IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.02.2026

DELIVERED ON : 20.02.2026

CORAM

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

WP(MD) No. 34197 of 2025
and W.P. Crl No.74 of 2026

WP(MD) No. 34197 of 2025:

K. Athinarayanan
S/o. Karuppiah,
No.207, East Street, Maitanpatti,
Kallikudi Taluk, Madurai-625701.

Petitioner(s)

Vs

1. The State rep by the Additional
   Chief Secretary to Government
   Home, Prohibition and Excise
   Department, Fort St. George,
   Chennai-600 009.

2. The Director
   Directorate of Enforcement,
   Pravartan Bhavan, Dr. APJ Abdulkalam Road,
   New Delhi-110011.

3. The Director General of Police
Post Box No.601, Dr. Radhakrishnan Salai,
Mylapore, Chennai-600 004.

Respondent(s)

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of mandamus to direct the third respondent to take appropriate action based on the communication issued by the second respondent dated 27.10.2025, if necessary obtain sanction from the first respondent and proceed in accordance with law, following the principles laid down by the Constitution Bench of the Supreme Court in the case of (2014) 2 SCC 1 [Lalita Kumari v. Government of U.P.] within a stipulated time.

For Petitioner(s): Mr. Niranjan S Kumar
(through Video Conferencing)
for Mr. S.Nirmal Kumar

For Respondent(s): Mr. P.S.Raman
Advocate General
Assisted by Mr.U.Baranidharan
Special Government Pleader for R1

Mr.N.Ramesh
Special Public Prosecutor for Ed
for R2

Mr.Vikram Choudhary
Senior Counsel
assisted by Mr.E.Raj Thilak
Additional Public Prosecutor for R3

W.P.Crl No.74 of 2026

I.S.Inbadurai
S/o.Inbanayagam,
Member of Parliament,
Rajya Sabha Tamil Nadu
Office at No.366, 2nd Floor,
Old Shaw Wallace Building,
Thambu Chetty Street, Chennai.

Petitioner(s)

Vs

1. The State of Tamil Nadu,
   rep.by its Secretary to Government,
   Home Department, Secretariat,
   Chennai - 600 009.

2. The Director,
   Directorate of Vigilance and
   Anti-Corruption (DVAC),
   No.293, MKN Road, Ramapuram,
   Collectors Nagar, Alandur,
   Chennai - 600 016.

3. The Director General of Police,
   Tamil Nadu Police, Chennai - 600 004.

4. The Director of Enforcement
   Rep.by its, Assistant Director,
   Shastri Bhavan, 3rd Floor, 3 Block,
   B-Wing, No.26, Haddows Road,
   Chennai - 600 006.

5. K.N.Nehru
Hon'ble Minister of Municipal
Administration and Water Supply Department,
Residing at No.64/1, Luz Church Road,
Mylapore, Chennai - 600 004.

Respondent(s)

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of mandamus to direct respondents 1 to 3 to register an FIR forthwith based on petitioner's representation dated 13.12.2025 and consequently, direct a fair, impartial and time-bound investigation into the offences disclosed therein.

For Petitioner(s): Mr.V.Raghavachari, Senior Counsel
for Mr.N.Inbanathan

For Respondent(s): Mr.P.S.Raman, Advocate General
Assisted by Mr.U. Baranidharan
Special Government Pleader for R1

Mr.N.R.Elango, Senior Counsel
for Mr.E.Raj Thilak
Additional Public Prosecutor for R2

Mr. Vikram Choudhary, Senior Counsel
Assisted by Mr.E.Raj Thilak
Additional Public Prosecutor for R3

Mr. N.Ramesh,
Special Public Prosecutor for ED
for R4

COMMON ORDER

THE CHIEF JUSTICE

W.P.(MD) No.34197 of 2025 has been filed as a public interest litigation, seeking a direction to the third respondent/Director General of Police to take appropriate action based on the communication issued by the second respondent/Enforcement Directorate dated 27.10.2025, if necessary obtain sanction from the first respondent/Government and proceed in accordance with law, following the dictum of the Hon'ble Supreme Court in the case of *Lalita Kumari v. Government of U.P.*[1].

2. W.P.(Crl.) No.74 of 2026 is filed seeking to direct respondent Nos.1 to 3 to register an FIR forthwith based on the petitioner's representation dated 13.12.2025 and direct a fair, impartial and time-bound investigation.

1 *(2014) 2 SCC 1*

3. The petitioner in W.P.(MD) No.34197 of 2025 claims to be a member of the society, which is espousing the voice of general public and fighting against corruption.

4. The petitioner in W.P.(Crl.) No.74 of 2026 is a sitting Member of Parliament in Rajya Sabha and also a practising advocate, who seeks registration of the criminal case in respect of the alleged large-scale recruitment scam.

5. According to the petitioners, a notification was issued by the Municipal Administration and Water Supply (MAWS) Department inviting applications for the recruitment of 2,538 posts in the cadre of Assistant Engineers, Junior Engineers, Town Planning Officers, etc. It is alleged that large-scale illegalities took place in the recruitment and the candidates were selected by obtaining illegal gratification ranging from Rs.25 lakh to Rs.35 lakh per post.

6. It is further stated that in respect of a search conducted by

Enforcement Directorate in the residential premises of one Ravichandran, who happens to be the brother of the sitting Minister of the concerned department, in respect of a bank fraud case, the Enforcement Directorate came across several incriminating materials in respect of the illegalities committed in the recruitment to the above posts by adopting devious methods. The search resulted in the seizure of several communications, transactions, predetermined selection lists, call letters, electronic data and digital records from the premises, *prima facie*, disclosing the existence of a systematic and organised job racket in the recruitment process.

7. It is further stated that the entire scam in the department was systematically carried out through Rs.10/- currency note-based identification method, in which the beneficiaries were identified and using this method, the bribe amounts were collected. The Enforcement Directorate, on seizing the incriminating materials in the search, by letter dated 27.10.2025 addressed to the Director General of Police shared the information under Section 66(2) of the

Prevention of Money Laundering Act, 2002 (in short "*the PMLA*") by enclosing the voluminous records running into 232 pages.

8. It is alleged that more than 150 candidates got illegally recruited through the intervention of Ravichandran and Manivannan, brothers of the sitting Minister, with the connivance of their associates, who are named in the report. It is stated that the State and Director General of Police have not taken timely action on the information shared by Enforcement Directorate, even though the report disclosed commission of cognizable offence. As such, the petitioners have approached this Court seeking registration of the FIR.

9.1. Mr.V.Raghavachari, learned Senior Counsel appearing for the petitioner in W.P. (Crl) No.74 of 2026, submitted that since there has been a large-scale recruitment scam involving high-ranking officials, including the sitting Minister, the petitioner who is a sitting member of Parliament, had come forward with this petition

seeking judicial intervention for registration of the case in respect of the disclosed cognizable offence.

9.2. He further submitted that when there is a large-scale illegality in the recruitment to the 2,538 posts, where around Rs.25 lakh to Rs.35 lakh has been illegally collected from the each of the candidates for being selected, resulting in a scam running into several hundreds of crores, the State Police are duty-bound and ought to have immediately registered an FIR and conducted a fair and impartial investigation.

9.3. It is submitted that the Enforcement Directorate, which had conducted search in respect of a bank fraud case, had ferreted out incriminating materials, seized it and had rightly shared the information as mandated under Section 66(2) of the PMLA. As voluminous documents have been shared, all that was required is to register a case and conduct an investigation. However, to protect and shield the influential persons, including the one who happens to

be the sitting Minister, under the guise of conducting a preliminary enquiry, the State is taking its own course and protracting the proceedings.

9.4. In support of his contentions, learned Senior Counsel has placed reliance on the following decisions of the Hon'ble Supreme Court:

(i) Pradeep Nirankarnath Sharma v. State of Gujarat[2]
(ii) State of Karnataka v. T.N.Sudhakar Reddy[3]
(iii) State of Karnataka v. Sri Channakeshava.H.D.[4]

10. Mr.N.Ramesh, learned Special Public Prosecutor appearing for the Enforcement Directorate, submitted that it is not a mere information/complaint shared, but the material evidence has been shared under Section 66(2) of the PMLA. When the evidence is shared under the specific statutory provision, as the same constitutes sufficient material, no preliminary enquiry is required for

2 *(2025) 4 SCC 818*
3 *2025 INSC 229*
4 *2025 SCC OnLine SC 753*

registering a case.

10.2. Learned Special Public Prosecutor, alluding to paragraphs 151 and 163 of the decision in *Vijay Madanlal Choudhary v. Union of India*[5], submitted that on receipt of such information, the jurisdictional police would be obliged to register a case.

11.1. Mr.P.S.Raman, learned Advocate General appearing for the State, submitted that on receipt of the letter dated 27.10.2025 from the Enforcement Directorate, on 01.11.2025, the Government had sent the same to Vigilance and Anti-Corruption Department for enquiry. Pursuant to which, the Government accorded permission under Section 17A of the Prevention of Corruption Act (for brevity, "the PC Act") on 12.01.2026 and the Vigilance Department had registered an enquiry on 12.12.2025 and the same is pending. Therefore, judicial intervention at this stage is not required when the enquiry is afoot.

5 *(2023) 12 SCC 1*

11.2. On merits, learned Advocate General submitted that the materials were collected during a search conducted in respect of a predicate offence in a bank fraud case, which was ultimately quashed by a Single Judge of this Court. Based on which, the ECIR registered by Enforcement Directorate in the bank fraud case was also quashed by the Division Bench of this Court on 24.07.2025. Ultimately, the seized materials have been returned by the Enforcement Directorate on 27.07.2025. When nothing remained, the Enforcement Directorate, by communication dated 27.10.2025, had shared the information under Section 66(2) of the PMLA, which, according to him, may not hold good any more.

11.3. Distinguishing the cases cited by the petitioners, he submitted that all those cases related to the accused seeking quashment of the FIR and the cases were decided only on the ground that the accused has no right and, therefore, no interdiction was required.

12.1. Mr.Vikram Choudhary, learned Senior Counsel appearing for Director General of Police, questioned the *locus standi* and *bona fides* of the petitioners.

12.2. He submitted that the decision in *Vijay Madanlal Choudhary v. Union of India* (supra) was delivered prior to coming into force of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "*the BNSS*"). Once the information is shared under Section 66(2) of the PMLA, it is for the authorities to proceed further and only if no action is taken, any intervention by the court is required. Unlike Section 154 of Criminal Procedure Code, 1973 [for short "*the Code*"], Section 173(3) of the BNSS permits preliminary enquiry to be conducted to ascertain as to whether there exists a *prima facie* case for registering a case. When the preliminary enquiry by the Vigilance Department is underway, the writ petitions at this stage are not maintainable.

13.1. Mr.N.R.Elango, learned Senior Counsel appearing for the Vigilance Department, submitted that on the complaint being forwarded, a sanction/approval under Section 17A of the PC Act is required. The Government after granting approval has, forsooth, directed the Vigilance Department to conduct a detailed enquiry. The department is governed by the Vigilance Manual, which has been upheld by the Hon'ble Supreme Court in the case of *P.Sirajuddin v. State of Madras*[6].

13.2. Referring to Part-V of the Vigilance Manual, he submitted that Clauses 38 to 40 contemplate the procedure to be adopted and further, there is a time limit fixed for completing enquiry within six months. The department had written to all the other departments seeking for reports and copies, including the Enforcement Directorate, and the enquiry is ongoing and, therefore, no interference is required at this stage.

14. Heard the rival submissions and perused the materials

6 *(1970) 1 SCC 595*

available on record.

15. At the outset, it is to be noted that a serious objection was raised in respect of the petitioner in W.P. (MD) No.34197 of 2025 on the ground that the petitioner himself is involved in several criminal cases and at his instance no public interest litigation should be entertained, as he does not appear to be a person of impeccable character.

16. On such disclosure made, when response was sought from the petitioner's counsel, an additional affidavit has been filed, in which the petitioner has sought to explain his position by submitting that against him several false cases are registered and most of them have been closed at various stages, including acquittal. However, it is clear from the petitioner's own affidavit that even now many criminal cases are pending against him.

17. The submission that mere registration of criminal case

does not amount to proof of allegation of commission of offence and presumption of innocence lies in favour of the petitioner does not merit consideration. In view of the settled legal position with regard to maintainability of the public interest litigation, we have no hesitation to hold that the writ petition [W.P.(MD) No.34197 of 2025] filed by this petitioner, styled as public interest litigation, does not deserve consideration. Consequently, at his instance, the veracity of allegations made in the petition cannot be examined, when the petitioner's own *bona fides* are under serious cloud, he being a person with criminal antecedents.

18. In so far as the other writ petition [W.P. (Crl) No.74 of 2026] is concerned, undisputedly, the petitioner is an elected representative and Member of the Parliament. There is serious allegation of large-scale recruitment scam involving around 2,538 posts in the MAWS Department. The complaint is mainly against high-ranking officials, brothers of a sitting Minister and the Minister of the department concerned. Moreover, the petitioner is not the

only source of complaint, having made a representation for registration of FIR. The basis is essentially a communication made by a statutory investigating agency constituted under the PMLA.

19. Broad legal submissions are based on the directions issued by the Supreme Court in the case of *Vijay Madanlal Choudhary v. Union of India* (supra) and is not merely confined to a bald allegation made either by the petitioner or any other ordinary person. Therefore, all the objections with regard to maintainability of the petition are rejected, as we are inclined to examine the case on its own merits, rather than closing the issue without examination of material on record.

20. All that the petitioner has prayed is that the matter requires to be investigated by registration of FIR.

21. The Municipal Administration and Water Supply Department had issued notification inviting applications for the

recruitment of 2,538 posts in the cadre of Assistant Engineers, Junior Engineers, Town Planning Officers, etc. Pursuant to the recruitment conducted, appointments were made around July, 2025. There had been a search conducted by Enforcement Directorate in the residential premises of one K.N.Ravichandran, who is a Director of a housing company. He happens to be the brother of sitting Minister of MAWS Department. The search was conducted by the Enforcement Directorate in respect of a bank fraud case. In the course of search, the Enforcement Directorate seized several incriminating materials, including letters, communications, electronic messages, digital records, etc., pertaining to a large-scale illegality committed in the recruitments made for the above posts. On seizure of the incriminating materials, the Enforcement Directorate has shared the information under Section 66(2) of the Act along with the voluminous documents containing 232 pages collected during the search, *prima facie* disclosing the illegalities committed.

22. Though it is contended by the learned Advocate General that since the predicate offence and the ECIR in respect of a bank fraud case were quashed and the seized materials were returned, the information shared may not be relevant, we are not inclined to accept such a contention, for the reason that even though the cases involving bank fraud case got quashed, that has nothing to do with the incriminating materials that were seized in respect of the recruitment made to MAWS Department.

23. We shall now proceed to examine the legal submissions of learned counsel for the parties in the light of the nature of allegation and the material information and evidence which has been forwarded by the Enforcement Directorate to the State Police for taking action in accordance with law.

24.1. As to when and in what circumstances law mandates registration of an FIR was elaborately considered by a Five-Judge Bench of the Supreme Court in an epoch-making decision in the

case of *Lalita Kumari v. Government of U.P.* (supra). After survey of various provisions contained in the Code, particularly Sections 154, 155, 156 and 157, and a plethora of decisions interpreting the expression "*information*" in Section 154(1) of the Code, as against the expression used in Sections 41(1)(a) and (g), where the expression used for arresting a person without warrant is "*reasonable complaint*" or "*credible information*", it was held thus:

> *"73. The legislature has consciously used the expression "information" in Section 154(1) of the Code as against the expression used in Sections 41(1)(a) and (g) where the expression used for arresting a person without warrant is "reasonable complaint" or "credible information". The expression under Section 154(1) of the Code is not qualified by the prefix "reasonable" or "credible". The non-qualification of the word "information" in Section 154(1) unlike in Sections 41(1)(a) and (g) of the Code is for the reason that the police officer should not refuse to record any information relating to the commission of a cognizable offence on the ground that he is not satisfied with the reasonableness or credibility of the information. In other words, reasonableness or credibility of the said information is not a condition precedent for the registration of a case."*

24.2. In the said decision, it was held that the Police Officer should not refuse to record any information regarding commission of cognizable offence on the ground that he is not satisfied with the reasonableness or credibility of the information. In other words, it was held that reasonableness and credibility of the said information is not a condition precedent for the registration of a case.

24.3. The significance and compelling reason for registration of the FIR at the earliest, where the information discloses commission of cognizable office, was emphasised by the Supreme Court in the said decision as below:

> *"93. The object sought to be achieved by registering the earliest information as FIR is inter alia twofold : one, that the criminal process is set into motion and is well documented from the very start; and second, that the earliest information received in relation to the commission of a cognizable offence is recorded so that there cannot be any embellishment, etc. later.*
>
> *94. Principles of democracy and liberty demand a regular*

and efficient check on police powers. One way of keeping check on authorities with such powers is by documenting every action of theirs. Accordingly, under the Code, actions of the police, etc. are provided to be written and documented. For example, in case of arrest under Section 41(1)(b) of the Code, the arrest memo along with the grounds has to be in writing mandatorily; under Section 55 of the Code, if an officer is deputed to make an arrest, then the superior officer has to write down and record the offence, etc. for which the person is to be arrested; under Section 91 of the Code, a written order has to be passed by the officer concerned to seek documents; under Section 160 of the Code, a written notice has to be issued to the witness so that he can be called for recording of his/her statement, seizure memo/panchnama has to be drawn for every article seized, etc.

95. The police is required to maintain several records including case diary as provided under Section 172 of the Code, General Diary as provided under Section 44 of the Police Act, etc. which helps in documenting every information collected, spot visited and all the actions of the police officers so that their activities can be documented. Moreover, every information received relating to commission of a non-cognizable offence also has to be registered under Section 155 of the Code.

96. The underpinnings of compulsory registration of FIR is not only to ensure transparency in the criminal justice-delivery system but also to ensure "judicial oversight". Section 157(1) deploys the word "forthwith". Thus, any information received under Section 154(1) or otherwise has to be duly informed in the form of a report to the Magistrate. Thus, the commission of a cognizable offence is not only brought to the knowledge of the investigating agency but also to the subordinate judiciary.

97. The Code contemplates two kinds of FIRs : the duly signed FIR under Section 154(1) is by the informant to the officer concerned at the police station. The second kind of FIR could be which is registered by the police itself on any information received or other than by way of an informant [Section 157(1)] and even this information has to be duly recorded and the copy should be sent to the Magistrate forthwith. The registration of FIR either on the basis of the information furnished by the informant under Section 154(1) of the Code or otherwise under Section 157(1) of the Code is obligatory. The obligation to register FIR has inherent advantages:

97.1. (a) It is the first step to "access to justice" for a victim.

97.2. (b) It upholds the "rule of law" inasmuch as the ordinary person brings forth the commission of a cognizable crime in the knowledge of the State.

97.3. (c) It also facilitates swift investigation and sometimes even prevention of the crime. In both cases, it only effectuates the regime of law.

97.4. (d) It leads to less manipulation in criminal cases and lessens incidents of "antedated" FIR or deliberately delayed FIR."

24.4. Having laid down the general law that once the information discloses commission of a cognizable offence, FIR is to be registered, certain exceptions were carved out and it was observed thus:

"115. Although, we, in unequivocal terms, hold that Section 154 of the Code postulates the mandatory registration of FIRs on receipt of all cognizable offences, yet, there may be instances where preliminary inquiry may be required owing to the change in genesis and novelty of crimes with the passage of time. One such instance is in the case of allegations relating to medical

negligence on the part of doctors. It will be unfair and inequitable to prosecute a medical professional only on the basis of the allegations in the complaint."

24.5. Having thus analyzed, the conclusions/directions drawn by the Supreme Court were as under:

"120. In view of the aforesaid discussion, we hold:

120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

120.4. The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

120.5. The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

(a) Matrimonial disputes/family disputes

(b) Commercial offences

(c) Medical negligence cases

(d) Corruption cases

(e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

120.7. While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time-bound and in any case it should not exceed fifteen days generally and in exceptional cases, by giving adequate reasons, six weeks' time is provided. The fact of such delay and the causes of it must be reflected in the General Diary entry. *[Modified as per the decision in Lalita Kumari v. State of U.P., (2023) 9 SCC 695].*

120.8. Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above."

24.6. The authoritative pronouncement, therefore, is that the registration of FIR is mandatory under Section 154 of the Code if the information discloses commission of a cognizable offence, and

no preliminary enquiry is permissible in such a situation. It is in those cases where information received does not disclose a cognizable offence, but indicates the necessity for an enquiry, a preliminary enquiry may be conducted only to ascertain whether cognizable offence is disclosed or not. If the enquiry discloses the commission of a cognizable offence, FIR must be registered.

It was further highlighted that the Police Officer should not avoid registering offence if cognizable offence is disclosed and the action must be taken against erring officers who do not register the FIR, if information received by him discloses a cognizable offence. Moreover, their Lordships held that the scope of preliminary enquiry is not to verify the veracity or otherwise of the information, but only to ensure whether the information reveals any cognizable offence.

It was further held that as to in what type of cases preliminary enquiry is to be conducted, will depend on the facts and circumstances of each case and certain category of cases where preliminary enquiry may be made were also indicated, which includes the cases of corruption. Their Lordships made it clear that

the preliminary enquiry should be made in time-bound and in any case it should not exceed fifteen days generally and, in exceptional cases, by giving adequate reasons, six weeks, and the fact of such delay and the causes of it must be reflected in the General Diary Entry.

25.1. The aforesaid landmark decision has been succinctly referred to and relied upon in a subsequent decision in the case of case of *Charansingh v. State of Maharashtra and others*[7]. That was a case relating to allegation of corrupt practices against the person who was a Member and President of the Municipal Council in a local body. There were allegations with regard to accumulating assets disproportionate to his known source of income. Referring to the decision in the case of *Lalita Kumari v. Government of U.P.* (supra), the question which arose for consideration was whether an enquiry at pre-FIR stage would be legal and to what extent such enquiry is permissible. Though it was held that in such cases preliminary enquiry at pre-registration stage is permissible, and in a given case

7 (2021) 5 SCC 469

it may be desirable also, it being a case of allegation of corruption against the public servant, it was clearly emphasised as to what would be scope of such preliminary enquiry. It was held that it is enough if the Police Officer on the basis of the information given suspects the commission of a cognizable offence, and not that he must be convinced or satisfied that a cognizable offence has been committed. The following pertinent observations were made:

> *"15.2. ... Even at the stage of registering the FIR, what is required to be considered is whether the information given discloses the commission of a cognizable offence and the information so lodged must provide a basis for the police officer to suspect the commission of a cognizable offence. At this stage, it is enough if the police officer on the basis of the information given suspects the commission of a cognizable offence, and not that he must be convinced or satisfied that a cognizable offence has been committed."*

25.2. Having thus observed, it was also held by the Supreme Court that, though at the stage of lodging the FIR, the Police Officer

need not be satisfied or convinced that a cognizable offence has been committed, in view of the observations made in *P.Sirajuddin v. State of Madras* (supra), and the observations in *Lalita Kumari v. Government of U.P.* (supra), before lodging the FIR, holding a preliminary enquiry in a given case according to Anti-corruption and Prohibition Intelligence Bureau Manual may not be said to be illegal.

25.3. The aforesaid dictum, therefore, explains the limited scope of preliminary enquiry so that in the name of preliminary enquiry undue delay is not caused once the information discloses commission of cognizable offence. Moreover, it is not necessary that the Police Officer must be convinced or satisfied that the cognizable office has been committed. If the Police Officer, on the basis of information, suspects the commission of a cognizable offence, registration of FIR has to follow.

26. Thus, the decisions of the Supreme Court in the case of *Lalita Kumari v. Government of U.P.* (supra) and *Charansingh v.*

State of Maharashtra and others (supra), though held that in some cases preliminary enquiry may be held and that it cannot be said to be illegal, at the same time, the Supreme Court has repeatedly held that preliminary enquiry has to be completed within the shortest possible time. None of the aforesaid decisions provide a shield to delay registration of offence in the name of holding preliminary enquiry for unlimited period, once information discloses commission of cognizable offence.

27. The decision in the case of *P.Sirajuddin v. State of Madras* (supra) was considered by the Supreme Court in the case of *Lalita Kumari v. Government of U.P.* (supra). Though preliminary enquiry in accordance with the Vigilance Manual of Madras was upheld on the basis that there must be some suitable enquiry into the allegations by a responsible officer, the decision in the case of *Lalita Kumari v. Government of U.P.* (supra) being a judgment of the Larger Bench, the denouement in *P.Sirajuddin v. State of Madras* (supra) has to be understood in the manner as explained therein.

In the ultimate conclusion in the case of *Lalita Kumari v. Government of U.P.* (supra), the desirability of a preliminary enquiry in appropriate case was highlighted in cases involving corruption by public servants.

28. The necessity to hold preliminary enquiry in all cases of allegation of corruption as an inviolable rule was, however, negated by the Supreme Court in two recent judicial pronouncements: (i) *State of Karnataka v. T.N.Sudhakar Reddy* (supra)*; and (ii) State of Karnataka v. Sri Channakeshava.H.D.* (supra).

29.1. In the case of *State of Karnataka v. T.N.Sudhakar Reddy* (supra), the allegation of corrupt practice against a public servant was that during his tenure of service in various departmental units, he acquired huge assets disproportionate to his known source of income. Registration of FIR on such allegation was assailed mainly on the ground that no preliminary enquiry was conducted before directing registration of FIR under the PC Act.

The following two questions arose for consideration of the Supreme Court:

> *"A. Whether a preliminary inquiry was mandatory before directing registration of an FIR under the PC Act in the facts of the case at hand or whether the source information report could be treated to be a substitute for the preliminary inquiry?*
> *B. Whether the Order dated 4th November, 2023, passed by the Superintendent of Police under Section 17 of the PC Act, is sustainable in the eyes of law?"*

29.2. The first issue as to whether a preliminary inquiry was mandatory before directing registration of an FIR under the PC Act in the facts of the case at hand or whether the source information report could be treated to be a substitute for the preliminary inquiry was considered in detail in the light of the earlier decisions in the case of *P.Sirajuddin v. State of Madras* (supra); *Lalita Kumari v. Government of U.P.* (supra); *CBI and Another v. Thommandru Hannah Vijaylakshmi and another*[8]; and *State of Telangana v.*

8 *(2021) 18 SCC 135*

Managipet Alias Mangipet Sarveshwar Reddy[9].

29.3. Taking note of the declaration of law in *Lalita Kumari v. Government of U.P.* (supra) and *State of Telangana v. Managipet Alias Mangipet Sarveshwar Reddy* (supra), the following observations were made:

> *"21. Following the rationale of Lalita Kumari (supra), this Court in Managipet (supra) held that while the decision in Lalita Kumari (supra) noted that a preliminary inquiry was desirable in cases of alleged corruption, this does not vest a right in the accused to demand a preliminary inquiry. Whether the preliminary inquiry is required to be conducted or not will depend on the peculiar facts and circumstances of each case, and it cannot be said to be a mandatory requirement, in the absence of which, an FIR cannot be registered against the accused in corruption-related matters.*
>
> *22. The relevant paragraphs from Managipet (supra) are extracted herein below:-*
>
> > *"33. In the present case, the FIR itself shows that the information collected is in respect of*

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disproportionate assets of the accused officer. The purpose of a preliminary inquiry is to screen wholly frivolous and motivated complaints, in furtherance of acting fairly and objectively. Herein, relevant information was available with the informant in respect of prima facie allegations disclosing a cognizable offence. Therefore, once the officer recording the FIR is satisfied with such disclosure, he can proceed against the accused even without conducting any inquiry or by any other manner on the basis of the credible information received by him. It cannot be said that the FIR is liable to be quashed for the reason that the preliminary inquiry was not conducted. The same can only be done if upon a reading of the entirety of an FIR, no offence is disclosed. Reference in this regard, is made to a judgment of this Court in State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426, wherein, this Court held inter alia that where the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused and also where a criminal proceeding is manifestly attended with

mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

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."

23. A three-judge bench of this Court in Thommandru Hannah Vijayalakshmi (supra) extensively discussed the judicial precedents and legal principles governing the requirement of conducting a preliminary inquiry before registration of an FIR. The Court affirmed the view taken by the two-judge Bench in Managipet (supra), holding that a preliminary inquiry may not be necessary if the

officer recording the FIR possesses relevant information which discloses the commission of a cognizable offence. The relevant extracts from Thommandru Hannah Vijayalakshmi (supra) are reproduced herein below:-

> *"32. [..]... we hold that since the institution of a Preliminary inquiry in cases of corruption is not made mandatory before the registration of an FIR under the CrPC, PC Act or even the CBI Manual, for this Court to issue a direction to that affect will be tantamount to stepping into the legislative domain.*
>
> *39. The precedents of this Court and the provisions of the CBI Manual make it abundantly clear that a preliminary inquiry is not mandatory in all cases which involve allegations of corruption. The decision of the Constitution Bench in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] holds that if the information received discloses the commission of a cognizable offence at the outset, no preliminary inquiry would be required. It also clarified that the scope of a preliminary inquiry is not to check the veracity of the information received, but only to scrutinise*

whether it discloses the commission of a cognizable offence. Similarly, Para 9.1 of the CBI Manual notes that a preliminary inquiry is required only if the information (whether verified or unverified) does not disclose the commission of a cognizable offence. Even when a preliminary inquiry is initiated, it has to stop as soon as the officer ascertains that enough material has been collected which discloses the commission of a cognizable offence. A similar conclusion has been reached by a two-Judge Bench in Managipet [State of Telangana v. Managipet, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] as well. Hence, the proposition that a preliminary inquiry is mandatory is plainly contrary to law, for it is not only contrary to the decision of the Constitution Bench in Lalita Kumari [Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] but would also tear apart the framework created by the CBI Manual.""

29.4. Having thus considered the earlier decisions on the issue, it was authoritatively held as below:

"24. Applying these principles to the case at hand, it is perspicuous that conducting a preliminary inquiry is not

sine qua non for registering a case against a public servant who is accused of corruption. While preliminary inquiry is desirable in certain categories of cases including those under the PC Act, it is neither a vested right of the accused, nor a mandatory pre-requisite for registration of a criminal case. The purpose of a preliminary inquiry is not to verify the veracity of the information received, but merely to ascertain whether the said information reveals the commission of a cognizable offence. The scope of such inquiry is naturally narrow and limited to prevent unnecessary harassment while simultaneously ensuring that genuine allegations of a cognizable offence are not stifled arbitrarily. Thus, the determination, whether a preliminary inquiry is necessary or not will vary according to the facts and circumstances of each case."

29.5. Though it has been vehemently contended by the learned Advocate General that the observations made are to be confined to the context of the case where the accused challenged registration on the ground that preliminary enquiry was not held, in our considered view, the law laid down in the aforesaid decision is that preliminary enquiry is not *sine qua non* for registering a case against public servant who is accused of corruption, though it may

be desirable in certain categories, including those under the Prevention of Corruption Act.

29.6. It was clearly enunciated that the scope of such preliminary enquiry is naturally narrow and limited to prevent unnecessary harassment, while simultaneously ensuring that genuine allegations of a cognizable offence are not stifled arbitrarily. Thus, the determination whether a preliminary enquiry is necessary or not will vary according to the facts and circumstances of each case.

29.7. The following pertinent observations highlight that preliminary enquiry cannot be used to create hurdle in carrying due investigation and there is no requirement to mandate pre-investigation procedure and create unwarranted procedural check dams. It was pertinently observed thus:

> *"41. We are of the opinion that the High Court gravely erred while imposing unwarranted fetters on the investigation agency in corruption cases by carving out a*

framework of administrative hurdles which may have the potential of incapacitating law enforcement agencies. By mandating elaborate pre-investigation procedures and creating unwarranted procedural check dams, the High Court's approach has the potential to render the effectiveness of law enforcement nugatory. These additional procedural requirements which virtually tantamount to framing a policy could not only disrupt the smooth functioning of investigation agencies, but also risk shielding corrupt public servants from proper scrutiny, which would be in contravention of the objective of the PC Act."

29.8. As to what would be the appropriate procedural mechanism when a detailed source information report reaches the Police Officer was also clearly explained as below:

"43. The critical issue which requires clarity is what would be the appropriate procedural mechanism when a detailed source information report reaches the Superintendent of Police. The Superintendent of Police is entrusted with the administrative authority to direct his subordinates to register an FIR upon receiving a factual report which prima facie discloses the commission of offences punishable under the PC Act. The Superintendent of

Police is conferred with the responsibility of evaluating source information report(s) and to determine whether the same prima facie warrants further investigation. This administrative command is not contingent upon a pre-existing, formally registered FIR or an exhaustive preliminary inquiry report, as we have held while answering Issue A."

29.9. The conclusions which were arrived at by the Supreme Court are as follows:

"51. In view of the above discussion, we conclude that:-

a. The High Court erred in coming to the conclusion that the order dated 4th December, 2023, passed by the Superintendent of Police, was directly passed under Section 17 of the PC Act, thereby violating the mandatory provisions of the PC Act.

b. The preliminary inquiry is not mandatory in every case under the PC Act. If a superior officer is in seisin of a source information report which is both detailed and well-reasoned and such that any reasonable person would be of the view that it prima facie discloses the commission of a cognizable offence, the preliminary inquiry may be avoided.

c. Section 17 of the PC Act relates specifically to the investigation process, and not the initial act of registering the FIR, for which it relies on the provisions of the CrPC. Hence, it places limitations on only the investigation; it does not impede the fundamental duty of the law enforcement agency to record and register an FIR for cognizable offences.

d. On a harmonious reading of the provisions of the PC Act and the CrPC, it is manifest that the Superintendent of Police is competent to direct the registration of an FIR if he has information about the commission of a cognizable offence, punishable under the PC Act. The former is also competent to simultaneously direct the Deputy Superintendent of Police to register an FIR for the offences under the PC Act, with the understanding that the subsequent investigation will be subject to the restrictions outlined in Section 17 of the PC Act. A composite order to register the FIR and conduct investigation aligns with the statutory framework of the CrPC and the PC Act."

30.1. In the other decision in *State of Karnataka v. Sri Channakeshava.H.D.* (supra), again it was clearly stated that it is

not mandatory to hold a preliminary enquiry in matters of corruption on following pertinent observations:

> *"12. To sum up, this Court has held that in matters of corruption a preliminary enquiry although desirable, but is not mandatory. In a case where a superior officer, based on a detailed source report disclosing the commission of a cognizable offence, passes an order for registration of FIR, the requirement of preliminary enquiry can be relaxed."*

30.2. On the facts of that case, considering the detailed information provided before the Superintendent of Police in the form of source report, the following observations were made:

> *"15. In view of the above, it is clear that preliminary enquiry was not mandated in the present case, considering that detailed information was already there before the SP in the form of the source report referred above. We have also gone through the order passed by the SP, directing registration of FIR against respondent no.1, which reflects that the SP had passed that order on the basis of material placed before him in the form of the source report."*

31. In yet another decision in the case of *Pradeep Nirankarnath Sharma v. State of Gujarat*[10], the legal position in this regard was further explained in continuation of what has been held in *Lalita Kumari v. Government of U.P.* (supra) as follows:

> *"13. We have carefully considered the submissions of the appellant and perused the records. The legal position regarding the registration of FIRs in cases of cognizable offences is well-settled. This Court, in Lalita Kumari, has categorically held that the registration of an FIR is mandatory under Section 154CrPC if the information discloses the commission of a cognizable offence. The relevant paragraphs from the judgment of this Court in Lalita Kumari are reproduced below:*
>
> > *'114. It is true that a delicate balance has to be maintained between the interest of the society and protecting the liberty of an individual. As already discussed above, there are already sufficient safeguards provided in the Code which duly protect the liberty of an individual in case of registration of false FIR. At the same time, Section 154 was drafted keeping in mind the interest of the victim and the society. Therefore, we are of the cogent view that mandatory*

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registration of FIRs under Section 154 of the Code will not be in contravention of Article 21 of the Constitution as purported by various counsel.

Exceptions

115. Although, we, in unequivocal terms, hold that Section 154 of the Code postulates the mandatory registration of FIRs on receipt of all cognizable offences, yet, there may be instances where preliminary inquiry may be required owing to the change in genesis and novelty of crimes with the passage of time. One such instance is in the case of allegations relating to medical negligence on the part of doctors. It will be unfair and inequitable to prosecute a medical professional only on the basis of the allegations in the complaint.

***

Conclusion/Directions

120. In view of the aforesaid discussion, we hold:

120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and

no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.'

14. The scope of a preliminary inquiry, as clarified in the said judgment, is limited to situations where the information received does not prima facie disclose a cognizable offence but requires verification. However, in cases where the information clearly discloses a cognizable offence, the police have no discretion to conduct a preliminary inquiry before registering an FIR. The decision in Lalita Kumari does not create an absolute rule that a

preliminary inquiry must be conducted in every case before the registration of an FIR. Rather, it reaffirms the settled principle that the police authorities are obligated to register an FIR when the information received prima facie discloses a cognizable offence.

15. In the present case, the allegations against the appellant pertain to the abuse of official position and corrupt practices while holding public office. Such allegations fall squarely within the category of cognizable offences, and there exists no legal requirement for a preliminary inquiry before the registration of an FIR in such cases."

32.1. Much reliance is placed on the decision of the Supreme Court in the case of *Imran Pratapgadhi v. State of Gujarat*[11], which examined the scope and ambit of Section 173 of BNSS, to submit that the provisions therein make it mandatory to hold preliminary enquiry before registration of an offence.

32.2. It is vehemently contended by the State that in view of

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the BNSS regime, on receipt of complaint/information, a preliminary enquiry is contemplated before registration of an FIR. At this juncture, it is apposite to refer to Section 173 of BNSS, which reads as follows:-

> "*173. Information in cognizable cases*- (1) Every information relating to the commission of a cognizable offence, irrespective of the area where the offence is committed may be given orally or by electronic communication and if given to an officer in charge of a police station,—
>
> (i) orally, it shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it;
>
> (ii) by electronic communication, it shall be taken on record by him on being signed within three days by the person giving it,
>
> *and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf:*
>
> *Provided that if the information is given by the woman against whom an offence under section 64, section 66, section 67, section 68, section 70, section 73,*

section 74, section 75, section 76, section 77, section 78 or section 122 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that—

(a) in the event that the person against whom an offence under section 354, section 67, section 68, sub-section (2) of section 69, sub-section (1) of section 70, section 71, section 74, section 75, section 76, section 77 or section 79 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (6) of section 183 as soon as possible.

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant or the victim.

(3) Without prejudice to the provisions contained in section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years, the officer in-charge of the police station may with the prior permission from an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence,—

(i) proceed to conduct preliminary enquiry to ascertain whether there exists a prima facie case for proceeding in the matter within a period of fourteen days; or

(ii) proceed with investigation when there exists a prima facie case.

(4) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1), may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Sanhita, and such officer shall have all the powers of an officer in charge of the police station in relation to

that offence failing which he may make an application under sub-section (3) of section 175 to the Magistrate."

32.3. By distinguishing the preliminary enquiry under Section 154 of Code and the one contemplated under Section 173(3) of BNSS, it is submitted that under the BNSS regime, the police officer has the discretion to conduct preliminary enquiry and only if there exists a *prima facie* case in the complaint lodged, then he shall proceed to register a case.

32.4. It is further submitted that the Supreme Court in the case of *Imran Pratapgadhi v. State of Gujarat* (supra) has held that Section 173(3) of BNSS makes a significant departure from Section 154 of Code. If the information relating to commission of a cognizable offence which is punishable for 3 years or more, but less than 7 years is received by an officer, then the police officer with the prior permission of a superior officer is empowered to conduct a preliminary inquiry to ascertain whether there exists a *prima facie* case for proceeding in the matter. Relevant paragraphs are

extracted as under, for easy reference:

> *"42.(i). Sub-section (3) of Section 173 BNSS makes a significant departure from Section 154 of CrPC. It provides that when information relating to the commission of a cognizable offence which is made punishable for 3 years or more but less than 7 years is received by an officer-in-charge of a police station, with the prior permission of a superior officer as mentioned therein, the police officer is empowered to conduct a preliminary inquiry to ascertain whether there exists a prima facie case for proceeding in the matter. However, under Section 154 of the CrPC, as held in the case of Lalita Kumari v. State of U.P., (2014) 2 SCC 1, only a limited preliminary inquiry is permissible to ascertain whether the information received discloses a cognizable offence. Moreover, a preliminary inquiry can be made under CrPC only if the information does not disclose the commission of a cognizable offence but indicates the necessity for an inquiry. Sub-section (3) of Section 173 BNSS is an exception to sub-section (1) of Section 173. In the category of cases covered by sub-section (3), a police officer is empowered to make a preliminary inquiry to ascertain whether a prima facie case is made out for proceeding in the matter even if the information received discloses commission of any cognizable offence.*

(ii) Under sub-section (3) of Section 173 of the BNSS, after holding a preliminary inquiry, if the officer comes to a conclusion that a prima facie case exists to proceed, he should immediately register an FIR and proceed to investigate. But, if he is of the view that a prima facie case is not made out to proceed, he should immediately inform the first informant/complainant so that he can avail a remedy under sub-section (4) of Section 173.

(iii) In case of the offence punishable under Section 196 of the BNS to decide whether the words, either spoken or written or by sign or by visible representations or through electronic communication or otherwise, lead to the consequences provided in the Section, the police officer to whom information is furnished will have to read or hear the words written or spoken, and by taking the same as correct, decide whether an offence under Section 196 is made out. Reading of written words, or hearing spoken words will be necessary to determine whether the contents make out a case of the commission of a cognizable offence. The same is the case with offences punishable under Sections 197, 299 and 302 of BNS. Therefore, to ascertain whether the information received by an officer-in-charge of the police station makes out a cognizable offence, the officer must consider the meaning

of the spoken or written words. This act on the part of the police officer will not amount to making a preliminary inquiry which is not permissible under sub-section (1) of Section 173."

32.5. The provisions contained in Section 173(3) of the BNSS and the decision in the case of *Imran Pratapgadhi v. State of Gujarat (supra)* though provide for a preliminary enquiry, the statutory period or for that matter the decision of the Supreme Court cannot be taken to the extent that, in the name of preliminary enquiry, even if the source information contains overwhelming incriminating evidence, registration of offence could be deferred indefinitely.

33. The judicial pronouncements, as discussed above *in extenso*, clearly rule that where the information discloses commission of a cognizable offence, registration of FIR is must and that, at that stage, the credibility or worthiness of the information cannot be tested. Moreover, it has also been held that it is enough

if the Police Officer, on the basis of the information, suspects the commission of a cognizable offence, and not that he must be convinced or satisfied that a cognizable offence has been committed.

34. The preliminary enquiry is limited in nature and cannot be allowed to be converted into mini-trial before registration of an offence. Moreover, where the source of information is credible, registration of FIR must necessarily follow without further delay in the name of preliminary enquiry being conducted. The preliminary enquiry, in any case, cannot continue beyond 14 days even if the allegation is of commission of offence punishable up to seven years, as provided in Section 173(3) of the BNSS. The clear legal position is that holding of preliminary enquiry even in case of corruption is not a *sine qua non*. In other words, even in cases of allegations of corruption, if there is a credible source information containing material evidence and not merely a bald allegation, there is no need for a preliminary enquiry, but registration of offence must follow

without verifying the credibility or worthiness of the incriminating evidence.

35. Having so discussed the law as aforesaid, we shall now deal with a special case where the source information and incriminating material is forwarded by the Enforcement Directorate in discharge of statutory obligation under the provisions of the PMLA.

36. Section 66 of the PMLA provides for disclosure of information. Sub-section (2) to Section 66 of the PMLA, being relevant for the present case, is extracted herein below:

> *"66. Disclosure of information.-*
> *(1) ...*
> *(2) If the Director or other authority specified under sub-section (1) is of the opinion, on the basis of information or material in his possession, that the provisions of any other law for the time being in force are contravened, then the Director or such other authority shall share the information with the concerned agency for necessary action."*

37. The special provision contained in the PMLA casts a duty that if on the basis of information or material in its possession, the Director or other authority specified is of the opinion that the provisions of any other law for the time being in force are contravened, it shall share the information with the concerned agency for necessary action.

38.1. Three expressions used therein manifest legislative intention engrafted under Section 66(2) of the PMLA.

38.2. First is the "*opinion*". This opinion, according to the provisions, may be formed on the basis of information or material in the possession of the Director or specified authority. The law, therefore, contemplates a situation where on the basis of some information or material which is in possession, an opinion is formed that the provisions of any law for the time being in force are contravened.

38.3. The second expression is the statutory mandate in the form of "*shall share the information with the concerned agency*". This clear statutory mandate obliges the Director or the authority that once it forms an opinion on the basis of information or material in its possession, it is mandated by law to share this information with the concerned agency.

38.4. The third important expression is "*for necessary action*". This would mean that the purpose of sharing the information is for taking necessary action by the concerned agency.

39. The aforesaid statutory scheme and mandate of law was explained by the Supreme Court in the case of *Vijay Madanlal Choudhary v. Union of India* (supra) as follows:

> *"151. It is possible that in a given case after the discovery of huge volume of undisclosed property, the authorised officer may be advised to send information to the jurisdictional police [under Section 66(2) of the 2002 Act] for registration of a scheduled offence*

contemporaneously, including for further investigation in a pending case, if any. On receipt of such information, the jurisdictional police would be obliged to register the case by way of FIR if it is a cognizable offence or as a non-cognizable offence (NC case), as the case may be. If the offence so reported is a scheduled offence, only in that eventuality, the property recovered by the authorised officer would partake the colour of proceeds of crime under Section 2(1)(u) of the 2002 Act, enabling him to take further action under the Act in that regard.

...

160. Prior to the amendment, the first proviso was rightly perceived as an impediment. In that, to invoke the action of even provisional attachment order, registration of scheduled offence and completion or substantial progress in investigation thereof were made essential. This was notwithstanding the urgency involved in securing the proceeds of crime for being eventually confiscated and vesting in the Central Government. Because of the time lag and the advantage or opportunities available to the person concerned to manipulate the proceeds of crime, the amendment of 2015 had been brought about to overcome the impediment and empower the Director or any other officer not below the rank of Deputy Director authorised by him to proceed to issue provisional attachment order. In terms of the second proviso, the

authorised officer has to record satisfaction and reason for his belief in writing on the basis of material in his possession that the property (proceeds of crime) involved in money laundering if not attached "immediately", would frustrate proceedings under the 2002 Act. This is a further safeguard provided in view of the urgency felt by the competent authority to secure the property to effectively prevent and regulate the offence of money laundering. In other words, the authorised officer cannot resort to action of provisional attachment of property (proceeds of crime) mechanically.

...

163. In case the scheduled offence is not already registered by the jurisdictional police or complaint filed before the Magistrate, it is open to the authorised officer to still proceed under Section 5 of the 2002 Act whilst contemporaneously sending information to the jurisdictional police under Section 66(2) of the 2002 Act for registering FIR in respect of cognizable offence or report regarding non-cognizable offence and if the jurisdictional police fails to respond appropriately to such information, the authorised officer under the 2002 Act can take recourse to appropriate remedy, as may be permissible in law to ensure that the culprits do not go unpunished and the proceeds of crime are secured and dealt with as per the dispensation provided for in the

2002 Act. Suffice it to observe that the amendment effected in 2015 in the second proviso has reasonable nexus with the object sought to be achieved by the 2002 Act."

40. The authoritative pronouncement, as above, makes it clear that not only the Director and other specified authority of the Enforcement Directorate is mandated to share the information, but also that, on receipt of such information, the jurisdictional police would be obliged to register the case by way of FIR if it is a cognizable offence.

41. Mr.Choudhary, learned Senior Counsel appearing for one of the respondents, strenuously urged that such observations cannot be taken as enunciation of law of general application, but should be restricted only to the context of the case.

42. We are unable to accept the submission. The observations have been made by the Supreme Court upon

examination of the statutory scheme and the legislative intention. Therefore, in the present case, apart from the mandate of law, as discussed herein above, with reference to several judicial pronouncements, for this additional strong reason, we are of the view that where any information or material has been shared with the State police agency by the Enforcement Directorate, it has necessarily preceded formation of an opinion that the provisions of any law for the time being in force are contravened.

43. In a situation like the present one where the information is shared after the formation of opinion by one statutory investigating agency to the other, the judicial declaration as contained in paragraph 151 of the decision in *Vijay Madanlal Choudhary v. Union of India* (supra) obliges the registration of case by way of FIR, if it is a cognizable offence.

44. Further, the Hon'ble Supreme Court in the case of *Anil Tuteja v. Union of India*[12], held that the power under Section 66(2) of the Act is distinct and separate. As per the provisions of the Act, it is a mandatory duty of the investigating officer to share the materials collected with the concerned agencies and the said power has nothing to do with the proceedings pending at the relevant point of time. The materials available may be common, but the conclusion based upon further materials would be different. Relevant portions of the said decision is extracted, as under:

> *"6. On the contentions raised pertaining to the other Special Leave Petitions, we find no merit for consideration. The power under Section 66 (2) of the PMLA, 2002 is distinct and separate. Exercise of the said power has got nothing to do with the proceedings pending at the relevant point of time with the interim order, and so also the final order passed. In fact, on a perusal of Section 66 of the PMLA, 2002, we find that it is a mandatory duty of the investigating officer to share the materials collected with the other concerned agencies. Their investigation, followed by registration of the FIR and filing of the charge sheet travel on separate channels.*

12 *2025 SCC OnLine SC 2110*

7. To put it differently, the materials may be common, but the conclusion based upon further material would be different. In such view of the matter, all the contentions raised, irrespective of the information given earlier or subsequently would be irrelevant."

45. Reliance placed on the following decisions: (i) the Delhi High Court decision in the case of *Harish Fabiani and others v. Enforcement Directorate and others*[13]; (ii) the Kerala High Court decision in the case of *V.P.Nandakumar and another v. Directorate of Enforcement and another*[14]; and (iii) the Punjab and Haryana High Court decision in the case of *Angad Singh Makkar v. Union of India and others*[15], are misplaced in law in view of the authoritative pronouncement of the Supreme Court in the case of *Vijay Madanlal Choudhary v. Union of India* (supra).

46. The decision of a Division Bench of this court in the case

13 *W.P. (Crl) No.408 of 2022, dated 26.9.2022*
14 *2023 SCC OnLine Ker 6848*
15 *2024 NCPHHC 22543*

of *R.K.M.Powergen Private Limited v. Directorate of Enforcement*[16] dated 15.7.2025 does not apply as it says that in case investigating agency does not find any case with respect to the aspects pointed out by the Enforcement Directorate, then the Enforcement Directorate cannot *suo motu* proceed with the investigation and assume powers. The present is not a case where ECIR is under challenge.

47. The delay in registration of offence in the name of preliminary enquiry would not be permissible in those cases where it is the information received from the statutory investigating agency as provided under Section 66(2) of the PMLA, as it is not a case where that information has been given by any other person which may in appropriate case require a preliminary enquiry before registration of offence.

48. In the case of *Vijay Madanlal Choudhary* (supra), it has been emphasised that the culprits should not go unpunished and

16 *W.P.No.4297 of 2025, dated 15.7.2025*

should be appropriately dealt with, which can only be done if the jurisdictional police register a case on the information shared by the investigating officer of the Enforcement Directorate.

49. In the instant case, the Enforcement Directorate, by a communication dated 27.10.2025 shared information under Section 66(2) of the Act enclosing the voluminous documents running into 232 pages. The information shared states that the evidences include incriminating digital evidences such as photos, whatsapp chats, documents, etc. seized during the search, which discloses huge manipulation done in the recently concluded selection of officers in the MAWS Department. Bribes amounts ranging from about Rs.25 lakhs to Rs.35 lakhs per selection/post had been collected for appointment of many candidates, manipulating the competitive examination selection process.

50. It is stated in the information shared that the evidences collected shows certain public servants, politicians and their close

associates, private persons, candidates, etc. who are named in the report were involved in the manipulation of MAWS Department examination process. The named persons possessed the confidential examination information even before the declaration of results.

51. The said persons had collected bribes for selecting large number of candidates for jobs in the MAWS Department. The bribes have been collected in cash and routed through hawala networks. The collection of bribes was done under the active involvement and knowledge of the politicians and officers involved in the process. The candidates who paid bribes got selected by manipulating the exam process and the bribes collected were ultimately brought back into the banking system through various beneficial entities.

52. In view of the above, we directed the Enforcement Directorate to file a copy of those documents in a sealed cover and have perused the entire source information. On detailed perusal of the source information, we find the following:

i. There are named persons who are the brothers of the sitting Minister of the concerned department, close associates of the Minister and his brothers, the other public servants who were actively involved in the selection process.

ii. Incriminating materials and documents, including the whatsapp chats between the named persons sharing the details of the candidates attaching the interview letters prior to the selection, were seized and produced.

iii. The candidates whose details were shared with these materials were ultimately selected and got appointed to MAWS department. Detailed materials establishing the link of each of those persons and the manner in which the selection process was manipulated have been enclosed and filed with

evidences.

iv. The screenshots of the candidates exam/ interview card along with Rs.10 currency note, which were used to confirm the collection and routeing of the bribe amounts, had been enclosed in the report. Even confirmation of the payment of Rs.1 crore in respect of 3 candidates enclosing the photographs of an open bag containing piles of cash, prior to selection and the candidates ultimate selection is enclosed in the report.

v. The details of at least 147 candidates whose call letters were shared prior to the selection and the details of the communications made and their ultimate selection and appointment to the posts have been shared in detail.

vi. The material evidences in respect of several hawala transactions, one involving Rs.6.5 crores and another involving Rs.11.4 crores and also several transactions involving huge amounts using old Rs.10 currency notes, have all been dealt with and included in the report.

53. When incriminating materials have been seized by the Enforcement Directorate, which includes the copies of Hall Tickets and details of communications shared among the brothers and other high ranking personnels in the department who are closely connected to the sitting Minister of the concerned Department, the same has been shared with the Director General of Police/third respondent. The materials include devious methods adopted using Rs.10 currency note for the purpose of identification and collection of the bribe amounts varying from Rs.25 lakh to Rs.35 lakh per post.

54. The details shared and materials available reveals that those candidates got selected pursuant to the alleged transactions and when a large-scale corruption is stated to have happened involving several hundred crores of rupees, we find that the source material is sufficient enough disclosing the commission of a cognizable offence for the purpose of registering a case. It was for the State to register a case on the detailed information shared by the Enforcement Directorate under Section 66(2) of the PMLA on 27.10.2025 and they could have thereafter conducted a detailed investigation to unravel the truth and bring the culprits to book based on the investigation conducted.

55. On the contrary, we find that under the guise of conducting a preliminary investigation, the State has been embarking upon a mini-trial. It is stated that the consent/approval has been granted for the Vigilance Department and the Vigilance Department has been entrusted to conduct a detailed enquiry and the department is in the process of collecting documents and

records from all the other departments in conducting investigation.

56. It is not a case where they have received a bare complaint which necessitated the State to conduct an enquiry through the Vigilance Department. In the case on hand, it is a detailed source information provided by Enforcement Directorate with voluminous set of evidence *prima facie* disclosing a cognizable offence. When even a preliminary enquiry as permitted under Section 173(3) of the BNSS ought to have been done within a period of 14 days, the State is only finding ways and means to delay registering the case.

57. The manner in which the State is proceeding to conduct a preliminary enquiry, which has now culminated into a detailed enquiry through the vigilance department, raises serious doubts and concern. The fact that though the source information was shared on 27.10.2025, even after 3½ months the same has not even resulted in registration of a case, *prima facie* shows that the State,

under the guise of conducting a preliminary enquiry, is not inclined to register a case.

58. Despite detailed incriminating material evidence having been shared with the State agency, as nothing has been done towards registration of the offence even after 3½ months, which is clearly against the verdict of the Supreme Court in the case of *Vijay Madanlal Choudhary v. Union of India* (supra), we cannot brush aside the serious allegation made by the petitioner that the persons allegedly involved are high-ranking personnels and attempts are made to shield and protract the proceedings, instead of conducting fair and impartial investigation.

59. It is to be noted that the issue involves the recruitment of around 2,538 candidates to the posts of Assistant Engineers and so on. Already the selected candidates have been recruited and joined the offices and they have been in service for more than 6 months. If ultimately the large-scale illegalities are found and selections are

found to be rigged and fabricated, that may result in further actions. In the cases involving such complications and sensitive issues, the State ought to have acted diligently and should have registered a case without any delay and conducted a detailed investigation. Any delay in registering and investigating the case, may give room to destruction of material evidences which would be detrimental to the case.

60. In view of the deliberations, though we are *prima facie* satisfied that the investigation could be entrusted to an independent specialised agency, considering the fact that the Vigilance Department has been entrusted with the case by the State, we deem it appropriate that the second respondent/Vigilance Department should be directed to forthwith register a case and conduct a detailed investigation and take suitable further action based on the investigation report.

61. Accordingly, the second respondent/Vigilance Department

is directed to forthwith register a case on the information shared by the Enforcement Directorate on 27.10.2025 under Section 66(2) of the Act and conduct a detailed expeditious investigation into the matter and proceed further in accordance to law.

Resultantly, W.P.(MD)No.34197 of 2025 stands dismissed and W.P.(Crl.)No.74 of 2026 stands disposed of. There shall be no order as to costs.

(MANINDRA MOHAN SHRIVASTAVA, CJ.) (G.ARUL MURUGAN, J.)
20.02.2026

Index : Yes
Neutral Citation : Yes
sasi

To

1.The Additional Chief Secretary,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2.The Secretary,
Government of Tamil Nadu,
Home Department, Secretariat,
Chennai - 600 009.

3.The Director,
Directorate of Enforcement,
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New Delhi - 110 011.

4.The Director,
Directorate of Vigilance and Anti-Corruption (DVAC),
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5.The Assistant Director,
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Chennai - 600 006.

6.The Director General of Police,
Post Box No.601,
Dr.Radhakrishnan Salai, Mylapore,
Chennai - 600 004.

THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(sasi)

W.P.(MD)No.34197 of 2025
and W.P.(Crl.)No.74 of 2026

20.02.2026