(C.R)

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K. BABU

WEDNESDAY, THE 16TH DAY OF NOVEMBER 2022 / 25TH KARTHIKA, 1944

WP(CRL.) NO. 407 OF 2021

PETITIONER:

T.A ABDUL SATHAR,
AGED 45 YEARS,
S/O ALI, THOPPIL HOUSE,
MUPPATHADAM .P.O, ALUVA,
ERNAKULAM DISTRICT-683110.

BY ADVS.
RENJITH.R
ANISH JOSE ANTONY
ANJU MOHAN

RESPONDENTS:

1 THE STATE OF KERALA,
REPRESENTED BY ITS SECRETAZRY, HOME DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.

2 THE DIRECTOR,
VIGILANCE AND ANTI-CORRUPTION BUREAU, VIKAS BHAVAN.P.O,
THIRUVANANTHAPURAM-695033.

3 DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI-CORRUPTION BUREAU, KOTTAYAM,
PIN-686001.

BY ADV
SRI. RAJESH.A (SPL.G.P (VIGILANCE)
SMT. REKHA.S (SR.P.P)

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 16.11.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

(C.R)

K.BABU, J.

W.P(Crl) No.407 of 2021

Dated this the 16th day of November, 2022

JUDGMENT

The petitioner was the Sub Inspector of Police, Kaduthuruthy Police Station. He is seeking to quash the FIR registered as VC No.7/2021/KTM by the Vigilance and Anti-Corruption Bureau (VACB), Kottayam Unit alleging offence punishable under Section 7 of the Prevention of Corruption Act, 1988 (for short 'the Act').

2. **Facts**:

2.1. While the petitioner was serving as Sub Inspector (Law and Order) at Kaduthuruthy Police Station, he was entrusted with the investigation in Crime No.281/2021 registered alleging offences punishable under Sections 498A and 323 read with Section 34 of the Indian Penal Code against the defacto complainant in V.C No.7/2021 and three others. Sri.Anil Kumar was employed as an Assistant Sub Inspector of Police at the

Kaduthuruthy Police Station. The defacto complainant and the other accused were granted anticipatory bail. Sri. Vijay.P.Victor, the brother of the defacto complainant, approached the petitioner and Sri. Anil Kumar, in connection with the crime registered against the defacto complainant and others.

2.2. The defacto complainant alleged that the petitioner and the other accused demanded bribe through Sri.Vijay.P.Victor. Later Sri. Anil Kumar received Rs.5,000/- in March 2021 from the father of the defacto complainant and Rs.15,000/- from his brother.

2.3. On 09.08.2021, the defacto complainant contacted Sri.Anil Kumar over phone and informed that the accused in the crime were granted anticipatory bail. Sri. Anil Kumar told him that out of Rs.20,000/- given earlier, Rs.15,000/- was given to the petitioner and that he required more money as bribe. The defacto complainant preferred a complaint before the VACB. The Deputy Superintendent of Police, VACB, Kottayam Unit laid a trap based on Ext.P1 FIS and Sri. Anil Kumar was arrested along with

the bribe money on 12.08.2021. Sri.Anil Kumar and the petitioner have been arrayed as accused Nos.1 and 2 respectively in the crime.

3. Heard Sri. Anish Jose Antony, the learned counsel appearing for the petitioner, Smt. Rekha.S, the learned Senior Public Prosecutor appearing for respondent No.1 and Sri.A Rajesh, the learned Special Government Pleader (Vigilance) appearing for respondent Nos.2 and 3.

4. The learned counsel for the petitioner contended that no cognizable offence is made out against the petitioner in the FIS, based on which, Ext.P1 FIR has been registered. The learned counsel contended that in the given circumstances, the proceedings initiated against the present petitioner deserve to be quashed and set aside being an abuse of the process of the Court.

5. The learned counsel for the petitioner specifically raised the following grounds in support of his plea:

(a) No offence is made out to attract Section 7

of the Act.

(b) No preliminary enquiry as required in **Lalita Kumari v. Govt. of U.P., [2014 (2) SCC 1]** has been conducted before the registration of the crime against the petitioner.

(c) No approval under Section 17-A of the Act was obtained in the matter.

(d) The Investigating Officer ought to have implicated the bribe giver also as an accused in view of Section 8 of the Act.

6. The learned Senior Public Prosecutor, per contra, contended that the materials placed before the Court *prima facie* revealed a cognizable offence against the petitioner and that preliminary enquiry is not mandatory but only directory. The learned Senior Public Prosecutor further contended that the approval as provided in Section 17-A of the Act is only required where the alleged offence is relatable to any recommendation made or decision taken by a public servant in discharge of his

official functions and duties. The learned Senior Public Prosecutor submitted that the offence under Section 8 of the Act is brought out only when a person induces a public servant to perform improperly a public duty and in the present case, there is nothing to show that the defacto complainant herein or any of the accused in FIR No.281/2021 induced the petitioner or any other public servants to perform improperly a public duty.

7. The present crime has been registered based on Ext.P1 FIS. The relevant portion of Ext.P1 FIS reads thus:

> "എനിക്ക് ദുബായിൽ ജോലിയാണ്. ഞാനും എന്റെ ഭാര്യ അരുണിമയും മകൾ വിയ മരിയ വിനോയിയും ദുബായിലാണ് ആണ് താമസിച്ചിരുന്നത്. ഞാനും ഭാര്യയും തമ്മിൽ കുറച്ചുകാലങ്ങളായി കുടുംബപ്രശ്നങ്ങൾ ഉണ്ട് കഴിഞ്ഞ മാർച്ചിൽ ഞങ്ങൾ നാട്ടിലെത്തി. പാലക്കാടുള്ള എന്റെ വീട്ടിൽ വച്ച് മാർച്ച് 17-ന് ഞാനും ഭാര്യയും തമ്മിൽ വഴക്കുണ്ടായി. തുടർന്ന് പോലീസുകാർ വീട്ടിലെത്തുകയും, പ്രശ്നങ്ങൾ പറഞ്ഞു തീർക്കുകയും ചെയ്തു. ഭാര്യയെ കുറുപ്പന്തറ മാഞ്ഞൂരുള്ള അവളുടെ വീട്ടിൽ കൊണ്ടാക്കുവാൻ പോലീസുകാർ നിർദേശിച്ചതനുസരിച്ച് ഞാൻ ഭാര്യയേയും മകളെയും കൂട്ടി 17.03.2021 ഭാര്യവീട്ടിലെത്തി. അവിടെ വെച്ച് ഭാര്യയും, അവരുടെ മാതാപിതാക്കളും, ജോസ് എന്ന ഒരു ഗുണ്ടയും ചേർന്ന് എന്നെ മർദ്ദിച്ച് അവശനാക്കി. ഇക്കാര്യത്തിന് ഞാൻ കടുത്തുരുത്തി പോലീസ് സ്റ്റേഷനിൽ പരാതി നൽകിയെങ്കിലും എന്റെ പരാതിയിന്മേൽ യാതൊരു നടപടിയും സ്വീകരിച്ചില്ല. എന്നാൽ എനിക്കും എന്റെ മാതാപിതാക്കൾക്കും എതിരെ എന്റെ ഭാര്യ അരുണിമ നൽകിയ പരാതിയിന്മേൽ കടുത്തുരുത്തി പോലീസ് സ്റ്റേഷൻ ക്രൈം നമ്പർ 281/2021, 498 A സെക്ഷൻ പ്രകാരം കേസ് രജിസ്റ്റർ ചെയ്തു. തുടർന്ന് ഞങ്ങൾക്കെതിരെ കേസ് രജിസ്റ്റർ ചെയ്തതുമായി ബന്ധപ്പെട്ട് അന്വേഷിക്കാനെത്തിയ എന്റെ ചേട്ടൻ വിജയ്.പി.വിക്ടറിനോട് കടുത്തുരുത്തി പോലീസ്

സ്റ്റേഷനിലെ എസ് ഐ അബ്ദുൽ സത്താർ, എ എസ് ഐ അനിൽകുമാർ എന്നിവർ കേസിന്റെ കാര്യങ്ങൾ സംസാരിച്ചതിനുശേഷം ഇതിന് പണച്ചിലവുണ്ടെന്ന് പറഞ്ഞു എന്റെ അച്ഛന്റെ കയ്യിൽ നിന്നും മാർച്ച മാസം 5000/- രൂപയും ചേട്ടന്റെ കയ്യിൽ നിന്നും ഏപ്രിൽ മാസത്തിൽ 15,000/- രൂപയും ഉൾപ്പെടെ എ എസ് ഐ അനിൽകുമാർ സർ 20,000/- രൂപ കൈക്കൂലി ചോദിച്ചു വാങ്ങിച്ചതായി ചേട്ടൻ എന്നോട് പറഞ്ഞു. ഞാൻ പ്രതിയായ കേസിൽ എനിക്ക് കോടതിയിൽ നിന്നും പിന്നീട് ഉപാധികളോടെ മുൻകൂർ ജാമ്യം കിട്ടിയിരുന്നു. കൂടാതെ എന്റെ മകളെ വിട്ടുകിട്ടുന്നതിനായി ഏറ്റുമാനൂർ കുടുംബ കോടതിയിൽ കൊടുത്ത പരാതിയിൽ എനിക്ക് അനുകൂല വിധി ഉണ്ടായിട്ടുള്ളതാണ് എനിക്ക് ബഹുമാനപ്പെട്ട കോടതി 25,000/- രൂപ അല്ലെങ്കിൽ രണ്ട് ആൾ ജാമ്യം വ്യവസ്ഥയിലാണ് ജാമ്യം നൽകിയിരിക്കുന്നത്. എന്റെ അഡ്വക്കേറ്റ് പറഞ്ഞതനുസരിച്ച് ഞാൻ 09.08.2021 തീയതി ഉച്ചക്കഴിഞ്ഞ് എന്റെ 8156938785 എന്ന നമ്പറിൽ നിന്നും എ എസ് ഐ അനിൽകുമാർ സാറിനെ അദ്ദേഹത്തിന്റെ 9447039649 എന്ന മൊബൈൽ നമ്പറിൽ വിളിച്ച് എനിക്ക് ജാമ്യം കിട്ടിയ വിവരം അറിയിച്ചു. അപ്പോൾ അനിൽകുമാർ സാർ എന്നോട് സ്റ്റേഷനിൽ വന്ന് ജാമ്യം എടുക്കണമെന്നും ജാമ്യമെടുക്കാൻ വരുമ്പോൾ അതിന്റെ കാര്യങ്ങൾ വേണ്ട രീതിയിൽ ചെയ്യണമെന്നും പറഞ്ഞു. *"20000/-* രൂപ നേരത്തെതന്നതല്ലേ" എന്നും ഞാൻ ആ സാറിനോട് ചോദിച്ചപ്പോൾ അതിൽ *15,000/-* രൂപ എസ് ഐ അബ്ദുൽ സത്താർ കൊണ്ടുപോയെന്നും അതിന്റെ കാര്യങ്ങൾ തട്ടുമുട്ടു നടക്കണമെന്നും, പുതിയ എസ് ഐ ആണ് എല്ലാം ഞാൻ എഴുതിയില്ലേ ജാമ്യം കിട്ടാനുള്ള പരിപാടിക്ക് ഞാൻ എഴുതി കൊടുത്തില്ലേ പിന്നെ എന്താ എല്ലാവർക്കും ജാമ്യം കിട്ടിയില്ലേ കേസ് നിക്കത്തില്ല മാന്യമായിട്ട് കാണണം, മാന്യമായിട്ട് വാ" **എന്നും മറ്റും എന്നോട് പറഞ്ഞു."**

8. The learned counsel for the petitioner contended that the FIR does not disclose anything to infer that the petitioner had demanded or attempted to obtain any undue advantage. There is a specific allegation in the above extracted FIS that the petitioner and the other accused represented to Sri.Vijay.P.Victor, brother of the defacto complainant that they had to spend money and the

subsequent allegations in Ext.P1 would show that the petitioner received Rs.15,000/- through the other accused. It is profitable to extract the penal provision, Section 7 of the Act, which reads thus:

> **"7. Offence relating to public servant being bribed**.—Any public servant who,—
>
> (a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or
>
> (b) obtains or accepts or attempts to obtain, an undue advantage from any person as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or
>
> (c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in consequence of accepting an undue advantage from any person, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.
>
> Explanation 1.—For the purpose of this section, the obtaining, accepting, or the attempting to obtain an undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper.
>
> Illustration.—A public servant, "S" asks a person, "P" to give him an amount of five thousand rupees to process his routine ration card application on time. "S" is guilty of an offence under this section.
>
> Explanation 2.—For the purpose of this section,—
>
> (i) the expressions "obtains" or "accepts" or "attempts to obtain" shall cover cases where a person being a public servant, obtains or "accepts" or attempts to obtain, any undue advantage for himself or for another person, by abusing his position as a public servant or by using his

> personal influence over another public servant; or by any other corrupt or illegal means;
>
> (ii) it shall be immaterial whether such person being a public servant obtains or accepts, or attempts to obtain the undue advantage directly or through a third party."

9. The specific allegation of the defacto complainant in Ext.P1 is that the petitioner and the other accused represented to the brother of the defacto complainant that they would have to spend money in connection with the case and that the petitioner received money through the other accused. Explanation 2 to Section 7 makes it clear that it shall be immaterial whether such person being a public servant obtains or accepts or attempts to obtain the undue advantage directly or through a third party. Therefore, the contention of the petitioner that no offence under Section 7 of the Act is revealed in the allegations in Ext.P1 cannot be sustained.

10. The learned counsel for the petitioner relying on **Charansingh v. State of Maharashtra (AIR 2021 SC 1620) : [(2021) 5 SCC 469]** contended that preliminary enquiry was required before the registration of the crime. In **Charansingh's** case (supra) the Apex Court held thus:

> **"14.**In the context of offences relating to corruption, in para 117 in ***Lalita Kumari***, this Court also took note of the decision of this Court in ***P. Sirajuddin*** v. ***State of Madras*** in which case this Court expressed

the need for a preliminary enquiry before proceeding against public servants.

15. While expressing the need for a preliminary enquiry before proceeding against public servants who are charged with the allegation of corruption, it is observed in ***P. Sirajuddin*** that :

> *"before a public servant, whatever be his status, is publicly charged with acts of dishonesty which amount to serious misdemeanour or misconduct of indulging into corrupt practice and a first information is lodged against him, there must be some suitable preliminary enquiry into the allegations by a responsible officer. The lodging of such a report against a person who is occupying the top position in a department, even if baseless, would do incalculable harm not only to the officer in particular but to the department he belonged to in general. If the Government had set up a Vigilance and Anti-Corruption Department as was done in the State of Madras and the said department was entrusted with enquiries of this kind, no exception can be taken to an enquiry by officers of this Department.*

It is further observed that : (**P. Sirajuddin case SCC, p. 601, para 17**)

> *"when such an enquiry is to be held for the purpose of finding out whether criminal proceedings are to be initiated and the scope thereof must be limited to the examination of persons who have knowledge of the affairs of the person against whom the allegations are made and documents bearing on the same to find out whether there is a prima facie evidence of guilt of the officer, thereafter, the ordinary law of the land must take its course and further enquiry be proceeded with in terms of the Code of Criminal Procedure by lodging a first information report."*

15.1. Thus, an enquiry at pre-FIR stage is held to be permissible and not only permissible but desirable, more particularly in cases where the allegations are of misconduct of corrupt practice acquiring the assets/properties disproportionate to his known sources of income. After the enquiry/enquiry at pre-registration of FIR stage/preliminary enquiry, if, on the basis of the material collected during such enquiry, it is found that the complaint is vexatious and/or there is no substance at all in the complaint, the FIR shall not be lodged. However, if the material discloses prima facie a commission of the offence alleged, the FIR will be lodged and the criminal proceedings will be put in motion and the further investigation will be carried out in terms of the Code of Criminal Procedure. Therefore, such a preliminary enquiry would be permissible only to ascertain whether cognizable

> offence is disclosed or not and only thereafter FIR would be registered. Therefore, such a preliminary enquiry would be in the interest of the alleged accused also against whom the complaint is made."

11. A Two Judge Bench of the Apex Court in **State of Telangana v. Managipet Alias Mangipet Sarveshwar Reddy [(2019) 19 SCC 87]** held thus:

> "**34**. Therefore, we hold that the preliminary inquiry warranted in ***Lalita Kumari*** is not required to be mandatorily conducted in all corruption cases. It has been reiterated by this Court in multiple instances that the type of preliminary inquiry to be conducted will depend on the facts and circumstances of each case. There are no fixed parameters on which such inquiry can be said to be conducted. Therefore, any formal and informal collection of information disclosing a cognizable offence to the satisfaction of the person recording the FIR is sufficient."

12. After referring to **Charansingh (supra)** and other relevant precedents, a Three Judge Bench of the Apex Court in **Central Bureau of Investigation v. Thommandru Hannah Vijayalakshmi (AIR 2021 SC 5041) : (2021 SCC OnLine SC 93)** held thus:

> "Hence, all these decisions do not mandate that a Preliminary Enquiry must be conducted before the registration of an FIR in corruption cases. An FIR will not stand vitiated because a Preliminary Enquiry has not been conducted. The decision in ***Managipet*** (supra) dealt specifically with a case of Disproportionate Assets. In that context, the judgment holds that where relevant information regarding *prima facie* allegations disclosing a cognizable offence is available, the officer recording the FIR can proceed against the accused on the basis of the information without conducting a Preliminary Enquiry."

13. The conclusion based on the precedents referred above is that where the relevant information regarding *prima facie*

allegations disclosing a cognizable offence is made available, the officer concerned can register FIR and proceed further even without conducting a preliminary enquiry. Therefore, the contention of the learned counsel for the petitioner that the FIR was registered against the petitioner without conducting a preliminary enquiry has no legal base.

14. Coming to the application of Section 17-A of the Act. It is the contention of the learned counsel for the petitioner that the Investigating Officer ought to have obtained approval from the competent authority as provided under Section 17-A of the Act. Section 17-A of the Act reads thus:

> "17-A. **Enquiry or Inquiry or investigation of offences relatable to recommendations made or decision taken by public servant in discharge of official functions or duties.-** No police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under this Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties, without the previous approval—
>
> (a) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of the Union, of that Government;
>
> (b) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of a State, of that Government;
>
> (c) in the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed:
>
> Provided that no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of

> accepting or attempting to accept any undue advantage for himself or for any other person:
>
> Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month."

15. The approval as provided in Section 17-A comes into play only when the alleged offence is relatable to any recommendation made or decision taken by a public servant in discharge of his official functions or duties. This view is fortified by the decision of this Court in **Shankara Bhat and others v. State of Kerala and others [2021 (5) KHC 248]** and **Venugopal v. State of Kerala [2021 (5) KLT 287]**.

16. In the present case, the allegation is that the petitioner and the other accused accepted bribe from the relatives of the defacto complainant. The acts alleged against the petitioner are in no way relatable to any recommendation made or decision taken by the petitioner in discharge of his official functions and duties.

17. The learned counsel for the petitioner further contended that the Investigating agency ought to have proceeded against the bribe givers as they have committed offence under Section 8 of the Act. Section 8 of the Act reads thus:

> "8.**Offence relating to bribing of a public servant.**--(1) Any person who gives or promises to give an undue advantage to another person or persons, with intention-
>
> (i) to induce a public servant to perform improperly a public duty; or
>
> (ii) to reward such public servant for the improper performance of public duty,
>
> shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both:
>
> Provided that the provisions of this section shall not apply where a person is compelled to give such undue advantage:
>
> Provided further that the person so compelled shall report the matter to the law enforcement authority or investigating agency within a period of seven days from the date of giving such undue advantage:
>
> Provided also that when the offence under this section has been committed by commercial organisation, such commercial organisation shall be punishable with fine."

18. The essential requirement for attracting the offence under Section 8 is that the bribe giver induced a public servant to perform improperly a public duty or to reward such public servant for the improper performance of public duty. In the factual matrix, this Court finds nothing to show that the defacto complainant or any others related to him induced the petitioner to perform improperly any public duty or for improper performance of any public duty.

19. After all, this Court is not concerned with the question whether the bribe givers committed any offence or not. This Court is only concerned with the question whether the allegations contained in the FIS which formed the basis of the registration of

the crime against the petitioner revealed any cognizable offence or not.

20. It is settled by a long course of decisions of the Apex Court that for the purpose of exercising its power under Section 482 Cr.P.C. to quash criminal proceedings, the High Court would have to proceed entirely on the basis of the allegations made in the complaint or the documents accompanying the same *per se*. It has been further held that the High Court has no jurisdiction to examine the correctness or otherwise of the allegations {Vide: **State of West Bengal v. Swapan Kumar Guha [(1982) 1 SCC 561], Pratibha Rani v. Suraj Kumar [(1985) 2 SCC 370]**}.

21. In **State of Kerala v. O.C. Kuttan [(1999) 2 SCC 651]**, the Apex Court held that while exercising the power, it is not possible for the Court to sift the materials or to weigh the materials and then come to the conclusion one way or the other. In **State of U.P v. O.P.Sharma [(1996) 7 SCC 705]** a Three Judge Bench of the Apex Court observed that the High Court should be loath to interfere at the threshold to thwart the prosecution exercising its inherent power under Section 482 Cr.P.C or under Articles 226 and 227 of

the Constitution of India, as the case may be, and allow the law to take its own course. This view was reiterated by another Three Judge Bench of the Apex Court in **Rashmi Kumar v. Mahesh Kumar Bhada [(1997) 2 SCC 397],** wherein the Apex Court held that such power should be sparingly and cautiously exercised only when the Court is of the opinion that otherwise there will be gross miscarriage of justice. It is trite that the power of quashing criminal proceedings should be exercised with circumspection and that too, in the rarest of rare cases and it was not justified for this Court in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the Final report or the complaint. A finding on the veracity of a material relied on by the prosecution in a case where the allegations levelled by the prosecution disclose a cognizable offence, is not a consideration for the High Court while exercising its power under Section 482 Cr.P.C. This view is fortified by the decision of the Apex Court in **Mahendra K.C. v. State of Karnataka and Ors. (AIR 2021 SC 5711).**

22. While dealing with the power under Section 482 Cr.P.C to

quash the criminal proceedings the Apex Court in **M/s.Neeharika Infrastructure Pvt. Ltd v. State of Maharashtra and others (AIR 2021 SC 1918)** concluded thus in paragraph 23 of the judgment:

> 23. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition Under Section 482 Code of Criminal Procedure and/or Under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the Accused or "no coercive steps to be adopted" during the investigation or till the final report/chargesheet is filed Under Section 173 Code of Criminal Procedure, while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers Under Section 482 Code of Criminal Procedure and/or Under Article 226 of the Constitution of India, our final conclusions are as under:
>
> (i) xxx xxx xxx
> xxx xxx xxx
>
> (xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;
>
> (xiii) xxx xxx xxx
>
> (xiv) xxx xxx xxx
>
> (xv) When a prayer for quashing the FIR is made by the alleged Accused and the court when it exercises the power Under Section 482 Code of Criminal Procedure, only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. 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;"

23. In the present case, the petitioner failed to convince this Court that the allegations levelled against him in the prosecution records made available do not disclose the ingredients of Section 7 of the Act. The correctness or otherwise of the allegations levelled in Ext.P1 is a matter to be tested during the course of the investigation. It is made clear that this Court has not made any observation on the merits or otherwise of the allegations levelled in Ext.P1 which formed the foundation of the registration of the FIR under challenge.

The Writ Petition (Criminal) lacks merits. It stands dismissed.

Sd/-
K.BABU,
JUDGE

KAS

APPENDIX OF WP(CRL.) 407/2021

PETITIONER EXHIBITS

Exhibit P1	THE TRUE COPY OF THE FIR DATED 12.08.2021 IS PRODUCED HEREWITH AND MARKED AS EXHIBIT P1.
Exhibit P2	THE TRUE COPY OF THE SUSPENSION ORDER DATED 29.08.2021
Exhibit P3	THE TRUE COPY OF THE ORDER OF THIS HON'BLE COURT IN BAIL APPLICATION 6805/2021 DATED 10.09.2021.