CNR : KLHC010846132026

2026:KER:87764

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE 13TH DAY OF NOVEMBER 2026 / 22ND KARTHIKA, 1948

CRL.REV.PET NO. 1169 OF 2026

CRIME NO.1/2017 OF VACB, PATHANAMTHITTA,

REVISION PETITIONER/PETITIONER/2ND ACCUSED:

P.M RAJAN, AGED 76 YEARS, S/O. LATE. VARGHEESE MATHAI, RESIDING AT PUTHUPARAMBIL VEEDU, KUNNAM MURI, MANNADISALA, KOLLAMULA VILLAGE, NOW RESIDING AT PUTHUPARAMBIL VEEDU, KULAMAMKUZHI, CHETHAKAL VILLAGE, RANNI TALUK, PATHANAMTHITTA DISTRICT, PIN - 689677

BY ADVS.
SRI.R.NIKHIL
SMT.K.K.NESNA
SMT.HASEENA A.A.
SHRI.ABDUL RASHEED P.

RESPONDENT/RESPONDENT/STATE & COMPLAINANT:

STATE OF KERALA, REPRESENTED BY THE DEPUTY SUPERINTENDENT OF POLICE, VIGILANCE AND ANTI CORRUPTION BUREAU, PATHANAMTHITTA, THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031

OTHER PRESENT:

SR PP ROY THOMAS MUVATTUPUZHA

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06.11.2026, THE COURT ON 13.11.2026 DELIVERED THE FOLLOWING:

A. BADHARUDEEN, J.

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Crl. Rev. Pet. No. 1169 of 2026

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Dated this the 13th day of November, 2026

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ORDER

The second accused in C.C.No.59/2025, arising out of V.C.01/2017/PTA of Vigilance and Anti-Corruption Bureau, Pathanamthitta unit has filed this revision petition under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, assailing the order dated 14.10.2026 in Crl.M.P.No.141/2026, by which, the plea of discharge raised by the revision petitioner was dismissed by the Enquiry Commissioner and Special Judge (Vigilance), Kollam.

2. Heard the learned counsel for the revision petitioner/second accused and the learned Special Public Prosecutor in detail. Perused the order under challenge and the relevant records.

3. The prosecution case is that, the first accused while working as the Tribal Development Officer, Pathanamthitta, during the period from 24-08-2015 to 05-08-2016, and the third

accused while working as the Office Assistant at the Tribal Development Office, Ranny from 13-02-2012 to 31-01-2016 and as "public servants" abused their official positions with dishonest intention to confer undue pecuniary advantage to the second accused, who is the petitioner herein and accused Nos.4 to 7. The specific allegation is that the accused persons hatched criminal conspiracy and pursuant to the said conspiracy, accused Nos.4 to 7 had manipulated the land purchase process under a Government scheme by name "Ashikkum Bhoomi Adivasikku Swantham" implemented during the year 2015. Accordingly, the first accused being the Implementing Officer sanctioned and disbursed an amount of ₹77,00,000/- to the second accused/petitioner towards the purchase of 200 cents of lands in survey No.780/1-2-3170 of Kollamula Village at the rate of ₹38,500/- per cent intended to be distributed among 8 Scheduled Tribe beneficiaries, each entitled to not less than 25 cents of property. However, in deliberate violation of the scheme norms and with fraudulent intention, the second accused who actually possessed only 183.50 cents of land improperly set apart 13.33 cents of land for a pathway. This non-distributable extent of land

was also dishonestly included in the total consideration. Consequently, only an extent of 170.17 cents was available for actual distribution and this was arbitrarily and unequally divided among the beneficiaries. As a result, one beneficiary received 26.44 cents and the remaining seven beneficiaries were allotted substantially lesser extents of 18.33 cents, 20.01cents, 20.21 cents, 19.39 cents, 21.13 cents, 24.19 cents and 21.37 cents. Hence the very object of the welfare scheme was defeated. Further, by adopting this fraudulent method, an excess amount of ₹11,48,555/- was dishonestly paid to the second accused with the active assistance of the third accused who functioned as a broker in the entire transaction.

4. It is on this premise, the prosecution alleges commission of offences punishable under Section 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 (hereinafter referred as 'the PC Act') as well as under Sections 420, 120B and 34 of the Indian Penal Code (hereinafter referred as 'the IPC') by accused Nos.1 to 7.

5. The revision petitioner, who is the second accused, had approached the learned Special Judge seeking discharge,

mainly urging that, going through the prosecution materials, *prime facie,* commission of offences punishable under Section 13(1)(d) r/w 13(2) of the PC Act and Sections 420, 120B and 34 of IPC by the second accused, could not be found and in such view of the matter, the revision petitioner could not be proceeded further.

6. The prosecution side strongly opposed the contention, pointing out the materials showing his involvement in this case.

7. The learned Special Judge, after extracting the rival contentions urged by both sides, considered the question whether the charges levelled against the revision petitioner could be considered to be "groundless"?. After discussing the prosecution materials in paragraph No.10 with reference to the precedents referred to in paragraph Nos.11 and 12, the learned Special Judge found that there were ample *prima facie* materials for a trial against the petitioner and the veracity of the prosecution case regarding 'criminal conspiracy' alleged against the petitioner/second accused could only be considered, after a full-fledged trial, on evidence.

8. In this connection, the learned Special Judge given attention to the statement of witness No.14 to the effect that the petitioner and the other accused persons came together and discussed matters on the date of survey measurement at the site, inspite of referring the statements of witness Nos.15 to 17, showing his involvement in this case. Thus, as stated in paragraph Nos.10 to 13, the learned Special Judge dismissed the discharge petition. The relevant paragraphs are extracted hereunder:

> "10. On a careful scrutiny of the entire evidence collected by investigating agency and in particular the evidence of the crucial surveyors i.e., witness Nos. 14 to 17 it is evident that the petitioner was physically present at the time of original survey. The version of the petitioner that he was not aware about the pathway cannot be believed even for a moment since admittedly property was conveyed for a noble scheme of the Government meant for the "upliftment of the Adivasis" whereby Adivasis would be provided 25 cents each of property with access. It cannot be believed even for a moment that plots would be assigned to such beneficiaries without provision for access to the plots. That apart even keeping aside the extent of 13.33 cents earmarked for the way there was still a deficit of extent as the actual extent found in possession was only 183.50 cents. It has also come out through the evidence collected by the investigating agency that none of the eight beneficiaries could be allotted 25 cents except one beneficiary who received 26.44 cents. In fact, the other beneficiaries received only 18.43 cents and two of the beneficiaries received only 20.01 cents and 20.21 cents each. The others obtained 19.39 cents, 20.13 cents, 24.19 cents and 21.37 cents. Hence the land acquired could not be equitably divided among the

beneficiaries as contemplated by the scheme. The version of the petitioner/2nd accused that he was totally kept the dark regarding the provision of a pathway for access cannot be believed prima facie. So also, his case that he had conspired with other accused is established prima facie by the statement of witness No.14. The version of the petitioner that the entire sale consideration was transferred to his account after conduct of survey and after being convinced about the extent of the property cannot be believed prima facie. So also, the version of the petitioner that he was not aware or informed about the manner in which the plots were created also cannot be believed prima facie. Interestingly, it is the case of the petitioner that he was not very particular to go through the documents prepared by the authorities. This version also cannot be believed even for a moment since he had conveyed property admittedly for the aforesaid scheme of the Government.

11. The law regarding a plea of discharge under Section 239 of the Code of Criminal Procedure, 1973 is by now trite. Our Hon'ble High Court in the recent decision reported in **Kumari M. v. State of Kerala [2025 KHC 1109]** held that while considering a plea of discharge under Sec.239 the power of the court is confined to the examination of the prosecution records to ascertain whether a prima facie case has been made out against the accused or whether there exists at least a strong suspicion regarding the involvement of the accused who seeks discharge. It is equally trite as held by our Hon'ble High Court again in the recent decision reported in **Balakrishnan M. v. Central Bureau of Investigation [2025 KHC 997]** that at the stage of considering a plea of discharge the court cannot consider materials by exercising the power of a trial court and after evidence. It was held that if the prosecution materials would show a prima facie case or strong suspicion regarding the involvement of the accused in the case the plea of discharge should fail. It is further held that a "mere suspicion" would not suffice the requirements of "strong suspicion". In **State of Kerala v. Biju Alexander [2025 KHC 968]** it was held that while considering the plea of discharge the trial Judge need to merely examine the materials produced by the prosecution in order to determine whether or not the

grounds are sufficient to proceed against the accused. It was held that the trial Judge should look into the materials collected by the investigating agency produced before the court to see prima facie whether those materials would induce suspicious circumstances against the accused so as to frame a charge. Further in the ruling reported in **Radhakrishnan Nair v. CBI Ernakulam [2025 KHC 768]** the dictum of the Hon'ble Apex Court to the effect that at the stage of considering an application for discharge the court has to proceed on the assumption that the materials which have been brought out by the prosecution are true was reiterated. Our Hon'ble High Court relied on the decision of the Hon'ble Apex Court in **Sandeep G. v. State of Kerala [2024 KHC online 586]** wherein it was held that the primary consideration at the stage of framing charge is the test of existence of a prima facie case and that at this stage, the probative value of materials on record shall not be evaluated. This basic requirement laid down by the Hon'ble Apex Court was also relied upon in the aforesaid ruling. Further importantly, the dictum of the Hon'ble Apex Court that at the stage of framing of charge the court has to form a presumptive opinion regarding the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into the probative value of the material on record and check whether the material on record would certainly lead to conviction at the conclusion of trial was also relied upon by our Hon'ble High Court.

12. Apart from these recent decisions of our Hon'ble High Court the classic decision of the Hon'ble Apex Court in **State of Madhya Pradesh v. Mohanlal Soni [(2000) 6 SCC 338)** is also pertinent considering the facts and circumstances of the case.

13. Applying the aforesaid well settled principles of law to the facts of the present case it is evident that the petitioner/2nd accused has not made out a case for his discharge under Sec.239 of the Code on the ground that the charges levelled against the accused/petitioner are "groundless". As mentioned above there is ample prima facie evidence for a trial against the petitioner and the veracity of the case of the prosecution regarding "criminal conspiracy" which is primarily alleged against the petitioner/2nd accused can only be considered after a full-fledged trial on evidence. In this context the statement of witness No. 14 to the effect that the petitioner

> and the other accused came together and discussed matters on the date of survey measurement at the site is very pertinent and material as prima facie evidence of criminal conspiracy."

9. The learned counsel for the revision petitioner zealously argued that, apart from the statement of witness No.14, no other materials to be found to show involvement of the petitioner in this case. Further, it is submitted that the statement of witness No.14 would not show the involvement of the petitioner in this crime, *prima facie*. Therefore, the learned Special Judge went wrong in negating the discharge plea raised by the revision petitioner. According to the learned counsel for the revision petitioner, the impugned order is liable to be set aside.

10. This is a case where the allegation is that the petitioner had provided only 170.17 cents of land to the beneficiaries instead of 2 acres of land (200 cents) though the petitioner had received 77,00,000/- towards the price of 200 cents. That apart, the specific allegation is that the first accused, being the Implementing Officer, sanctioned and disbursed an amount of ₹77,00,000/- to the second accused/petitioner towards the purchase of 200 cents of lands in survey No.780/1-2-3170 of

Kollamula Village at the rate of ₹38,500/- per cent intended to be distributed among 8 Scheduled Tribe beneficiaries, each entitled to not less than 25 cents of property. However, in deliberate violation of the scheme norms and with fraudulent intention, the second accused who actually possessed only 183.50 cents of land improperly set apart 13.33 cents of land for a pathway. This non-distributable extent of land was also dishonestly included in the total consideration. Consequently, only an extent of 170.17 cents was available for actual distribution and this was arbitrarily and unequally divided among the beneficiaries. As a result, one beneficiary received 26.44 cents and the remaining seven beneficiaries were allotted substantially lesser extents of 18.33 cents, 20.01cents, 20.21 cents, 19.39 cents, 21.13 cents, 24.19 cents and 21.37 cents. Hence the very object of the welfare scheme was defeated. Further, by adopting this fraudulent method, an excess amount of ₹11,48,555/- was dishonestly paid to the second accused with the active assistance of the third accused who functioned as a broker in the entire transaction. The statements of witness Nos.14 to 17 would show that the petitioner actively participated in the measurement of the

property and only conveyed 170.17 cents of property out of 200 cents meant for 8 beneficiaries. Further, he did not possess even 200 cents of property and the property possessed by him was found only to an extent of 183.50 cents. Be it so, it is a case wherein the prosecution alleges hatching of conspiracy between the accused persons by not fully allotting 200 cents of land for the beneficiaries ie., scheduled caste community members to be found, *prima facie*. In such a case, plea of innocence of the revision petitioner is a matter of evidence. That is to say, when the prosecution alleges conspiracy between the accused persons, direct evidence to establish the conspiracy cannot be insisted upon, and proof of conspiracy, mainly based on circumstantial evidence, though direct evidence in all cases could not be ruled out. Here is a case wherein, *prima facie*, the statements of witness Nos. 14 to 17 would indicate that there was measurement of the property to give only 170.17 cents out of 200 cents and separation of a portion thereof having an extent of 13.33 cents to provide a pathway, which is not permissible (where actually the revision petitioner possessed only 183.50 cents). This would show *prima facie* involvement of the revision petitioner in the crime or,

at least, a strong suspicion regarding his involvement, warranting trial. It is well settled law that, even a strong suspicion regarding the involvement of an accused in a case would be sufficient to negate the plea of discharge even in the absence of *prima facie* materials as such, though a mere suspicion would not suffice the requirement of strong suspicion.

11. Holding so, the plea of discharge canvassed by the revision petitioner would not succeed, as found by the learned Special Judge.

Thus, the revision petition fails and is dismissed accordingly.

Sd/-

A. BADHARUDEEN
JUDGE

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