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.A NO. 114 OF 2010

AGAINST THE JUDGMENT IN CC NO.20 OF 2008 OF ENQUIRY COMMISSIONER & SPECIAL JUDGE, KOTTAYAM

APPELLANT/ACCUSED:

K.RAJU
(FORMER JUNIOR ACCOUNTANT, SUB TREASURY, MAVELIKARA), S/O.KUTTY, PEERATHEERY VILLAYIL, MAVELIKARA VILLAGE, MAVELIKARA MUNICIPALITY.

BY ADVS.
DR.K.P.SATHEESAN (SR.)
SHRI.ANOOP V.NAIR
SRI.M.R.JAYAPRASAD
SRI.P.MOHANDAS (ERNAKULAM)

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REP. BY DY.SP, VACB, ALAPPUZHA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

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

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 31.07.2025, THE COURT ON 19.08.2025 DELIVERED THE FOLLOWING:

"C.R"

A. BADHARUDEEN, J.

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Crl.Appeal No.114 of 2010-B

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Dated this the 19th day of August, 2025

J U D G M E N T

This appeal has been filed under Section 374 of the Code of Criminal Procedure (`Cr.P.C' for short hereafter) challenging the judgment in C.C.No.20 of 2008 dated 31.12.2009 on the files of the Enquiry Commissioner and Special Judge, Kottayam under the Prevention of Corruption Act, 1998 (`PC Act' for short hereafter). The respondent is the State of Kerala represented by the Vigilance and Anti-Corruption Bureau, Alappuzha, represented by the Public Prosecutor.

2. Heard the learned counsel for the accused/appellant and the learned Public Prosecutor representing the prosecution side.

3. I shall refer the parties in this appeal as 'prosecution' and 'accused' hereafter for easy reference.

4. Perused the trial court records and the judgment under challenge.

5. The prosecution case in brief: The specific allegation of the prosecution is that the accused, who was working as Junior Accountant in Sub Treasury, Mavelikkara, demanded illegal gratification of Rs.1,000/- from one Valsala on 27.06.2003 when she met him at the Treasury office for clearing her pension commutation bill. Accordingly, at about 11.45 a.m on 30.06.2003 he demanded and accepted the said money and hence the prosecution would allege that the accused committed offences punishable under Sections 7 and 13(1)(d) r/w Section 13(2) of the PC Act.

6. When final report alleging commission of the above offences was filed, the Special Court, Kottayam, under the PC Act, took cognizance of the matter and on completing the pre-trial formalities, charge for the said offences was framed and the learned Special Judge recorded evidence. On the side of the prosecution, PW1 to PW8 were examined, Exhibits P1 to P14 and M.O1 to M.O7 were marked.

7. When opportunity was provided to the accused to adduce

defense evidence, DW1 and DW2 were examined from his side. On evaluation of evidence, after addressing the rival contentions raised, the learned Special Judge found that the accused committed offences punishable under Sections 7 and 13(1)(d) r/w Section 13(2) of the PC Act. Accordingly, the accused was sentenced as under:

> *"the accused is sentenced to undergo rigorous imprisonment of 2 (two) years and fine Rs.10,000/- (ten thousand) in default to undergo simple imprisonment 3 (three) months and convicted under Sec. 13(2) r/w 13(1) (d) of the Prevention of Corruption Act and sentenced to undergo rigorous imprisonment for 3 (three) years and fine Rs. 10,000 (ten thousand) in default to undergo simple imprisonment 3(three) months. The sentences shall run concurrently. The accused is entitled to setoff under Sec.428 Cr.P.C. from 30/06/2003 to 04/07/2003. M.O.1 series shall be given to PW1 and M.O.6 & 7 shall be given to the accused. M.O.2 to 5 bottles will be given back to Dy.S.P., V.A.C.B., Alappuzha, after destroying the contents in it."*

8. The prime contention raised by the learned counsel for the accused is that PW1, the complainant, as well as PW2, the official witness, turned hostile to the prosecution and PW1 failed to identify the accused at the dock. Further the evidence of PW3 is contrary to the evidence of PW1 and PW2. The other contention raised is that other employees of the Treasury also dealt with the pension commutation bill of

PW1 and, therefore, the scope for demand and acceptance of bribe by the accused is an impossibility. It is pointed out that in view of the said evidence, non identification of the accused at the dock by PW1 also shadows doubt in the prosecution case. It is submitted further that the evidence of DW1 and DW2 also should have been taken note of by the Special Court and the Special Court wrongly disbelieved the evidence of DW1 and DW2, which would support the case of the accused. The sum and substance of the argument mooted by the learned counsel for the accused is that, in fact, there is no convincing evidence to prove the demand and acceptance of illegal gratification by the accused to establish the offences found to have been committed by the accused as per the verdict impugned. Therefore, the impugned judgment would require interference.

9. Whereas it is pointed out by the learned Public Prosecutor that even though PW1 turned hostile in the matter of identification of the accused, she deposed in support of the prosecution including demand and acceptance of bribe by the accused, apart from admitting Ext.P1 proceedings issued from the Accountant General(A.G)’s

office sanctioning her pension commutation. She also supported lodging of Ext.P2 complaint containing her signature where she stated demand and acceptance of Rs.1,000/- by the accused. That apart, PW2, the official witness who accompanied the vigilance party along with PW1, who stood nearby the windows of the room where the accused was sitting and the policemen, who were deployed to convey the signal, also supported the prosecution case. According to PW2, PW1 told him that the accused accepted the bribe on demand. Therefore, the conviction and sentence are liable to be upheld.

10. In response to the rival contentions, the points arise for consideration are:

(i) Whether the trial court is justified in holding that the accused committed the offence punishable under Section 7 of the PC Act?

(ii) Whether the trial court went wrong in finding that the accused committed the offence punishable under Section 13(1)(d) r/w 13(2) of the PC Act?

(iii) Whether it is necessary to interfere with the verdict under challenge?

(iv) The order to be passed?

Point Nos.(i) to (iv)

11. Coming to the genesis of this case, PW8, who recorded Ext.P2 complaint given by PW1, deposed that he had registered Ext.P3(a) FIR and after registering the FIR he had written to the District Collector, Alappuzha, to provide 2 gazetted officers as part of pre-trap arrangement. Accordingly, 2 gazetted officers reached the Vigilance Office at 7 a.m on 30.06.2003, who were examined as PW2 and PW3 on the side of the prosecution.

12. PW1 is the complainant and according to her, as per Ext.P1, Rs.21,318/- was sanctioned to her towards the commuted pension from AG's office and she reached Sub Treasury Office, Mavelikkara, to encash the same. Thereafter, she lodged Ext.P2, which would bear her signature and based on Ext.P2, the vigilance registered FIR Ext.P3(a). According to her, she had resided in her daughter's house for a period of one week in order to get encashed her pension commutation bill since there were ordeals from the Treasury staff and she felt that due to non

payment of bribe, she was troubled by the staff of the Treasury. Hence she had made Ext.P2 complaint. According to her, when she met the Treasury Officer along with Ext.P1, the Treasury Officer had directed to meet Section Superintendent and Raju (the accused) was the then Section Assistant.

13. PW1 admitted her signature appearing in Ext.P3(a) FIR. Her further version during chief examination is that when she went to the Treasury office, her payment was delayed and accordingly she agreed to pay Rs.1,000/-, but she did not specifically say whether the accused demanded the same. She admitted the fact that she met the Vigilance Officer and the Vigilance Officer advised her to entrust the money and accordingly, she placed 2 five hundred rupee notes on the table and thereafter she left the place and she did not know what happened thereafter. Thus as regards to demand of the amount by the accused, PW1 turned hostile to the prosecution and accordingly she was subjected to questioning under Section 154 of the Evidence Act, by the learned Legal Advisor for the prosecution. When the 2 notes recovered by the Vigilance party having the denomination of 500 rupee were shown to the witness and

asked whether the same were the notes entrusted by her, she answered in the affirmative and accordingly the said notes were marked as M.O1 and M.O1(a). She also deposed during cross examination by the learned Legal Advisor that the Vigilance showed her phenolphthalein test demonstration and the Dy.S.P entrusted M.O1 series notes after putting the same into a cover and she did not notice smearing of phenolphthalein powder thereon. But she admitted that the Dy.S.P noted the numbers of the notes and she kept the notes in her purse. She started at 9 a.m on 30.06.2003 along with the Vigilance party and she was dropped on the west of Sree Krishna Swami Temple near the Sub Treasury, Mavelikkara and she reached the Sub Treasury, Mavelikkara, on foot. Even though she denied that the Dy.S.P did not instruct her to give money as and when demanded by the accused when she was cross examined by the learned Legal Advisor for the prosecution, she admitted the same and also admitted that after acceptance of the note she was asked to show a signal by touching on her hair. When the incriminating portions of her previous statement given before the Dy.S.P was confronted with her, she admitted the same and deposed that the said versions are correct. She also stated that one of the

gazetted officers sat near the window of the office, so that he could witness her and the accused.

14. Thus during cross examination of PW1 by the learned Legal Advisor, PW1 admitted the demand of bribe by the accused and acceptance of the same by putting M.O1 series on the right drawer of the table, as requested by the accused.

15. Regarding placement of notes in the drawer of the table used by the accused and thereafter putting the same in the left pocket of the pants of the accused by himself, she admitted that the same were true during her examination by the learned Legal Advisor for the prosecution. Thus the evidence of PW1 during cross examination by the learned Legal Advisor for the prosecution is that she put M.O1 series on the table of the accused as requested by him and, in turn, the accused put the same in the pocket of his pants, soon she had shown signs by touching her head and the Dy.S.P and others entered. Thus the evidence of PW1 during cross examination, at the instance of the learned Legal Advisor for Vigilance, is in support of the demand and acceptance of M.O1 series by the accused.

16. PW2 examined in this case is the Agricultural Officer

attached to Krishi Bhavan, Kainakari. He deposed that he reached the Vigilance Office, as directed by the District Collector. Presence of PW1, PW3 and the vigilance officials therein also deposed by PW2. PW2 also deposed about the entrustment of two 500 rupee notes by the complainant to the Dy.S.P [M.O1 and M.O1(a)] smearing phenolphthalein powder over the same and demonstration of phenolphthalein test to him. PW2 deposed about the entrustment of something by PW1, to the accused, but she could not identify the same. His version further is that later, he himself, PW3 and the Dy.S.P entered into the office room of the accused and when asked about the money, the accused took out M.O1 series from the pocket of his pants. He deposed about the phenolphthalein test by using Sodium Carbonate solution and colour change when the hands of the accused were dipped in M.O4 bottle containing Sodium Carbonate solution, after the trap. He also deposed that the vigilance officials PW2 and PW3 when dipped their hands in the Sodium Carbonate solution, no colour change occurred. PW2 also turned hostile to the prosecution regarding the other aspects.

17. PW3, Chandrasekharan Nair, the other gazetted officer,

who accompanied the vigilance team, after appearing before the Dy.S.P office at 7 a.m on 30.06.2003, deposed about the occurrence fully and testified the entrustment of M.O1 series by PW1 to the Dy.S.P and smearing the same with phenolphthalein powder and entrustment of the same by the Dy.S.P back to PW1 to give the same to the accused, when he demanded and he deposed about the recovery of M.O1 series from the pocket of the pants of the accused and he identified the same as M.O1 series notes. He also spoke about the dipping of the left hand of the accused in M.O4 bottle and its colour change.

18. In this matter, the trump-card upon which the learned counsel for the accused seeks interference in the verdict of the Special Court is that PW1 and PW2 turned hostile to the prosecution and there is no evidence to find the essential ingredients of the offence under Section 7 of the P.C Act (which are demand and acceptance). On scrutiny of the evidence of PW1, in its entirety, demand and acceptance can be gathered from the evidence given by PW1 during her cross examination. That apart, supporting the evidence of PW1, the recovery of the same from the pocket of the accused soon after the Dy.S.P and the witnesses entered in

the office, on getting signal from PW1, was categorically deposed by PW2 and PW3. In addition to that, PW8, the Dy.S.P who led the trap, also fully supported the prosecution case.

19. Now, it is necessary to address the ingredients required to attract the offences under Section 7 and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. The same are extracted as under:—

> *"Section 7:- Public servant taking gratification other than legal remuneration in respect of an official act. – Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government Company referred to in clause (C) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than three years but which may extend to seven years and shall also be liable to fine.*
>
> *Section 13:- Criminal misconduct by a public servant. – (1) A public servant is said to commit the offence of criminal misconduct,-*

(a) xxxxx (b) xxxxx (c) xxxxxx (d) If he,- (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest.

……..

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than four years but which may extend to ten years and shall also be liable to fine."

20. In this connection it is relevant to refer a 5 Bench decision of the Apex Court in [AIR 2023 SC 330], ***Neeraj Dutta Vs State***, where the Apex Court considered when the demand and acceptance under Section 7 of the P.C Act to be said to be proved along with ingredients for the offences under Sections 7 and 13(1)(d) r/w 13(2) of the PC Act and in paragraph 68 it has been held as under :

"68. What emerges from the aforesaid discussion is summarised as under:

(a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13 (1)(d) (i) and (ii) of the Act.

(b) In order to bring home the guilt of the accused, the

prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.

(c) Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.

(d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:

> *(i) if there is an offer to pay by the bribe giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.*
>
> *(ii) On the other hand, if the public servant makes a demand and the bribe giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Section 13 (1)(d)(i) and (ii) of the Act.*
>
> *iii) In both cases of (i) and (ii) above, the offer by the bribe giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt*

of an illegal gratification without anything more would not make it an offence under Section 7 or Section 13 (1) (d), (i) and (ii) respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Section 13 (1)(d) and (i) and (ii) of the Act.

(e) The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the material on record, the Court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands.

(f) In the event the complainant turns 'hostile', or has died or is unavailable to let in his evidence during trial, demand of illegal gratification can be proved by letting in the evidence of any other witness who can again let in evidence, either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant.

(g) In so far as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law. Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Section 13(1) (d) and (ii) of the Act.

(h) We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to above in point (e) as the former is a mandatory presumption while the latter is discretionary in nature."

21. Thus the legal position as regards to the essentials under Sections 7 and 13(1)(d)(i) and (ii) of the P.C Act is extracted above. Regarding the mode of proof of demand of bribe, if there is an offer to pay by the bribe giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant. The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the

material on record, the Court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands. The mode of proof of demand and acceptance is either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant. Insofar as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law.

22. Sanction in this case was proved through PW6 and he admitted issuance of Ext.P13 sanction order with essentials to substantiate the same. In fact, no dispute raised as regards to the validity of sanction.

23. According to the learned counsel for the accused, the accused was implicated in this crime since the Dy.S.P had previous grudge

against him. When PW8, the Dy.S.P was examined, he supported the investigation and when PW8 was asked whether he inspected the room of the accused before 30.06.2003, he replied that he knew the said office and premises from 1985 onwards; that he married from that place and that his mother-in-law drew pension from that office. Later a suggestion was put to him that one Vijayan in that office asked bribe from his mother-in-law and so he decided to proceed with the case against the accused. He denied the same. He stated further that he was unable to understand if Vijayan asked bribe, why a false case against the accused to be registered? Another suggestion made to PW8 was that under political influence this case was registered. He denied the same also. Another suggestion was that the accused misbehaved to the mother-in-law of PW8 and so he had enmity towards the accused. PW8 denied this suggestion also and added that he or his mother-in-law had no previous animosity with the accused. So, there was no basis for the said allegations.

24. In this matter, the accused examined DW1 and DW2. This evidence was given much reliance by the counsel for the accused to disbelieve the prosecution case and to believe the defense case. DW1

examined in this case is a teacher, who had retired on 31.03.2003 and who is familiar with the accused at the Treasury office. According to her, when she reached the office of the accused to get her pension book, a lady entered into the room of the accused and put a packet, looks like a cover, in the drawer of his table and she immediately left the place after hitting her. Later 2 men entered into the office and asked the accused whether he was Raju and the accused said `yes'. According to her, the cover containing the notes was taken from the table by the vigilance. Later she met the accused after two months in Mavelikkara railway station. On re-examination, she stated that she did not disclose this aspect before any authority including the police and this aspect was divulged for the first time before the Court. Therefore, the evidence of DW1 was rightly disbelieved by the Special Court for the said reason. It is relevant to note further that according to DW1, the occurrence was on 28.06.2003, even though the occurrence was on 30.06.2003. Therefore, the evidence of DW1 regarding an occurrence on 28.06.2003 has no relevance in this case, otherwise.

25. DW2 examined in this case is a Live Stock Inspector,

attached to Animal Husbandry Department, who also retired on 31.03.1998. He was the Vice President of Kerala State Service Pensioners' Union. According to him, on 30.06.2003 when he reached the Treasury to enquire about pension commutation of an employee and while he was sitting outside on the northern side of the room of the accused, he noticed that police men entered into the office. According to him, the police men then directed the accused to take the money from the drawer and accordingly M.O1 series were recovered. The attempt of the accused by examining DW1 and DW2 is that PW1 had put M.O1 series in the drawer of the table without his knowledge and without any demand. The Special Court disbelieved the evidence of DW2 on the finding that his evidence is to the effect that he went towards the road on the north, came back hearing commotion in the Treasury office and the pensioners stood there told him that the vigilance arrested the accused. Further during re-examination, DW2 deposed that he saw nothing when he came back. In fact, DW2 did not witness the things he spoken during chief examination in view of the above evidence given by DW2 during cross examination. Therefore, the Special Court rightly found so to disbelieve DW2.

26. It is interesting to note further that when DW1 and DW2 were subjected to cross examination, they failed to give rationale answers and also they did not disclose these things before anybody before disclosing the same before the Court, though DW2 admittedly was the office bearer of the pensioners' union and DW1 was familiar with the accused and bound to tell the truth soon after the occurrence before some responsible authorities. Thus the Special Court rightly found that the case spoken by DW1 and DW2 is a subsequent developed story and the same is not acceptable. The said finding is only to be justified.

27. In the instant case, it is relevant to note that PW3, an independent witness supported the case of the prosecution and PW1 though turned hostile, when questions were put under Section 154 of the Evidence Act, she supported the demand and acceptance of bribe (M.O1 series) by the accused and as per the evidence of PW2, PW3 and PW8, the same was taken from the pocket of the pants of the accused and when the hands of the accused were subjected to phenolphthalein test, there occurred colour change justifying the fact that he touched M.O1 series while demanding and accepting the same. Law regarding the evidentiary

value of the evidence of a hostile witness is well settled. That is to say, the evidence of hostile witnesses could not be discarded in *toto* and the evidence of the hostile witnesses, which would support the case of the party calling him as a witness, can be relied on to find the case of the party, who supposed to give evidence in favour of the party calling him to the extent the evidence supports the case of the party, called him. Thus it appears that the case advanced by the accused that there was no evidence to substantiate the offences, could not be appreciated as the evidence would clearly indicate that the prosecution successfully established the essentials to prove the offence under Sections 7 and 13(1)(d) r/w 13(2) of the P.C Act. Therefore, the conviction doesn't require interference.

28. Coming to the sentence, taking into consideration of the prayer made by the learned counsel for the accused, I am inclined to modify the sentence to the least, minimum. Accordingly the sentence stands modified as under:

29. In the result, this appeal stands allowed in part. The conviction imposed by the Special Court is confirmed. But the sentence stands modified as under:

30. The accused is sentenced to undergo rigorous imprisonment for one year and to pay fine of Rs.10,000/- (Rupees Ten thousand only) for the offence punishable under Section 13(1)(d) r/w 13(2) of the P.C Act. In default of payment of fine, he shall undergo default rigorous imprisonment for a period of one month. For the offence punishable under Section 7 of the P.C Act, the accused is sentenced to undergo imprisonment for a period of six months and to pay fine of Rs.10,000/- (Rupees Ten thousand only). In default of payment of fine, he shall undergo default rigorous imprisonment for a period of one month.

31. The period of his detention from 30.06.2003 to 04.07.2003 shall be set off.

32. The order suspending execution of sentence and granting bail to the accused stands vacated and his bail bond stands cancelled with direction to him to appear before the Special Court forthwith, without fail, to undergo the modified sentence. On failure to do so by the accused, the Special Court is directed to execute the modified sentence without fail.

Registry is directed to forward a copy of this judgment to the

Enquiry Commissioner and Special Judge, Kottayam, for compliance and further steps.

Sd/-

A. BADHARUDEEN, JUDGE

rtr/