IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____OF 2026
(Arising out of SLP(Crl.) No.20437/2026)

PINARAYI VIJAYAN **…..APPELLANT(S)**

VERSUS

K M SHAJAHAN & ORS. **…..RESPONDENT(S)**

WITH

CRIMINAL APPEAL NO. _____OF 2026
(Arising out of SLP(Crl.) No.20425/2026)

CRIMINAL APPEAL NO. _____OF 2026
(Arising out of SLP(Crl.) No. 20471/2026)

AND

CRIMINAL APPEAL NO. _____OF 2026
(Arising out of SLP(Crl.) No.20504/2026)

O R D E R

1. Issue notice.

2. Mr. Koshy John, Mr. Aljo K. Joseph and Mr. Amrish Kumar, learned counsel, accept notice on behalf of respondents.

3. Leave granted. Heard counsel for the parties.

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Date: 2026.10.21 20:25:27 IST
Reason:

4. Mr. Luthra and Mr. Hariharan, learned Senior Counsel for the appellants argued that the Division Bench erred in law in refusing to grant leave to appeal to the

appellants against the Single Judge's order directing registration of FIR and to conduct investigation against their clients.

5. Mr. Ramesh Babu, learned Senior Counsel for the State submits that First Information Reports (FIRs) (VC 6/2026/SIU-1 & VC 7/2026/SIU-1 at PS-SIU-1, Thiruvananthapuram) have already been registered on 12.10.2026 and investigation commenced as per the direction of the learned Single Judge.

6. Mr. Koshy John, learned counsel for respondent No.1 (writ petitioner before the High Court) contends that FIRs have been registered pursuant to information shared by the Enforcement Directorate under Section 66(2) of the Prevention of Money Laundering Act, 2002[1], which *prima facie* discloses a cognizable offence by the former Chief Minister, his daughter and son-in-law (former Minister) and others under the Prevention of Corruption Act, 1988[2]. At the time of registration of FIRs, there is no requirement to hear the accused and the Division Bench had rightly refused to grant leave to appeal.

7. Mr. Zoheb Hossain, learned counsel for the Enforcement Directorate contends that SFIO commenced investigation under Section 447 of the Companies Act, 2013[3] with regard to the affairs of M/s CMRL and M/s Exalogic, the latter being a wholly owned company of Veena T., daughter of the former Chief Minister [Petitioner in SLP (Crl.) No.20425 of 2026]. In course of investigation, various materials transpired, including transfer of funds to foreign shores by Veena T. and her husband [Petitioner in SLP(Crl.) No.20471/2026]. As such, based on the

1 2002 Act
2 PC Act
3 2013 Act

materials transpired during investigation under the 2002 Act, ED shared information under Section 66(2) with the State Government for necessary action as per law.

8. In response thereto, the Director General of Police constituted a nine-member Special Investigation Team (SIT) to conduct a preliminary enquiry. Respondent No.1, being dissatisfied with such dilatory tactics to avoid registration of FIR and commencement of investigation against the former public servants and others, approached the High Court.

9. The learned Single Judge, after considering the materials on record, quashed the decision of the State Government to conduct a preliminary enquiry and, *inter alia*, directed as follows:

> "Consequently, the 3rd respondent, the Director, Vigilance and Anti-Corruption Bureau, Thiruvananthapuram, is specifically directed to register FIR based on the information furnished under Section 66(2) of the PMLA for the offences disclosed therein under the PC Act, against the suspected persons specifically mentioned therein, forthwith, without any delay, and to investigate the allegations through competent officers of the Vigilance and Anti-Corruption Bureau and file the final report, without much delay.
>
> It is specifically ordered that the DGP or the head of the Special Investigation Team, having custody of the information under Section 66(2) of the PMLA shall hand over the same to the 3rd respondent, forthwith, and the 3rd respondent shall obtain the same for the purpose of registering FIR, without fail and proceed further, in accordance with law. In this connection, the E.D. is directed to forward all necessary documents to the 3rd respondent, forthwith, and the 3rd respondent is free to call for any other documents required for the purpose of investigation after

registering FIR.."

10. Admittedly, the appellants were not parties in the writ proceedings. Being aggrieved by the impugned order, they preferred appeals before the Division Bench along with an application seeking leave to appeal against the said order. The Division Bench dismissed their leave to appeal, *inter alia*, holding as follows:

> "17. …….. it is clear that the impugned judgment has not affected the right of the applicants to pursue their constitutional or statutory remedy against the registration of the FIR and in such a situation, it cannot be held that the applicants established a *prima facie* or arguable case for granting the leave sought for. We find that when sufficient material disclosing commission of cognizable offences are furnished along with the information under Section 66(2) of the PML Act, 2002, there is no necessity for conducting a preliminary inquiry and that the accused in a corruption case has no legal right to be heard before registering the FIR and the accused persons are also not entitled to demand a preliminary inquiry before registering an FIR in a corruption case. Therefore, the points are answered against the applicants and accordingly, we find that the applications seeking leave to file appeals are liable to be dismissed."

Consequently, the appeals were also dismissed by the High Court.

11. Mr. John has forcefully contended that as per *Vijay Madanlal Choudhary v. Union of India [(2023) 12 SCC 1]*, the State was obliged to register an FIR as per communication made to them under Section 66(2) of the 2002 Act by Enforcement Directorate. The appellants, being accused persons, do not have a right of hearing at the time of registration of such FIR.

12. We are unable to agree to such contention advanced before us. This is not a case where, on receipt of communication under Section 66(2), the State had registered a case on its own. On the contrary, the registration of the FIR and commencement of investigation thereon was pursuant to a judicial order passed by the High Court. While passing such order, the Single Judge had *inter alia* observed that the materials in the communication by Enforcement Directorate discloses a cognizable offence and therefore, it was obligatory for the State to register an FIR. If the appellants are not permitted to assail such finding in the appellate proceedings, the same shall come in their way, if an independent proceeding is initiated, assailing the First Information Report as per law. That apart, the scheme with regard to registration of an FIR through judicial intervention under the BNSS has undergone a change from what was envisaged under the Code of Criminal Procedure. In the erstwhile Code, Section 156(3) did not require the participation or involvement of the public servant or his superior in exercise of Magisterial discretion to issue direction for registration of FIR. However, under Section 175(4) of the BNSS, such a requirement has been incorporated, which reads as follows:

> "175(4) Any Magistrate empowered under section 210, may, upon receiving a complaint against a public servant arising in course of the discharge of his official duties, order investigation, subject to—
> (a) receiving a report containing facts and circumstances of the incident from the officer superior to him; and
> (b) after consideration of the assertions made by the public servant as to the situation that led to the incident so alleged."

13. Mr. Zoheb Hossain, learned counsel, argues that such requirement would be

hedged by the fact that the offence is committed by public servant in discharge of official duty, which would not apply to former public servants in corruption cases.

14. We have referred to Section 175(4) of the BNSS not in reference to the merits of the case before us, but to elucidate the expansive jurisdiction envisaged in the new law with regard to participation of a potential accused prior to registration of FIR. That apart, we are also minded to observe that the Single Judge has not only directed registration of an FIR, which is the mandate in *Vijay Madanlal Choudhary (supra)*, but also directed commencement of investigation and filing of final report, which may require consideration of other statutory requirements under the special law including sanction under Section 17A thereof.

15. These facts clearly show the appellants had *locus* to prefer appeal against the impugned judgment and order and their prayer for leave to appeal were incorrectly turned down.

16. Accordingly, we set aside the impugned judgment and order and permit the appellants to pursue their appeals before the Division Bench. The Appeals are restored to file.

17. We make it clear that our observations are limited to the issue at hand, that is, the *locus* of the appellants to prefer the appeal, and not an expression of opinion on merits. We also give liberty to the appellants to seek interim relief in accordance with law.

18. To enable the appellants to do so, we direct that the investigation in the impugned

FIRs shall remain stayed for a period of ten days from today, which, however, shall not be treated as a conclusive opinion expressed on interim relief, and the Division Bench shall be entitled to fashion independently such relief in accordance with law.

19. We are informed that a subsequent ECIR has been registered in respect of the impugned FIRs. We express no opinion with regard to its validity and keep it open to be agitated in appropriate proceedings, if instituted in accordance with law.

20. The appeals are, accordingly, disposed of.

.....J.
(JOYMALYA BAGCHI)

.....J.
(V. MOHANA)

NEW DELHI
OCTOBER 21, 2026

ITEM NO.2 COURT NO.5 SECTION II-D

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s).20437/2026

[Arising out of impugned final judgment and order dated 15-10-2026 in IA No.1/2026 passed by the High Court of Kerala at Ernakulam]

PINARAYI VIJAYAN Petitioner(s)

VERSUS

K M SHAJAHAN & ORS. Respondent(s)

IA No. 326565/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

WITH
SLP(Crl) No. 20425/2026 (II-D)
IA No. 326362/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 326921/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

SLP(Crl) No. 20471/2026 (II-D)
IA No. 327060/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

SLP(Crl) No. 20504/2026 (II-D)
IA No. 327449/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

Date : 21-10-2026 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE JOYMALYA BAGCHI
HON'BLE MRS. JUSTICE V. MOHANA

For Petitioner(s) :Mr. N Hariharan, Sr. Adv.
Mr. Mayank Jain, Adv.
Mr. Ameen K Hassan, Adv.
Mr. Madhur Jain, Adv.
Mr. Arpit Goel, Adv.
Mr. Kartik Yadav, Adv.
Mr. Shoumik Chowdary, Adv.
Mr. Deepak Jain, Adv.
Mr. Nikilesh Ramachandran- 1406, AOR

Mr. N Hariharan, Sr. Adv.
Mr. Mayank Jain, Adv.
Mr. Ameen K Hassan, Adv.
Mr. Madhur Jain, Adv.
Mr. Arpit Goel, Adv.

Mr. Devanshu Yadav, Adv.
Mr. Shoumik Chowdary, Adv.
Mr. Deepak Jain, Adv.
Mr. Sahil Sharma- 4084, AOR

Mr. N. Hariharan, Sr. Adv.
Mr. Anshul Rai, Adv.
Mr. Mayank Jain, Adv.
Mr. Ameen K Hassan, Adv.
Mr. Madhur Jain, Adv.
Mr. Arpit Goel, Adv.
Mr. Ojaswa Pathak, Adv.
Ms. Mallika Ranjan, Adv.
Mr. Deepak Jain, Adv.
Mr. Shoumik Chowdary, Adv.
M/s. Dharmaprabhas Law Associates- 2718, AOR

Mr. Sidharth Luthra, Sr. Adv.
Mr. Gilbert George Correya, Adv.
Mr. Krishna Dev Jagarlamudi- 2628, AOR
Ms. Bhabna Das, Adv.
Mr. Shrey Nautiyal, Adv.
Ms. Sagarika Singh, Adv.
Mr. Vishnu Kanth Mundada, Adv.
Mr. Arpit Kumr Mishra, Adv.
Mr. Kartikeye Dang, Adv.
Mr. Aadarsh Joshi, Adv.
Ms. Aditi Mishra, Adv.
Ms. Muskan Anand, Adv.

For Respondent(s) :Mr. Koshy John, Adv.
Mr. M.S. Vishnu Sankar, Adv.
M/s. Lawfic, AOR

Mr. Ramesh Babu, Sr. Adv.
Mr. Aljo K. Joseph, AOR
Mr. Ajay M., Adv.
Mr. Sashwat Mishra, Adv.
Ms. Meenakshi, Adv.

Mr. Zoheb Hossain, Sr. Adv.
Mr. Annam Venkatesh, Adv.
Mr. Hitarth Raja, Adv.
Mr. Madhav Singhal, Adv.
Mr. Amrish Kumar, AOR

UPON hearing the counsel the Court made the following

O R D E R

1. Issue notice.

2. Mr. Koshy John, Aljo K. Joseph and Mr. Amrish Kumar, learned

counsel, accept notice on behalf of respondents.

3. Leave granted.

4. The appeals are disposed of in terms of the signed order.

5. Pending applications, if any, also stand disposed of.

(ARJUN BISHT) **(PARVEEN KUMAR RAWAT)**
ASTT. REGISTRAR-cum-PS **COURT MASTER (NSH)**
(signed order is placed on the file)