

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE A. BADHARUDEEN**

Thursday, the 26th day of June 2025 / 5th Ashadha, 1947

CRL.MC NO. 5631 OF 2025

**SC 2/2025 OF SPECIAL C SPE/CBI-I&3 ADDITIONAL DISTRICT COURT, ERNAKULAM
PETITIONER(S)/ACCUSED 1 AND 2**

- 1. SAJI JOHN, AGED 54 YEARS, S/O LATE SHRI TK
ULAHANNAN MATTATHILPUTHENPURAYIL HOUSE ELANJI PO ALAPURAM, ERNAKULAM
DISTRICT KERALA, PIN - 686636.**
- 2. BINDHU SAJI, AGED 53 YEARS, W/O.SAJI JOHN, MATTATHILPUTHENPURAYIL
HOUSE, ELANJI PO ALAPURAM ERNAKULAM DISTRICT, KERALA, PIN - 686636.**

RESPONDENT(S)/COMPLAINANT

**ASSISTANT DIRECTOR, DIRECTORATE OF ENFORCEMENT, GOVERNMENT OF INDIA
COCHIN ZONAL OFFICE KANOOO CASTLE MULLASSERY CANAL ROAD WEST, KOCHI
KERALA, PIN - 682011.**

**This Criminal Miscellaneous Case coming on for orders upon perusing
the petition and upon hearing the arguments of M/S.ARJUN VARMA & ROHITH
R., Advocates for the petitioners and of Standing Counsel for the
Respondent, the Court passed the following:**



A. BADHARUDEEN, J.

Crl.M.C. No. 5631 of 2025

Dated this the 26th day of June, 2025

O R D E R

Accused Nos.1 and 2 in S.C.(PMLA) No.2 of 2025 on the files of the Special Court (SPE/CBI)-1, Ernakulam, who are the petitioners herein assail Annexure.III order dated 07.03.2025, whereby the learned Special Judge issued summons to the accused, without complying Section 223(1) of the BNSS.

2. The learned counsel for the petitioners placed decision of the Apex Court reported in **[2025 KHC OnLine 6565 (SC)] Kushal Kumar Agarwal v. Directorate of Enforcement**, wherein the Apex Court held that, *Section 223(1) puts an embargo on the power of the Court to take cognizance by providing that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard, and failure to comply with this mandatory requirement renders the cognizance order liable to be set aside.*

3. Thus, an arguable point is made out to be decided in this case.

4. The learned Standing Counsel for Central Bureau of

Investigation seeks adjournment to next week.

Post on 03.07.2025 to address the question. In the meanwhile, since the accused/petitioners received summons, their appearance before the Special Court stands deferred till 03.07.2025.

Sd/-

A. BADHARUDEEN
JUDGE

SK

