

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

TUESDAY, THE 19TH DAY OF AUGUST 2025 / 28TH SRAVANA, 1947

CRL.MC NO. 1270 OF 2024

CRIME NO.VC-03/2022/PTA/2022 OF VACB, PATHANAMTHITTA
PETITIONER/2nd ACCUSED:

PRAMOD CHANDRAN M.C, AGED 45 YEARS
S/O. M. CHANDRASEKHARAN NAIR, ASSISTANT EXECUTIVE
ENGINEER, PWD ROADS SUB DIVISION, MINI CIVIL
STATION, MALLAPPALLY, PATHANAMTHITTA-689585
RESIDING AT MANOJ BHAVAN, P.O. THALAYOLAPARAMBU,
KOTTAYAM, PIN - 686605.

BY ADVS.
SHRI.KALEESWARAM RAJ
KUM.THULASI K. RAJ
SMT.APARNA NARAYAN MENON
SMT.CHINNU MARIA ANTONY

RESPONDENTS/STATE OF KERALA/COMPLAINANT:

- 1 STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH
COURT OF KERALA, ERNAKULAM, PIN - 682031.
- 2 SECRETARY TO GOVERNMENT,
DEPARTMENT OF PUBLIC WORK, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001.
- 3 DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI-CORRUPTION BUREAU,
PATHANAMTHITTA, PIN - 689645.

ADV.RAJESH .A, SPECIAL PUBLIC PROSECUTOR VACB,
ADV REKHA.S, SENIOR PUBLIC PROSECUTOR, VACB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 01.08.2025, THE COURT ON 19.08.2025
PASSED THE FOLLOWING:



“C.R”

A. BADHARUDEEN, J.

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Crl.M.C.No.1270 of 2024
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Dated this the 19th day of August, 2025

O R D E R

This Criminal Miscellaneous Case has been filed under Section 482 of the Code of Criminal Procedure by the petitioner, who is the 2nd accused in Crime No.VC-03/2022/PTA of 2022 of VACB, Pathanamthitta.

The prayers in this petition are as under:

“i) *To set aside Annexure I FIR, Annexure V Order and Annexure VI Internal Final Report;*

ii) *To declare that the petitioner is not liable to be prosecuted based on Annexure I FIR, Annexure V order and Annexure VI Internal Final Report;*

(iii) *To direct the respondents to refrain from proceeding against the petitioner on the basis of Annexure I FIR, Annexure V Order or Annexure VI Internal Final Report;*

(iv) *To pass such other order which this Hon’ble Court may deem fit and proper considering the peculiar facts and circumstances of the case in the interest of justice;*

(v) *To dispense with filing of the translation of vernacular documents.”*



2. Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the Vigilance and Anti-Corruption Bureau in detail. Perused the relevant records as well as the decisions placed by both sides.

3. In this matter, the prosecution alleges commission of offences punishable under Sections 13(2) read with Section 13(1)(a) of Prevention of Corruption (Amendment) Act, 2018 ('PC Act' for short hereafter) as well as under Sections 409, 477A and 120B of Indian Penal Code ('IPC' for short), by accused 1 to 3. The specific allegation as per the final report is as under:

"4. Accused No.1 while working as Assistant Engineer, PWD Roads Section Vennikkulam and Accused 2 as Asst.Executive Engineer, PWD Roads Sub Division Mallappally during the period from 28.10.2020 to 18.03.2021, and as such being public servants entrusted with the execution and supervision of the work of repair to Ezhumattoor - Paduthodu Basto 1st Road in Vennikkulam, with the intention to allow Accused No.3, the contractor of the said work derive undue pecuniary advantage, abused their official position and entered into a criminal conspiracy with Accused No. 3 and in furtherance of the said conspiracy accused No.1 fraudulently and



dishonestly recorded inflated and boosted up measurements in the M. book pertaining to the work and Accused No. 2 certified the measurements to be true with the knowledge that the work was not done as per the recordings and prepared bills based on the inflated M Book recordings, got them passed through corrupt and illegal means causing pecuniary gain of Rs.5,17,105.34/- (Five Lakhs Seventeen Thousand one Hundred and Five Rupees and Thirty four Paisa) to Accused No.3 and causing loss of the entire amount of Rs.22,19,250/- (Rupees Twenty two Lakhs Nineteen Thousand Two Hundred and Fifty) spent by the Government for the purpose, thereby committing the offences punishable u/s 13(2) r/w 13(1)(a) of PC Act 1988 (Amendment of 2018) and Sec.409, 477(A) & 120 B IPC.

5. During the course of investigation, a detailed inspection of the work site was conducted by availing services of independent technical experts and detailed report regarding the quantity of materials, used at site was obtained. Investigation revealed that the Accused No. 1 prepared electronic M Books by recording inflated measurements pertaining to the quantity and thickness of Close graded Premix, close grade premix surfacing and providing and applying tack coat, that Accused No. 2 (petitioner herein) had check measured the items and certified them to be true with the knowledge that the M Book recordings were inflated, and prepared and submitted bills based on such inflated and false measurements and caused payment of such bills and allowed B, Accused No. 3 to obtain a pecuniary gain of R\$ 5,29,496.07/- in the execution of the work by dishonest and fraudulent means. The details of investigation along with



witness statements and records were sent to the Government for issuing Prosecution Sanction as per section 9(1)c) f the Prevention of Corruption Act 1988. The competent authority, after studying the case records and witness statements issued prosecution sanction in respect of Accused No. 1 and 2. Soon after the Prosecution Sanction was issued, the petitioner herein approached this Hon'ble Court with Cr.M.C. 1270 of 2024.”

4. While challenging the final report, the first point argued by the learned counsel for the petitioner is that Annexure V sanction issued by Sri K.Biju, IAS, Secretary, under Section 19(1)(c) of the PC Act doesn't disclose the reasons for granting sanction. According to the learned counsel for the petitioner, the order granting or declining sanction should reflect that the sanctioning authority was furnished with all relevant facts and materials and should have applied his mind to all those materials. When the order granting or declining sanction is challenged before a court, the court must determine whether there has been application of mind on the part of the sanctioning authority concerned with the materials placed before it. Further the order of sanction must *ex facie* disclose that the sanctioning authority had considered the facts and all relevant materials placed before it. In this connection, the learned counsel for the petitioner



placed decision of the Apex Court reported in [(2024) SCC OnLine Ker.2351], ***Bharat Raj Meena v. Central Bureau of Investigation***. In the said case, the decision of the Apex Court in [(2014) 14 SCC 295], ***Central Bureau of Investigation v. Ashok Kumar Aggarwal***; [1997 KHC 1065], ***Mansukhlal Vithaldas Chauhan v. State of Gujarat***; [2013 KHC 4983], ***CBI v. Ashok Kumar Aggarwal***, were referred while holding so. That apart, the decisions in [AIR 1958 SC 124], ***Jaswant Singh v. State of Punjab***; [[AIR 1979 SC 677], ***Mohd. Iqbal Ahmed v. State of Andhra Pradesh***; [(2006) 1 SCC 294], ***Romesh Lal Jain v. Naginder Singh Rana***, also have been placed. It is also submitted by the learned counsel for the petitioner that subsequently in the decision of this Court reported in [2024 SCC OnLine Ker 210], ***C.Surendranath & Anr. v. State of Kerala, represented by the Public Prosecutor (Representing the Deputy Superintendent of Police & Anr)***, in paragraph 33, the same principle has been reiterated by this Court. The decision in Crl.M.C.No.1981 of 2017 also has been relied on in this regard.

5. In response to the argument tendered by the learned counsel for the petitioner that in this matter Annexure V sanction order



doesn't show the essentials as settled by the Apex Court and this Court and therefore the sanction is improper and the same would require interference, the learned Public Prosecutor would submit that there is distinction between absence of sanction and alleged invalidity on account of non application of mind. The former question can be agitated at the threshold but the latter is a question which has to be raised during trial. In this regard the learned Public Prosecutor placed decision of the Apex Court reported in [2006 KHC 1810 : 2007(1) SCC 1 : JT 2007(1) SC 89 : AIR 2007 SC 1274 : 2007(1) SCC (Cri) 193], ***Parkash Singh Badal and Another v. State of Punjab and others***, with reference to paragraph 54. Another decision of the Apex Court in [2009 KHC 6147 : 2009 (15) SCC 533 : 2009 (6) SCALE 593 : 2011 (99) AIC 97 : 2010 (2) SCC (Cri) 667], ***State of M.P v Virender Kumar Tripathi***, also has been placed to contend that no finding, sentence or order passed by a Special Judge shall be reversed or altered by a court of Appeal on the ground of absence of/or any error, omission or irregularity in sanction required under Section 19(1) unless in the opinion of the Court a failure of justice has, in fact, been occasioned thereby. Decision of the Apex Court reported in [2004 KHC



1548 : 2004(7) SCC 763 : AIR 2004 SC 5117 : 2004 SCC (Cri) 2140], ***State of Police Inspector v. T.Venkatesh Murthy***, also has been placed in support of his contention. It is argued further that in paragraph 14 of the judgment reported in [2006 KHC 1979 : 2006 (12) SCC 749 : 2007 (2) SCC (Cri) 563 : 2006 (48) AIC 775 (SC)], ***R.Sundararajan v. State by D.S.P., SPE, CBI. Chennai***, the Apex Court held that, “*The order granting sanction shows that all the available materials were placed before the sanctioning authority who considered the same at great details. Only because some of the said materials could not be proved, the same by itself, in our opinion, would not vitiate the order of sanction. In fact in this case there was abundant material before the sanctioning authority, and hence we do not agree that the sanction order was in any way vitiated.*”

6. Decision of the Apex Court reported in [2014 KHC 4208 : 2014 (2) KHC SN 24 : 2014 (1) KLD 617 : 2014 (4) SCALE 338 : ILR 2014 (2) Ker. 300 : AIR 2014 SC 1674 : 2014 CriLJ 2300 : 2014(11) SCC 388], ***State of Bihar and Others v. Rajmangal Ram***, has been placed by the learned Public Prosecutor to contend that unless there is no failure of



justice has been occasioned, any error, omission or irregularity in the grant of sanction would not affect any finding, sentence or order passed by a competent court unless in the opinion of the Court. It is also submitted by the learned Public Prosecutor that while considering the plea under Section 482 Cr.P.C to quash the proceedings, the High Court shall not exercise its extra-ordinary jurisdiction for conducting a mini trial in order to enter into appreciation of evidence of a particular case. In this regard, the learned counsel for the petitioner placed decision of the Apex Court reported in [2024 KHC 8198 : 2024 KHC OnLine 8198 : 2024 INSC 357 : 2024 SCC OnLine SC 685], *Priyanka Jaiswal v. State of Jharkhand* as well as [2021 KHC 6826 : 2021 KHC OnLine 6826 : AIR 2022 SC 41 : 2022 CriLJ 690 : 2021 (6) KLT OnLine 1066 : 2021 SCC OnLine SC 1222], *State of Odisha v. Pratima Mohanty*.

7. In this case, while attacking the sanction as improper, it is submitted by the learned Public Prosecutor that in the instant case allegation against the petitioner/2nd accused, who is the Assistant Executive Engineer, is that he had certified the measurements of the work of Ezhumattoor-Paduthodu Basto 1st Road in Vennikkulam to be true with



the knowledge that the work was not done as per the records. Further, bills also were prepared based on the inflated M Book recordings, got them passed through corrupt and illegal means causing pecuniary gain of Rs.5,17,105.34 to the 3rd accused and causing loss of Rs.22,19,250/- to the Government.

8. Per-contra, the learned counsel for the petitioner fervently argued that the allegations against the petitioner are only supervisory laches and it is the duty of the Assistant Engineer to oversee the work and ensure its accuracy. The learned counsel took this Court's attention to Annexure-29, viz., clause 10.2.11.(a) of the Kerala Public Works Account Code (Fifth Edition), 2013 to contend that as regards to the work, detailed measurement should be recorded only by Executive or Assistant Engineers or by executive subordinates in charge of works to whom measurement books have been supplied. Further, as per clause 10.2.11.(d), it is incumbent upon the person taking the measurements to record the quantities clearly and accurately. He will also be responsible for the correctness of the entries in the column "Contents or Area" for the measurements recorded by him and in the instant case the measurement



was taken by the Assistant Engineer. Therefore, the Assistant Executive Engineer could not be faulted for any laches on the work simply on the ground that he certified the work. In this connection, the learned counsel for the petitioner also taken this Court's attention to Annexure 28 with reference to clause 202.8 and 202.10 of Kerala Public Works Department Manual Revised Edition 2012, where the duties of Assistant Executive Engineers and Assistant Engineers respectively have been described. The attempt of the learned counsel for the petitioner by giving much reliance on 202.8 and 202.10 is to substantiate that the role of the Assistant Executive Engineer is not similar to that of an Assistant Engineer, who is empowered to oversee the work and to measure the work. But as pointed out by the learned Public Prosecutor, in clause 202.8(1)(xi) it has been provided that the Assistant Executive Engineer has "to check measure all concealed item of work and in addition 50% value of item of each work which are not concealed and measured by Assistant Engineer (High value items in descending order)". The Assistant Executive Engineer shall also super check 50% value of each concealed item of work check measured by Assistant Engineer and 10% value of item of each work check measured



by Assistant Engineer which are not concealed. Similarly, as per clause 202.8(1)(xii), scrutiny and passing of bills and making payments as per rule are bestowed as duty of Assistant Engineer.

9. On evaluation of materials, it could not be held that the petitioner/2nd accused, who was the Assistant Executive Engineer, has no duty rather than certifying the work assessed by the Assistant Engineer, so mechanically without ensuring completion of the work as discussed as aforesaid. Thus on merits it could be seen that, *prima facie*, prosecution materials are sufficient to proceed against the petitioner after framing charge and the contentions raised by the learned counsel for the petitioner are matters to be decided on getting evidence adduced.

10. The legal question argued by the learned counsel for the petitioner is that an order granting or declining sanction should reflect that the sanctioning authority was furnished with him all relevant facts and materials and should have applied his mind to all those materials. Further, whether the sanctioning authority applied his mind to the materials before granting sanction. In *R.Sundararajan v. State by D.S.P., SPE, CBI. Chennai*'s case (*supra*), where the Apex Court considered a case where all



available materials were placed before the sanctioning authority who considered the same at length, the Apex Court held that only because some of the materials could not be proved, the same by itself, in our opinion, would not vitiate the order of sanction and it was held that in the said case, there were abundant materials before the sanctioning authority and hence “we do not agree that the sanction order was in any way vitiated”.

11. On perusal of Annexure V sanction which is under challenge in the instant case, it has been narrated that sanctioning officer looked into the allegations with reference to the documents placed before him by the prosecution and she had read and scrutinised the statements of the witnesses and documents meticulously and she found that the accused persons should be prosecuted for the offences alleged. On that basis, sanction was issued. According to the learned counsel for the petitioner, the sanction order doesn't refer in particulars of the statements of the witnesses and the documents in detail. Even though reference of the documents and the statements of the witnesses by specifically referring the same can also be opted by the sanctioning authority, who grants sanction, after meticulously analysing the documents and the statements of the



witnesses in the prosecution records produced before him, though without referring the same specifically, that would be sufficient to hold that the sanctioning authority applied his mind and came to the conclusion that sanction is liable to be accorded. Since Annexure V sanction order in this case would specify the essentials to justify the sanction order, including application of mind, the challenge against the sanction order would not yield.

12. In view of the matter, this Crl.M.C seeking quashment of the entire proceedings against the 2nd accused is liable to fail and is accordingly dismissed, with direction to the Special Court to frame charge against the petitioner and proceed with trial.

13. The interim order of stay shall stand vacated.

It is specifically ordered that the observations in this Crl.M.C are meant for deciding the quashment prayer alone and the same have no binding effect during trial of the case and the Special Court shall decide the case on merits, independently on the basis of evidence tendered during trial.

Sd/-

A. BADHARUDEEN, JUDGE

rtr/

**APPENDIX OF CRL.MC 1270/2024****PETITIONER' s ANNEXURES**

Annexure I	TRUE COPY OF THE FIR NO. VC-03/2022/PTA DATED 04.06.2022.
Annexure II	TRUE COPY OF THE SHOW CAUSE NOTICE NO. F4/55/2022-PWD DATED 29.09.2022.
Annexure III	TRUE COPY OF THE LETTER DATED 07.12.2022.
Annexure IV	COPY OF THE ADDITIONAL REPLY DATED 02.01.2024.
Annexure V	COPY OF THE ORDER NO. 72/2023/PWD DATED 23.12.2023.
Annexure VI	COPY OF THE INTERNAL REPORT (WHICH IS COPIED AND WRITTEN DOWN BY THE PETITIONER MANUALLY) SUBMITTED BY THE VIGILANCE DEPARTMENT TO THE GOVERNMENT.
Annexure VII	TRUE COPY OF THE ADMINISTRATIVE SANCTION ORDER NO. AS/59C/20/10238 ACCORDED BY CHIEF ENGINEER, PWD ROADS, THIRUVANANTHAPURAM ON 17.10.2020.
Annexure VIII	TRUE COPY OF THE TECHNICAL SANCTION WAS ACCORDED BY THE EXECUTIVE ENGINEER, PWD ROADS DIVISION, PATHANAMTHITTA.
Annexure IX	TRUE COPY OF THE AGREEMENT BEARING NO. 39/EEP/2021 WAS EXECUTED ON 29.01.2021 BETWEEN THE EXECUTIVE ENGINEER AND THE CONTRACTOR.
Annexure X	TRUE COPY OF THE MATERIAL COLLECTION REPORT DATED 18.03.2021.
Annexure XI	TRUE COPY OF THE TEST REPORT BEARING NO. CED/157A/TE/21 OF BITUMEN EXTRACTION TEST REPORT ISSUED BY M/S SAINT GITS COLLEGE OF ENGINEERING DATED 07.04.2021.
Annexure XII	TRUE COPY OF THE QUALITY EVALUATION RESULT DATED 22.4.2021.
Annexure XIII	TRUE COPY OF THE QUALITY EVALUATION RESULT DATED 15.04.2021.
Annexure XIV	TRUE COPY OF THE MEDICAL CERTIFICATE DATED 28.06.2021 FROM SANJIVANI HOSPITAL.
Annexure XV	TRUE COPY OF THE GOVERNMENT CIRCULAR DATED 14.06.2021.
Annexure XV (a)	COPY OF THE RELEASE CERTIFICATE ISSUED BY THE DEPARTMENT OF HEALTH SERVICE, KERALA DATED 29.06.2021 STATING THAT THE PETITIONER CAN NOW RESUME HIS DUTIES AND RESPONSIBILITIES.
Annexure XV (b)	COPY OF THE ORDER NO. A2-183/91 DATED



2025:KER:62634

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	29.06.2021.
Annexure XV(c)	COPY OF THE TRANSFER OF BACK TO THE PETITIONER FROM THE ASSISTANT EXECUTIVE ENGINEER, SUBDIVISION, RANNY DATED 17.07.2021.
Annexure XVI	COPY OF THE LETTER DATED 30.09.2021 ISSUED BY THE EXECUTIVE ENGINEER TO THE ASSISTANT EXECUTIVE ENGINEER.
Annexure XVII	TRUE COPY OF THE LETTER. D1-3706/2020 DATED 01.10.2021.
Annexure XVIII	COPY OF THE REPLY LETTER SENT BY THE CONTRACTOR DATED 05.10.2021.
Annexure XIX	TRUE COPY OF THE LETTER DATED 03.12.2021 SUBMITTED BY THE PETITIONER TO EXECUTIVE ENGINEER.
Annexure XX	TRUE COPY OF RAINFALL DATA ISSUED BY THE OFFICE OF CHIEF ENGINEER, IRDB, THIRUVANANTHAPURAM.
Annexure XX(a)	TRUE COPY OF THE ROAD WAS FLOODED IN HEAVY UNPRECEDENTED RAINFALL AND THE PHOTOS OF ROAD.
Annexure XXI	TRUE COPY OF THE MINUTES ISSUED VIDE RA2/1783/2020-21/DDC/DPO/PTA OF THE DISTRICT DEVELOPMENT COMMITTEE HELD ON 06.11.2021.
Annexure XXII	TRUE COPY OF THE LETTER ISSUED BY JOINT RTO, MALLAPPALLY.
Annexure XXIII	COPY OF THE MATHRUBHUMI NEWS REPORTS.
Annexure XXIV	TRUE COPY OF THE CIRCULAR NO. G2/428/2019/PWD ISSUED BY THE SECRETARY, PUBLIC WORKS (G) DEPARTMENT DATED 02.09.2022.
Annexure XXV	TRUE COPY OF THE OF LETTER DATED 01.12.2022 ISSUED BY DISTRICT VILGILANCE OFFICER.
Annexure XXVI	TRUE COPY OF THE PART BILL WAS PREPARED BY ASST ENGINEER, ROADS SECTION, VENNIKULAM ON 28.07.2021.
Annexure XXVII	COPY OF RUNNING ACCOUNT BILL DATED 30.09.2021.
Annexure XXVIII	COPY OF THE PWD MANUAL, 2012.
Annexure XXIX	COPY OF THE KERALA PUBLIC WORKS ACCOUNT CODE, 2013.
Annexure XXX	COPY OF THE PWD QUALITY CONTROL MANUAL, 2015
Annexure XXXI	TRUE COPY OF THE FINAL REPORT (CHARGE SHEET) IN CC 18/2024 IN THE COURT OF ENQUIRY COMMISSIONER AND SPECIAL JUDGE (VIGILANCE) THIRUVANANTHAPURAM.