IN THE HIGH COURT OF KARNATAKA AT BENGALURU

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DATED THIS THE 27TH DAY OF JULY, 2021

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.19700/2018 (GM- RES)

BETWEEN

MR A.L.JAYARAMU
S/O. MR.L.LINGAIAH,
AGED ABOUT 60 YEARS,
NOW RESIDING AT NO.95,
II MAIN ROAD, MLA LAYOUT,
RT NAGAR, BENGALURU – 560 032,

FORMER ASSISTANT ADMINISTRATIVE OFFICER,
GOVERNMENT UNANI MEDICAL COLLEGE,
DR. SIDDAIAH PURANIK ROAD,
BASAVESHWAR NAGAR,
BENGALURU – 560 079.

... PETITIONER

(BY SRI SAMPATH KUMAR B.K., ADVOCATE (VIDEO CONFERENCING))

AND

1. STATE OF KARNATAKA
REPRESENTED BY THE
KAMAKSHIPALYA POLICE STATION,
REPRESENTED BY THE S.P.P.,
HIGH COURT BUILDING,
AMBEDKAR VEEDHI,
BENGALURU – 560 001.

2. MRS. SHAKEELA BANU
W/O DR. S ZAIVUDDIN,

RESIDENCE NO. 19/A,
5TH CROSS,
KARNATAKA LAYOUT,
NEAR SHANKAR MUTT,
BENGALURU – 560 086.

OFFICE ADDRESS:
GOVERNMENT UNANI MEDICAL COLLEGE,
DR. SIDDAIAH PURANIK ROAD,
BASAVESHWAR NAGAR,
BENGALURU – 560 079.

3. THE SUPERINTENDENT OF POLICE
CRIMINAL INVESTIGATION DEPARTMENT (CID),
SPECIAL CELL AND ECONOMIC OFFENCES,
CARLTON HOUSE, PALACE ROAD,
BENGALURU - 560 001.

4. THE UNDER SECRETARY TO THE GOVERNMENT
INTERNAL ADMINISTRATION (LAW AND ORDER),
VIDHANA SOUDHA, AMBEDKAR VEEDHI,
BENGALURU - 560 001.

... RESPONDENTS

(BY SMT.NAMITHA MAHESH B.G., HCGP FOR R1, R3 & R4
(PHYSICAL HEARING);
R2 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, 1950 READ WITH SECTION 482 OF CODE OF CRIMINAL PROCEDURE PRAYING TO QUASH THE IMPUGNED GOVERNMENT ORDER DATED 19.12.2015, PASSED BY THE 4TH RESPONDENT VIDE ANNEXURE-C; QUASH THE COMPLAINT DATED 26.10.2015 FILED BY THE 2ND RESPONDENT VIDE ANNEXURE-A AND THE FIR BEARING CRIM NO. 659/2015 (CRIME NO.21601/2015) DATED 28.10.2015 VIDE ANNEXURE-B, REGISTERED BY THE 1ST RESPONDENT, PENDING BEFORE THE IV ADDITIONAL METROPOLITAN MAGISTRATE, BANGALORE CITY AND ETC.,

THIS WRIT PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner before this Court is seeking quashing of complaint dated 26-10-2015 and the resultant FIR in Crime No.659 of 2015 dated 28-10-2015.

2. *Sans* details, facts germane for consideration of the *lis*, are as follows:-

The petitioner was an employee of the Government of Karnataka and at the relevant point in time was working as an Assistant Administrative Officer, District Ayush Office, Bellary. The 2nd respondent registers a complaint on 26-10-2015 alleging that the petitioner along with four others had indulged in certain irregularities in the admissions given to students belonging to different States for the first year bachelor degree in Unani Medical Sciences and further alleged that the petitioner had indulged in creation of documents for eligibility of those students for professional courses notwithstanding the fact that those students did not have any eligibility to enter professional

courses. The said complaint resulted in registration of a FIR against the petitioner in Crime No.659 of 2015 for offences punishable under Section 34, 408, 420, 465, 468 and 471 of the Indian Penal Code. The Government by an order dated 19-12-2015 referred the matter to the 3rd respondent/Criminal Investigation Department ('CID' for short) for investigation and report.

3. During the pendency of the aforesaid criminal proceedings, the 1st respondent/Government decided to initiate a departmental enquiry against the petitioner and in furtherance of the said decision, issued a charge sheet and later, a retired District Judge was appointed as the Inquiry Officer in terms of Government Order dated 18-07-2016. The Inquiry Officer after holding an elaborate enquiry held the petitioner and others not guilty of the allegations. The petitioner, in particular, was held not guilty of all the 21 allegations that were levelled against him in terms of the charge sheet issued under Rule 11 of the

Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

4. Pursuant to the report of the Inquiry Officer dated 20-02-2017, holding the petitioner not guilty of the allegations, the Disciplinary Authority in terms of an order dated 12-07-2017 accepted the findings of the Inquiry Officer and exonerated the petitioner of all the allegations. A further communication is also directed to be made to the CID to drop the investigation against the petitioner and four others in the light of the departmental inquiry being held in favour of those employees. It is at that stage, the petitioner has knocked the doors of this Court in the present writ petition invoking inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure 1973. This Court by its order dated 29.05.2018 directed stay of all further proceedings in Crime No.659 of 2015.

5. Heard Sri B.K.Sampath Kumar, learned counsel appearing for the petitioner and Smt.Namitha Mahesh B.G.,

learned High Court Government Pleader appearing for respondent Nos.1, 3 and 4.

6. The learned counsel appearing for the petitioner submits that criminal proceedings should not have been permitted to proceed further in the light of exoneration of the petitioner in the departmental inquiry and an order being passed by the competent authority for withdrawal of investigation conducted by the CID in furtherance of registration of criminal case. He would also submit that, if the criminal proceedings were to be proceeded with, it would be an exercise in futility and agonizing to the petitioner who is now retired on attaining the age of superannuation.

7. On the other hand, the learned High Court Government Pleader in support of continuance of prosecution would submit that merely because the petitioner gets exonerated in a departmental inquiry, the same would not *ipso facto* mean that criminal proceedings against the petitioner should not be continued. She would submit that subsequent to the letter of

the Government seeking withdrawal of criminal proceedings, a communication is made by the Department of Home Affairs to the Advocate General stating that once an interim order gets vacated, the criminal proceedings will have to be continued and taken to its logical end and therefore would submit that, there is no warrant for interference at this stage.

8. I have given my anxious consideration to the rival submissions made by the respective learned counsel and have perused the material on record.

9. Certain undisputed facts are that, the complainant lodges a complaint before the 1st respondent/Police which results in FIR being registered against the petitioner in Crime No.659 of 2015 for offences indicated *supra*. The petitioner is accused No.3 along with others in the said criminal case, which is pending investigation at the hands of the CID. During the pendency of these proceedings, the competent authority in the Government decides to initiate departmental inquiry against the petitioner and others and charge sheet was issued on

20-01-2016. In terms of the decision of the competent authority, a Government order was issued on 18-07-2016, appointing a retired District Judge to hold the inquiry against the petitioner and others and submit his report. The charge sheet was issued in terms of Rule 11 of the Karnataka Civil Services (Classification, Control and Appeal) Rules, in which 21 allegations were levelled against the petitioner, all of which spring from the same incident and facts that had resulted in registration of FIR against the petitioner and enquiry proceedings were conducted by the said District Judge. Elaborate evidence was let in by the Government before the Inquiry Officer. The Inquiry Officer by his report dated 20-02-2017, held the petitioner and others not guilty of the allegations.

10. Insofar as it concerns the petitioner, the finding of the Inquiry Officer is as follows:

> *"ಎಲ್ಲಾ 21 ಆರೋಪಗಳು ಸರ್ಕಾರಿ ಯುನಾನಿ ವೈದ್ಯಕೀಯ ಮಹಾವಿದ್ಯಾಲಯದ ಭೋದನಾ ವಿಷಯಗಳು ಹಾಗು ಆಡಳಿತಾತ್ಮಕ ಮತ್ತು ಲೆಕ್ಕಪತ್ರ ನಿರ್ವಹಣೆಗೆ ಸಂಬಂಧಿಸಿವೆ. 2 ರಿಂದ 4ನೇ ಆಪಾದಿತರು ಶೈಕ್ಷಣಿಕ ಹಾಗೂ*

ಭೋಧನಾ ವಿಷಯಗಳನ್ನು ನಿರ್ವಹಿಸುವುದಿಲ್ಲ. ಹಾಜರಾತಿ ಮತ್ತು ಆಂತರಿಕ ಪರೀಕ್ಷೆಗಳನ್ನು ಭೋದಕರು ನಿರ್ವಹಿಸುತ್ತುದ್ದು, 1 ಮತ್ತು 2ನೇ ಆಪಾದಿತರ ಬೆದರಿಕೆಗೆ ಮಣಿದು, ಹಾಜರಾಗದ ವಿದ್ಯಾರ್ಥಿಗಳಿಗೆ ಅಂಕಗಳನ್ನು ನೀಡಿರುವ ವಿಷಯ ತಮ್ಮ ಗಮನಕ್ಕೆ ಬಂದ ತಕ್ಷಣ, ಮೇಲಾಧಿಕಾರಿಗಳಿಗೆ ವರದಿ ಮಾಡುವುದು ಹಾಗೂ ಈ ಅಕ್ರಮಗಳನ್ನು ತಡೆಯಲು ಪ್ರಯತ್ನಿಸುವುದು ಭೋದನಾ ವರ್ಗದವರ ಕರ್ತವ್ಯವಾಗಿದೆ. ಲೆಕ್ಕಪತ್ರ ನಿರ್ವಹಣೆಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಪ್ರತಿವರ್ಷ ಲೆಕ್ಕತಪಾಸಣೆ ಮಾಡಿ, ನ್ಯೂನತೆಗಳ ಬಗ್ಗೆ ಕ್ರಮವಹಿಸಬೇಕಾಗಿದೆ. 2007– 08ನೇ ಸಾಲಿನಿಂದ 2013– 14ನೇ ಸಾಲಿನವರೆಗೆ ಆಯಾ ವರ್ಷಗಳಲ್ಲಿ ಮಹಾಲೇಖಪಾಲರಿಂದ ಆದ ಲೆಕ್ಕತಪಸಣಾ ವರದಿಯನ್ನು ವಿಚಾರಣಾ ವೇಳೆಯಲ್ಲಿ ಹಾಜರುಪಡಿಸಿರುವುದಿಲ್ಲ. ಮಹಾಲೇಖಪಾಲರಿಂದ ಆದ ಲೆಕ್ಕತಪಾಸಣಾ ವರದಿಯಲ್ಲಿ ಈ ವಿಚಾರಣೆಯಲ್ಲಿ ಮಾಡಿರುವ ಆರೋಪಗಳು ಇರುವುದಿಲ್ಲ ಎಂದು ಸಾಕ್ಷಿದಾರರು ಒಪ್ಪಿರುತ್ತಾರೆ ಆಡಳಿತಾತ್ಮಕ ವಿಷಯಗಳನ್ನು ಆಗಿಂದಾಗ್ಗೆ ಸರಿಪಡಿಸಿಕೊಳ್ಳಲು ಕ್ರಮವಹಿಸಿ, ಸರಿಪಡಿಸಬೇಕಾಗಿದೆ.

ಎಲ್ಲಾ 4 ಅಪಾದಿತರುಗಳ ವಿರುದ್ಧ ಮಾಡಿರುವ ಆರೋಪಗಳು ತನಿಖಾ ವರದಿಯ ಆಧಾರಿತವಾಗಿದ್ದು, ತನಿಖಾ ವೇಳೆಯಲ್ಲಿ ಭೋಧಕರು ನೀಡಿರುವ ಹೇಳಿಗಳನ್ನು ಆಧರಿಸಲಾಗಿದೆ. ಆದರೆ, ಭೋದಕರು ವಿಚಾರಣೆಯಲ್ಲಿ ಸಾಕ್ಷಿ ನುಡಿಯುವಾಗ, ಆರೋಪಗಳ ಬಗ್ಗೆ ಸಾಕ್ಷಿ ನುಡಿದಿರುವುದಿಲ್ಲ.

ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ಪರಿಗಣಿಸಿ, 1, 3 ಮತ್ತು 4ನೇ ಆಪಾದಿತರ ವಿರುದ್ಧ ಮಾಡಿರುವ 20 ಆರೋಪಗಳು ಹಾಗೂ 2ನೇ ಆಪಾದಿತರ ವಿರುದ್ಧ ಮಾಡಿರುವ 21 ಆರೋಪಗಳು ಸಾಬೀತಾಗಿಲ್ಲವೆಂದು ನಿರ್ಣಯಿಸಲಾಗಿದೆ."

(emphasis added)

On receipt of the report from the hands of the Inquiry Officer, the competent authority decided to accept the report of the Inquiry Officer as there was no evidence against the

petitioner and closed the proceedings. The order of the competent authority reads as follows:

"ಸರ್ಕಾರಿ ಆದೇಶ ಸಂಖ್ಯೆ:ಆಕುಕ 297 ಪಿಟಿಡಿ 2014, ಬೆಂಗಳೂರು, ದಿನಾಂಕ 11/12.07.2017

ಪ್ರಸ್ತಾನೆಯಲ್ಲಿ ವಿವರಿಸಿದ ಅಂಶಗಳ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, 2013-14ನೇ ಶೈಕ್ಷಣಿಕ ಸಾಲಿನಲ್ಲಿ ಬೆಂಗಳೂರಿನ ಸರ್ಕಾರಿ ಯುನಾನಿ ವೈದ್ಯಕೀಯ ಮಹಾವಿದ್ಯಾಲಯದಲ್ಲಿ ಬಿ.ಯು.ಎಂ.ಎಸ್.ನ ಕೆಲವು ವಿದ್ಯಾರ್ಥಿಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ದಾಖಲೆಗಳನ್ನು ಅಕ್ರಮವಾಗಿ ತಿದ್ದಿ ಅವರು ಪರೀಕ್ಷೆಗೆ ಹಾಜರಾಗಲು ಅವಕಾಶ ಮಾಡಿಕೊಟ್ಟಿರುವುದು, ನಕಲಿ ದಾಖಲೆಗಳನ್ನು ಸೃಷ್ಟಿಸಿ ನಾಲ್ಕೂವರೆ ವರ್ಷಗಳಲ್ಲಿ ಪೂರೈಸಬೇಕಾದ ಬಿ.ಯು.ಎಂ.ಎಸ್. ಪದವಿಯನ್ನು 3 ವರ್ಷಗಳಲ್ಲಿಯೇ ಪೂರ್ಣಗೊಳಿಸಲು ಅವಕಾಶ ಮಾಡಿಕೊಟ್ಟಿರುವ ಪರೀಕ್ಷಾ ಅಕ್ರಮಗಳಿಗೆ ಕಾರಣರಾಗಿದ್ದರೆನ್ನಲಾದ ಈ ಕೆಳಕಂಡ ಆಪಾದಿತರ ವಿರುದ್ಧದ ಆರೋಪಗಳು ಇಲಾಖಾ ವಿಚಾರಣೆಯಲ್ಲಿ ಸಾಬೀತಾಗಿಲ್ಲದಿರುವುದರಿಂದ ಸದರಿಯವರ ವಿರುದ್ಧದ ಆರೋಪಗಳನ್ನು ಕೈಬಿಟ್ಟು ದೋಷಮುಕ್ತಗೊಳಿಸಿ ಆದೇಸಿದೆ.

1. *ಡಾ.ಹಸೀಬುನ್ನಿಸಾ, ನಿವೃತ್ತ ಜಂಟಿ ನಿರ್ದೇಶಕರು (ವೈದ್ಯಕೀಯ ಶಿಕ್ಷಣ), ಆಯುಷ್ ನಿರ್ದೇಶನಾಲಯ, ಹಿಂದಿನ ಪ್ರಾಚಾರ್ಯರು, ಸರ್ಕಾರಿ ಯುನಾನಿ ವೈದ್ಯಕೀಯ ಮಹಾವಿದ್ಯಾಲಯ, ಬೆಂಗಳೂರು.*
2. ***ಶ್ರೀ ಎ.ಎಲ್.ಜಯರಾಮ್, ಸಹಾಯಕ ಆಡಳಿತಾಧಿಕಾರಿ, ಸರ್ಕಾರಿ ಯುನಾನಿ ವೈದ್ಯಕೀಯ ಮಹಾವಿದ್ಯಾಲಯ, ಪ್ರಸ್ತುತ ಜಿಲ್ಲಾ ಆಯುಷ್ ಅಧಿಕಾರಿಗಳ ಕಚೇರಿ, ಬಳ್ಳಾರಿ.***
3. *ಶ್ರೀಮತಿ ಟಿ.ಎ.ಮೀನಾಕ್ಷಿ, ದ್ವಿತೀಯ ದರ್ಜೆ ಸಹಾಯಕಿ, ಸರ್ಕಾರಿ ಯುನಾನಿ ವೈದ್ಯಕೀಯ ಮಹಾವಿದ್ಯಾಲಯ, ಪ್ರಸ್ತುತ ಜಿಲ್ಲಾ ಆಯುಷ್ ಅಧಿಕಾರಿಗಳ ಕಚೇರಿ, ಚಿರ್ತದುರ್ಗ.*
4. *ಶ್ರೀಮತಿ ವಿ.ನರಸಮ್ಮ, ಬೆರಳಚ್ಚುಗಾರರು, ಹಿಂದಿನ ಸರ್ಕಾರಿ ಯುನಾನಿ*

ವೈದ್ಯಕೀಯ ಮಹಾವಿದ್ಯಾಲಯ, ಬೆಂಗಳೂರು ಪ್ರಸ್ತುತ ಜಿಲ್ಲಾ ಆಯುಷ್ ಅಧಿಕಾರಿ ಬೆಂಗಳೂರು ನಗರ ಮತ್ತು ಗ್ರಾಮೀಣ, ಬೆಂಗಳೂರು.

ಮುಂದುವರೆದು ಈ ಪ್ರಕರಣದಲ್ಲಿ ಅಮಾನತ್ತುಗೊಂಡ ಆಪಾದಿತ ಅಧಿಕಾರಿ / ನೌಕರರುಗಳ ಅಮಾನತ್ತಿನ ಅವಧಯನ್ನು ಕರ್ತವ್ಯ ಅವಧಿ ಎಂದು ನಿಯಮಾನುಸಾರ ಪರಿಶೀಲಿಸಿ, ಆಯುಷ್ ನಿರ್ದೇಶಕರು ಆದೇಶ ಹೊರಡಿಸತಕ್ಕದ್ದು."

(emphasis added)

After accepting the report of the Inquiry Officer and closing the proceedings, a communication was also sent on 11-07-2017 by the Government to withdraw the investigation that was directed in Crime No.659 of 2015. The communication reads as follows:

"ಇದೇ ಆರೋಪಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಸಮಾನಾಂತರ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು 04–ಆಪಾದಿತ ಅಧಿಕಾರಿ / ನೌಕರರ ವಿರುದ್ಧ ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವಾ (ಸಿಸಿಎ) ನಿಯಮಾವಳಿ 1957ರ ನಿಯಮ 11 ಮತ್ತು ನಿವೃತ್ತಿ ಹೊಂದಿದ ಆರೋಪಿತರ ವಿರುದ್ಧ ಕ.ನಾ.ಸೇ ನಿಯಮಾವಳಿ 1958ರ ನಿಯಮ 214(1)(ಎ) ರಡಿ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ನಿಯಮಾನುಸಾರ ಪ್ರಾರಂಭಿಸಿದ್ದು, ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ನೀಡಿರುವ ಅಂತಿಮ ಇಲಾಖಾ ವಿಚಾರಣಾ ವರದಿಯಲ್ಲಿ ಆಪಾದಿತರ ವಿರುದ್ಧ ಎಲ್ಲಾ ಆರೋಪಗಳು ಸಾಬೀತಾಗಿಲ್ಲವೆಂದು ದೃಢಪಡಿಸಿದ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ವಿಚಾರಣಾಧಿಕಾರಿಗಳ ವಿಚಾರಣಾ ವರದಿಯನ್ನು ಸರ್ಕಾರವು ಅಂಗೀಕರಿಸಿ, ಆಪಾದಿತರ ವಿರುದ್ಧದ ಆರೋಪಗಳನ್ನು ಕೈಬಿಟ್ಟು ದೋಷಮುಕ್ತರನ್ನಾಗಿಸಿ ಹೊರಡಿಸಿದ ಸರ್ಕಾರಿ ಆದೇಶ ಸಂಖ್ಯೆ:ಆಕುಕ/297/ಪಿಟಿಡಿ/2014, ದಿನಾಂಕ:11.07.2017ರ ಪ್ರತಿಯನ್ನು ಇದರೊಂದಿಗೆ ಲಗತ್ತಿಸಿದೆ.

ಆದ್ದರಿಂದ, ಒಳಾಡಳಿತ ಇಲಾಖೆಯು ಪ್ರಕರಣವನ್ನು ಸಿ.ಐ.ಡಿ.ಗೆ ವಹಿಸಲು ಹೊರಡಿಸಿರುವ ಸರ್ಕಾರಿ ಆದೇಶ ಸಂಖ್ಯೆ:ಒಇ/200/ಸಿಐಡಿ/2015, ದಿನಾಂಕ:19.12.2015ರ ಆದೇಶದಂತೆ ಸಿಐಡಿ ಯ ತನಿಖೆಗಾಗಿ ವಹಿಸಿರುವ ಪ್ರಕರಣವನ್ನು ಕೈಬಿಡುವಂತೆ ಹಾಗೂ ಕಾಮಾಕ್ಷಿ ಪಾಳ್ಯ ಪೊಲೀಸ್ ಠಾಣೆ, ಅಪರಾಧ ಸಂಖ್ಯೆ:0659/15ನ್ನು ತನಿಖೆಯಿಂದ ಹಿಂಪಡೆಯುವಂತೆಯೂ ಸಹ ಕೋರಲಾಗಿದೆ."

(emphasis added)

This is followed up by another unofficial note to close the proceedings even before the criminal Court, which reads as follows:

"ಮೇಲ್ಕಂಡ ವಿಷಯ ಮತ್ತು ಉಲ್ಲೇಖಿತ ಟಿಪ್ಪಣಿಯಲ್ಲಿ ಕೋರಲಾಗಿರುವಂತೆ ಸದರಿ ಪ್ರಕರಣದ ಕುರಿತು ಸಿಐಡಿ ತನಿಖೆಯನ್ನು ಕೈಬಿಡುವ ಬಗ್ಗೆ ಮಾನ್ಯ ಆರೋಗ್ಯ ಮತ್ತು ಕುಟುಂಬ ಕಲ್ಯಾಣ ಸಚಿವರ ಟಿಪ್ಪಣಿಯ ಉದ್ಧೃತ ಭಾಗ ಈ ಕೆಳಕಂಡಂತಿದೆ.

"ದಿನಾಂಕ:17.09.2014ರಂದು 2013–14 ಮತ್ತು 2014–15ನೇ ಸಾಲಿನಲ್ಲಿ ಸರ್ಕಾರಿ ಯುನಾನಿ ವೈದ್ಯಕೀಯ ಮಹಾವಿದ್ಯಾಲಯ, ಬೆಂಗಳೂರು ಇಲ್ಲಿ ನಡೆದಿದೆ ಎನ್ನಲಾದ ಅಕ್ರಮಗಳ ಬಗ್ಗೆ ಪ್ರಾಚಾರ್ಯರು, ಸರ್ಕಾರಿ ಯುನಾನಿ ವೈದ್ಯಕೀಯ ಮಹಾವಿದ್ಯಾಲಯ, ಬೆಂಗಳೂರು ಇವರು ವರದಿ ನೀಡಿರುವ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ನಿರ್ದೇಶಕರು, ಆಯುಷ್ ಇಲಾಖೆ ರವರು ಅಕ್ರಮವಾಗಿ ಭಾಗಿಯಾಗಿರುವ ಈ ಕೆಳಕಂಡವರನ್ನು ಅಮಾನತ್ತುಗೊಳಿಸಿ ಜಂಟಿ ಇಲಾಖಾ ವಿಚಾರಣೆ ಜರುಗಿಸುವಂತೆ ದಿನಾಂಕ: 12.03.2015ರಂದು ಸೂಚಿಸಿರುತ್ತಾರೆ.

1. *ಡಾ॥ಹಸಿಬುನ್ನೀಸಾ, ಹಿಂದಿನ ಪ್ರಾಚಾರ್ಯರು, ಸರ್ಕಾರಿ ಯುನಾನಿ ವೈದ್ಯಕೀಯ ಮಹಾವಿದ್ಯಾಲಯ, ಬೆಂಗಳೂರು (ಪ್ರಸ್ತುತ ವಯೋನಿವೃತ್ತಿ).*
2. *ಡಾ॥ ಇಫ್ತಿಕಾರುದ್ದೀನ್, ಪ್ರಾಚಾರ್ಯರು, ಸರ್ಕಾರಿ ಯುನಾನಿ ವೈದ್ಯಕೀಯ*

ಮಹಾವಿದ್ಯಾಲಯ, ಬೆಂಗಳೂರು (ಪ್ರಸ್ತುತ ನಿಧನ).

3. *ಶ್ರೀ ಎ.ಎಲ್.ಜಯರಾಮ್, ಹಿಂದಿನ ಸಹಾಯಕ ಆಡಳಿತಾಧಿಕಾರಿ, ಆಯುಷ್ ಇಲಾಖೆ, ಸರ್ಕಾರಿ ಯುನಾನಿ ವೈದ್ಯಕೀಯ ಮಹಾವಿದ್ಯಾಲಯ, ಬೆಂಗಳೂರು.*
4. *ಶ್ರೀಮತಿ ಮೀನಾಕ್ಷಿ, ದ್ವಿತೀಯ ದರ್ಜೆ ಸಹಾಯಕರು, ಸರ್ಕಾರಿ ಯುನಾನಿ ವೈದ್ಯಕೀಯ ಮಹಾವಿದ್ಯಾಲಯ, ಬೆಂಗಳೂರು.*
5. *ಶ್ರೀಮತಿ ನರಸಮ್ಮ, ಬೆರಳಚ್ಚುಗಾರರು, ಸರ್ಕಾರಿ ಯುನಾನಿ ವೈದ್ಯಕೀಯ ಮಹಾವಿದ್ಯಾಲಯ, ಬೆಂಗಳೂರು.*

ಅದರನ್ವಯ ದಿನಾಂಕ:22.04.2015ರಂದು ಜಂಟಿ ಇಲಾಖಾ ವಿಚಾರಣೆಗೆ ಒಳಪಡಿಸಲು ಆದೇಶಿಸಲಾಯಿತು.

ವಿಧಾನ ಮಂಡಲದ ಅಧಿವೇಶನದ ಸಂದರ್ಭದಲ್ಲದಿ ಮಾನ್ಯ ಶಾಸಕರುಗಳ ಚರ್ಚೆ ನಿಮಿತ್ತ ಪ್ರಕರಣದ ತೀವ್ರತೆಯನ್ನು ಮನಗಂಡು ಈ ಪ್ರಕರಣದಲ್ಲಿ ಕ್ರಿಮಿನಲ್ ಅಪರಾಧಗಳು ಇದ್ದುದರಿಂದ, (ಕಡತ ಸೃಷ್ಠಿ, ನಕಲಿ ದಾಖಲೆಗಳ ಟ್ಯಾಂಪರಿಂಗ್ ಇತ್ಯಾದಿ) ಪ್ರಕರಣವನ್ನು ದಿನಾಂಕ:16.10.2015ರಂದು ಸಿ.ಒ.ಡಿ. ತನಿಖೆಗೆ ವಹಿಸಲು ಆದೇಶಿಸಲಾಯಿತು. ಈ ಒಂದು ಸಂಸ್ಥೆಗೆ ತನಿಖೆ ನಡೆಸಲು ಆದೇಶಿಸಿರುವ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಮತ್ತೊಮ್ಮೆ ನಿವೃತ್ತ ನ್ಯಾಯಧೀಶರ ನೇತೃತ್ವದಲ್ಲಿ ಇಲಾಖಾ ವಿಚಾರಣೆನ್ನು ಒಂದೇ ಅಪರಾಧಕ್ಕೆ ನಡೆಸಿರುವುದು ಸಮಂಜಸವಲ್ಲ. ಆದಾಗ್ಯೂ, ನಿವೃತ್ತ ಜಿಲ್ಲಾ ನ್ಯಾಯಾಧೀಶರ ನೇತೃತ್ವದಲ್ಲಿ ನಡೆದ ಜಂಟಿ ಇಲಾಖಾ ವಿಚಾರಣೆಯಲ್ಲಿ

"ಎಲ್ಲಾ 04 ಆಪಾದಿತರುಗಳ ವಿರುದ್ಧ ಮಾಡಿರುವ ಆರೋಪಗಳು ತನಿಖಾ ವರದಿಯ ಆಧಾರಿತವಾಗಿದ್ದು, ತನಿಖಾ ವೇಳೆಯಲ್ಲಿ ಬೋಧಕರು ನೀಡಿರುವ ಹೇಳಿಕೆಗಳನ್ನು ಆಧರಿಸಲಾಗಿದೆ. ಆದರೆ, ಬೋಧಕರು ವಿಚಾರಣೆಯಲ್ಲಿ ಸಾಕ್ಷಿ ನುಡಿಯುವಾಗ ಆರೋಪಗಳ ಬಗ್ಗೆ ಸಾಕ್ಷಿ ನುಡಿದಿರುವುದಿಲ್ಲ.

ಈ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ಪರಿಗಣಿಸಿ, 01, 03 ಮತ್ತು 04ನೇ ಆಪಾದಿತರ ವಿರುದ್ಧ ಮಾಡಿರುವ 20 ಆರೋಪಗಳು ಹಾಗೂ 02ನೇ ಆಪಾದಿತರ ವಿರುದ್ಧ ಮಾಡಿರುವ 21 ಆರೋಪಗಳು ಸಾಬೀತಾಗಿಲ್ಲವೆಂದು ನಿರ್ಣಯಿಸಲಾಗಿದೆ.

ಈ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಅವರು ನೀಡಿರುವ ನಿರ್ಣಯವನ್ನು ಒಪ್ಪಿಕೊಳ್ಳಲಾಗಿದೆ ಒಳಾಡಳಿತ ಇಲಾಖೆಯು ಪ್ರಕರಣವನ್ನು ಸಿ.ಒ.ಡಿಗ.ಗೆ ವಹಿಸಿ ಆದೇಶಿಸಿರುವ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಸಿ.ಒ.ಡಿ. ತನಿಖೆಯನ್ನು ಕೈಬಿಡಲು ಆದೇಶಿಸಿದೆ."

ಸಹಿ/-

(ಮಾನ್ಯ ಆರೋಗ್ಯ ಮತ್ತು ಕುಟುಂಬ ಕಲ್ಯಾಣ ಸಚಿವರು)."

(emphasis added)

Thus, all these decisions were taken pursuant to exoneration of the petitioner in the inquiry. On the strength of the aforesaid communication and the findings of the Inquiry Officer, the petitioner has knocked the doors of this Court in this writ petition.

11. The issue that falls for my consideration is, ***whether the proceedings before the criminal Court in Crime No.659 of 2015 should be permitted to continue in the light of exoneration of the petitioner in the departmental enquiry?***

12. The allegations levelled in the criminal case, no doubt, are for offences under the IPC. The facts and the incident

resulted in two proceedings – one by registration of FIR and the other by issuance of charge sheet in the departmental side. In the enquiry proceedings, the findings are dependent upon probabilities being preponderant, the Government failing to prove any of the allegations against the petitioner even on probabilities and the Disciplinary Authority accepting the said report and exonerating the petitioner. The chances of the Government proving the allegations for the offences under criminal law, where the guilt has to be proved beyond all reasonable doubt, is bleak. Since chances are bleak for the reasons indicated hereinabove, it would be improper to permit the criminal trial to proceed any further.

13. This view of mine in this regard, is fortified by the judgment of the Apex Court in the case of **P.S. RAJYA v. STATE OF BIHAR**[1]**,** wherein the Apex Court has held as follows:

> *"17. At the outset we may point out that the learned counsel for the respondent could not but accept the position that the standard of proof required to establish the guilt in a criminal case is far higher than the standard of proof required to*

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[1] **(1996) 9 SCC 1**

establish the guilt in the departmental proceedings. He also accepted that in the present case, the charge in the departmental proceedings and in the criminal proceedings is one and the same. He did not dispute the findings rendered in the departmental proceedings and the ultimate result of it. On these premises, if we proceed further then there is no difficulty in accepting the case of the appellant. For if the charge which is identical could not be established in a departmental proceedings and in view of the admitted discrepancies in the reports submitted by the valuers one wonders what is there further to proceed against the appellant in criminal proceedings. In this context, we can usefully extract certain relevant portions from the report of the Central Vigilance Commission on this aspect.

> *"Neither the prosecution nor the defence has produced the author of various reports to confirm the valuation. The documents cited in the list of documents is a report signed by two engineers namely S/Shri S.N. Jha and D.N. Mukherjee whereas the document brought on record (Ex. S-20) has been signed by three engineers. There is also difference in the estimated value of the property in the statement of imputation and the report. The document at Ex. S-20 has been signed by three engineers and the property has been valued at Rs 4,85,000 for the ground floor and Rs 2,55,600 for the second floor. A total of this comes to Rs 7,40,900 which is totally different from the figure of Rs 7,69,800 indicated in the statement of*

imputation. None of the engineers who prepared the valuation report though cited as prosecution witnesses appeared during the course of enquiry. This supports the defence argument that the authenticity of this document is in serious doubts. It is a fact that the income tax authorities got this property evaluated by S/Shri S.N. Jha and Vasudev and as per this report at pp. 50 to 63 they estimated the property at Rs 4,57,600 including the cost of land Rs 1,82,000 for ground and mezzanine floor plus Rs 2,55,600 for first floor and Rs 20,000 for cost of land. Thus both the engineers who prepared the valuation report for income tax purposes also prepared the report for the CBI and there is no indication in the subsequent report as to why there is a difference in the value of the property. A perusal of these two reports reveals that there is difference in the specification of the work. The valuation report prepared by Shri S.N. Jha for ground floor for income tax purposes clearly states that the structure was having "RCC pillars at places, brickwork in cement mortar, RCC lintel, 60 cm walls, 9 inch floor height, 17.6, 8.00, 8.00 inch" but in the report for CBI which was also prepared by him the description is "RCC framed structure open verandah on three sides in the ground floor". Similarly, for the first floor it is written in the report as "partly framed

structure and partly load being walls, floor heights 3.20 mm. Further Shri S.N. Jha on p. 54 of Ex. D-1 had adopted a rate of Rs 290 per sq. mtr. for ground floor and adding for extra height he had estimated ground floor including mezzanine floor at Rs 2,02,600. But for the report at Ex. S-20 the rate has been raised to 365 per sq. mtr. There is no explanation for this increase of rate by Rs 75 per mtr. It is also observed that for the updating of the cost of index 5% was added to the rate of Rs 290 as per p. 55 of Ex. D-1 by Shri S.N. Jha but this has been raised to 97% as an escalation to the cost of index in Ex. S-20 without explaining or giving the reasons therefor. It is surprising that same set of engineers have adopted different standard for evaluating the same property at different occasions. Obviously, either of the report is false and it was for the prosecution to suitably explain it. In the absence of it the only inference to be drawn is that report at Ex. S-20 is not authentic. Since the same set of engineers have done the evaluation earlier and if subsequently they felt that there was some error in the earlier report, they should have explained detailed reasons either in the report itself or during the course of enquiry. Therefore, Ex. S-20 is not reliable."

… … … …

20. Moreover a perusal of Ex. S-20 reveals that Shri Vasudev, Executive Engineer has recorded a note as follows:

> *"'Hence the valuation of Shri S.N.Jha was never superseded by any other estimates. As is confirmed from the records, his estimated figures were only accounted for by the ITO Bokaro."*

Thus according to Shri Vasudev, who was the seniormost among the three CPWD engineers who prepared Ex. S-20, the valuation of ground floor remains at Rs 1,82,600 plus Rs 20,000 for the cost of land. The first floor as per Ex. S-20 was estimated at Rs 2,55,600 and a total of all this comes to Rs 4,57,600 which is very near to the declaration of actuals to the income tax authority and also the estimated cost by the Bokaro Steel Township Engineer and the government approved valuer.

20. At the risk of repetition, we may state that the charge had not been proved and on that basis the appellant was cleared of departmental enquiry. In this connection, we may also usefully cite a decision of this Court in State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335: 1992 SCC (Cri) 426]. This Court after considering almost all earlier decisions has given guidelines relating to the exercise of the extraordinary power under Article 226 of the Constitution or the inherent powers under Section 482 of the Code of Criminal Procedure for quashing an FIR or a complaint. *This Court observed as follows: (SCC pp. 378-79, paras 102-3)*

"In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

> *(1) Where the allegations made in the first information report 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.*
>
> *(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
>
> *(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of*

> *any offence and make out a case against the accused.*
>
> *(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*
>
> *(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
>
> *(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.*
>
> *(7) Where a criminal proceeding is manifestly attended with mala fide 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.*

21. It is clear from the above discussions that though the document cited in Annexure III is a joint report of two engineers what has been brought on record is a document signed by three engineers, the

same set of engineers who evaluated the property for income tax purposes, and there is a vast difference in the specifications and the rates adopted for calculating the cost in Ex. S-20 have been increased without any explanation and none of these engineers were produced during the course of enquiry to clarify the position. Hence the authenticity of Ex. S-20 is doubtful as claimed by the defence.

22. It needs to be mentioned that the report at Ex. S-20 has evaluated the ground floor at Rs 4,85,300 and a note to the effect that 10% should be allowed for self-supervision and procurement of material has also been recorded at the end. On this basis the net value of ground floor comes to Rs 4,36,810 (Rs 4,85,344-Rs 48,534). The first floor has been evaluated at Rs 2,55,600 after allowing the allowance for self-supervision and a total of both items would come to Rs 6,62,410. Thus, even the report at Ex. S-20 does not support the prosecution case that as per the report of CPWD Engineers the property is valued at Rs 7,69,800. As the property assessed by the income tax authority for Rs 4.67 lakhs and even the valuation given by the Bokaro Steel Township Engineer and the government-approved valuer are very near to this figure, the reasonable value of this property could only be taken as 4.75 lakhs assessed by the Bokaro Township Engineer on detailed estimate basis."

(emphasis supplied)

Later, the Apex Court though not referring to ***P.S.RAJYA*** held in identical lines in the case of ***Radheshyam***

***Kejriwal* v. *State of W.B*[2],** that standard of proof in a criminal case is much higher than that of adjudication in a departmental enquiry. If in a departmental inquiry, the competent authorities have failed to drive home the charge, it would be improper to permit criminal trial any further. This view of the Apex Court in the aforesaid case is reiterated in the later three Judge Bench in the case of ***Ashoo Surendranath Tewari v. CBI*[3],** wherein the Apex Court has held as follows:

> *"8. A number of judgments have held that the standard of proof in a departmental proceeding, being based on preponderance of probability is somewhat lower than the standard of proof in a criminal proceeding where the case has to be proved beyond reasonable doubt. In P.S. Rajya v. State of Bihar [P.S. Rajya v. State of Bihar, (1996) 9 SCC 1 : 1996 SCC (Cri) 897] , the question before the Court was posed as follows: (SCC pp. 2-3, para 3)*
>
> > *"3. The short question that arises for our consideration in this appeal is whether the respondent is justified in pursuing the prosecution against the appellant under Section 5(2) read with Section 5(1)(e) of the Prevention of Corruption Act, 1947 notwithstanding the fact that on an identical charge the appellant was exonerated in the departmental proceedings in*

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[2] (2011) 3 SCC 581
[3] (2020) 9SCC 636

the light of a report submitted by the Central Vigilance Commission and concurred by the Union Public Service Commission."

9. This Court then went on to state: (P.S. Rajya case [P.S. Rajya v. State of Bihar, (1996) 9 SCC 1 : 1996 SCC (Cri) 897] , SCC p. 5, para 17)

"17. At the outset we may point out that the learned counsel for the respondent could not but accept the position that the standard of proof required to establish the guilt in a criminal case is far higher than the standard of proof required to establish the guilt in the departmental proceedings. He also accepted that in the present case, the charge in the departmental proceedings and in the criminal proceedings is one and the same. He did not dispute the findings rendered in the departmental proceedings and the ultimate result of it."

10. This being the case, the Court then held: (P.S. Rajya case [P.S. Rajya v. State of Bihar, (1996) 9 SCC 1 : 1996 SCC (Cri) 897] , SCC p. 9, para 23)

"23. Even though all these facts including the report of the Central Vigilance Commission were brought to the notice of the High Court, unfortunately, the High Court took a view [Prabhu Saran Rajya v. State of Bihar, Criminal Miscellaneous No. 5212 of 1992, order dated 3-8-1993 (Pat)] that the issues raised had to be gone into in the final proceedings and the report of the Central Vigilance Commission, exonerating the appellant of the same charge in departmental proceedings would not conclude

the criminal case against the appellant. We have already held that for the reasons given, on the peculiar facts of this case, the criminal proceedings initiated against the appellant cannot be pursued. Therefore, we do not agree with the view taken by the High Court as stated above. These are the reasons for our order dated 27-3-1996 for allowing the appeal and quashing the impugned criminal proceedings and giving consequential reliefs."

11. In Radheshyam Kejriwal v. State of W.B. [Radheshyam Kejriwal v. State of W.B., (2011) 3 SCC 581 : (2011) 2 SCC (Cri) 721] , this Court held as follows: (SCC pp. 594-96, paras 26, 29 & 31)

"26. We may observe that the standard of proof in a criminal case is much higher than that of the adjudication proceedings. The Enforcement Directorate has not been able to prove its case in the adjudication proceedings and the appellant has been exonerated on the same allegation. The appellant is facing trial in the criminal case. Therefore, in our opinion, the determination of facts in the adjudication proceedings cannot be said to be irrelevant in the criminal case. In B.N. Kashyap [B.N. Kashyap v. Crown, 1944 SCC OnLine Lah 46 : AIR 1945 Lah 23] the Full Bench had not considered the effect of a finding of fact in a civil case over the criminal cases and that will be evident from the following passage of the said judgment: (SCC OnLine Lah: AIR p. 27)

'… I must, however, say that in answering the question, I have only

> *referred to civil cases where the actions are in personam and not those where the proceedings or actions are in rem. Whether a finding of fact arrived at in such proceedings or actions would be relevant in criminal cases, it is unnecessary for me to decide in this case. When that question arises for determination, the provisions of Section 41 of the Evidence Act, will have to be carefully examined.'*

***

29. We do not have the slightest hesitation in accepting the broad submission of Mr Malhotra that the finding in an adjudication proceeding is not binding in the proceeding for criminal prosecution. A person held liable to pay penalty in adjudication proceedings cannot necessarily be held guilty in a criminal trial. Adjudication proceedings are decided on the basis of preponderance of evidence of a little higher degree whereas in a criminal case the entire burden to prove beyond all reasonable doubt lies on the prosecution.

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31. It is trite that the standard of proof required in criminal proceedings is higher than that required before the adjudicating authority and in case the accused is exonerated before the adjudicating authority whether his prosecution on the same set of facts can be allowed or not is the precise question which falls for determination in this case."

12. After referring to various judgments, this Court then culled out the ratio of those decisions in para 38 as follows: (Radheshyam Kejriwal case [Radheshyam Kejriwal v. State of W.B., (2011) 3 SCC 581 : (2011) 2 SCC (Cri) 721] , SCC p. 598)

> *"38. The ratio which can be culled out from these decisions can broadly be stated as follows:*
>
> *(i) Adjudication proceedings and criminal prosecution can be launched simultaneously;*
>
> *(ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;*
>
> *(iii) Adjudication proceedings and criminal proceedings are independent in nature to each other;*
>
> *(iv)The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;*
>
> *(v) Adjudication proceedings by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure;*
>
> *(vi) The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and*
>
> *(vii) In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and*

circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases."

13. It finally concluded: (Radheshyam Kejriwal case [Radheshyam Kejriwal v. State of W.B., (2011) 3 SCC 581 : (2011) 2 SCC (Cri) 721] , SCC p. 598, para 39)

"39. In our opinion, therefore, the yardstick would be to judge as to whether the allegation in the adjudication proceedings as well as the proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings, the trial of the person concerned shall be an abuse of the process of the court."

… … … …

15. Applying the aforesaid judgments to the facts of this case, it is clear that in view of the detailed CVC order dated 22-12-2011, the chances of conviction in a criminal trial involving the same facts appear to be bleak. We, therefore, set aside the judgment [Ashoo Surendranath Tewari v. CBI, 2014 SCC OnLine Bom 5042] of the High Court and that of the Special Judge and discharge the appellant from the offences under the Penal Code".

In the aforesaid judgments, in the case of ***P.S.RAJYA*** and ***ASHOO SURENDRANATH TEWARI*** *(supra)***,** the Apex Court has clearly delineated, that if allegations in the departmental inquiry

could not be proved on merit and the person is held to be innocent, criminal prosecution on the said facts cannot be permitted to be continued on the underlying principle of criminal trial needing higher standard of proof. Exoneration of the petitioner in the departmental enquiry is not on technicalities but on merits as there was no evidence against the petitioner to drive home the charge. Therefore, in terms of the law laid down by the Apex Court in the aforesaid judgments, in my considered view, the chances of the prosecution succeeding in the criminal trial being bleak, this Court cannot permit continuance of such criminal trial, any further.

14. Insofar as the contention of the learned High Court Government Pleader that a subsequent communication is issued by the Department of Home Affairs that criminal trial pending against this petitioner should be taken to its logical end, is only a communication from the Department of Home Affairs to the Government Advocate at the Office of the Advocate General of Government. What preceded filing of the present petition are,

two Government orders issued in favour of the petitioner – one exonerating the petitioner and the other, communicating to the CID that investigation should be withdrawn. This communication relied on by the learned High Court Government Pleader cannot be elevated to the status of a Government Order, it is at best an internal communication from the hands of Department of Home Affairs to the Advocate General's Office.

15. In the light of the exoneration of the petitioner, the aforesaid Government Orders and the judgments of the Apex Court, the communication dated 20-07-2021, from the Department of Home Affairs to the Office of the Advocate General, would pale into insignificance.

16. Therefore, in my considered view, this is a fit case where the inherent jurisdiction of the High Court under Section 482 of the Cr.P.C. is invoked to quash the proceedings mentioned above. In the facts peculiar to this case, continuance of the criminal trial will be an abuse of the process and result in miscarriage of justice.

17. For the aforesaid reasons, I pass the following:

ORDER

(1) The writ petition is allowed.

(2) The complaint dated 26-10-2015, FIR dated 28-10-2015 and Government Order dated 19-12-2015, are quashed and all further proceedings are also quashed *qua* the petitioner.

(3) The petitioner would be entitled to all such consequential benefits that would flow from the obliteration of the aforesaid proceedings.

(4) The terminal benefits, if any, withheld on account of pendency of these proceedings shall be released in favour of the petitioner within 8 weeks from the date of receipt of a copy of this order.

Sd/-
JUDGE

nvj
CT:MJ