to the earlier investigation on record covering all the aspects in relation C.C.No.19 of 2020 and C.C.No.24 of 2021 including whether the offence under Prevention of Corruption Act, 1988 are made out against the accused. The special Court before which C.C.No.19 of 2020 and C.C.No.24 of 2021 are pending will be at liberty to exercise power under Section 216 Cr.P.C, if there is any reluctance on the part of the State/investigating Officer.

81. Further, on completion of investigation, if the investigating agency makes out a case for cognizance of offence against the accused then the investigating agency of the predicate offence shall provide the relevant materials/documents to the Directorate of Enforcement so as to enable it to invoke its jurisdiction to commence its enquiry under the P.M.L.A Act thereafter.

82. All impleading petitions in all criminal cases namely, CrI.M.P.Ns.10504 of 2021, 12532 of 2022, 10505 of 2021, 10209 of 2021, 10210 of 2021, 12528 of 2022, 9400 of 2021, 9398 of 2021, 11925 of 2021m 10818 of 2021 and 10909 of 2021.

1. Victim participatory rights are currently recognized as an important component of criminal justice proceedings.

2. Who is victim “ is defined in criminal procedure code under Section 2(wa), It is inserted by Act 5 of 2009 (Section 2) with effect 31.12.2009, it is as follows:

“2.. . . . (wa) “victim” means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression “victim” includes his or her guardian or legal heir;”

3. In medical negligence claim, the law draws a distinction between primary and secondary victims. A primary victim is the patient, who has suffered the alleged negligence; secondary victim is a person, who suffers injury, as a result of the negligence suffered by the primary victim.

83. In this case, the petitioners viz., Mr.Nambi Venkatesh, Mr.Dharmaraj, are non selected candidates in the recruitment process in the State Transport Corporation and the Anti Corruption Movement petitioners are not bribe givers for getting jobs further they are not complainants in the abovesaid three complaints (FIR Nos.441 of 2015, 298 of 2017, 344 of 2018), therefore, they are not direct victims, may be indirect victims. The locus of the petitioners are confined only to assisting the investigating agency and the Court through State Public Prosecutor otherwise the petitioners have no independent right in the conduct or hearing of the proceedings. Further, the Directorate of Enforcement Authority has independent jurisdiction under the PML Act to take action against the offender, therefore, need not file impleading petitions in the criminal proceedings, it is unwarranted. Further, the other two petitioners namely, Mr.Gobi and Mr.Arun Kumar seeking de-novo investigation, they only support the petitioner in CrI.O.P.No.15122 of 2021, therefore, they need not be impleaded in the proceedings as the CrI.O.P.No.15122 of 2021 is allowed. Therefore, I hereby dismissed all the criminal miscellaneous petitions filed by the petitioner for impleading them as the respondents in the criminal proceedings.

84. In the result ,

- (i) all the petitions for impleading the petitioners as respondents in the above criminal proceedings are hereby dismissed.
- (ii) Criminal Revision Case in CrI.R.C.No.224 of 2021 filed by the petitioner in C.C.No.19 of 2020 is hereby dismissed. Consequently, connected miscellaneous petitions are closed.
- (iii) CrI.O.P.No.13914 of 2021 filed by the petitioner in C.C.No.19 of 2020 is hereby dismissed. Consequently, connected miscellaneous petitions are closed.
- (iv) CrI.O.P.No. 6621 of 2021 filed by the petitioner in C.C.No.24 of 2021 is hereby dismissed. Consequently, connected miscellaneous petitions are closed.
- (v) CrI.O.P.No.15122 of 2021 filed by the petitioner in C.C.No.24 of 2021 is hereby allowed with the direction to the investigating officer shall conduct de-novo reinvestigation in C.C.No.19 of 2020 and C.C.No.24 of 2021 without reference to the earlier investigation on record. The investigation should be conducted ***ab initio*** comprehensively covering all the aspect arising out of or in relation to C.C.Nos.19 of 2020 and 24 of 2021 including as to whether the offence under the prevention of corruption Act are made out against the accused and collected from evidence. The special Court, before which, the case in C.C.Nos.19 of 2020 and C.C.No.24 of 2021 are pending will be at liberty to exercise power under Section 216 of Cr.P.C if there is any reluctants on the part of the State/Investigating officer. Further, on completion of investigation, if the investigating officer makes out a case for cognizance of offence against the accused persons then the investigating officer of the predicate offence shall provide the relevant materials and documents to the Director of Enforcement so as to enable it to invoke its jurisdiction to commence its enquiry under the PML Act thereafter. Consequently, connected miscellaneous petitions are closed.

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