

Sri S Muthaiah Vs. State By

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Court : Karnataka

Decided On : Aug-04-2023

Judge : S.Sunil Dutt Yadav

Appeal No. : WP 17291/2018

Appellant : Sri S Muthaiah

Respondent : State By

Judgement :

R1IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE04H DAY OF AUGUST 2023 BEFORE THE HON'BLE MR.JUSTICE S. SUNIL DUTT YADAV WRIT PETITION NO.16605/2018 (GM-RES) C/W WRIT PETITION NOS.17290/2018, 17291/2018, 17292/2018, 19163/2021, 19176/2021, 19178/2021, 19179/2021 IN W.P. NO.16605/2018 BETWEEN: SRI S. MUTHAIAH SON OF SANNA SURIAIAH AGED ABOUT63YEARS DEPUTY CONSERVATOR OF FORESTS (RETIRED) RESIDING AT: NO.5398/3, 1ST MAIN, 1ST CROSS VINAYAKA BADAVANE DAVANAGERE - 577 005. ... PETITIONER (BY SRI HASHMATH PASHA, SENIOR ADVOCATE FOR SRI NASIR ALI, ADVOCATE) AND: STATE BY CBI/ACB GANGANAGAR BENGALURU - 560 032 REPRESENTED BY LEARNED SPECIAL PUBLIC PROSECUTOR ... RESPONDENT (BY SRI P. PRASANNA KUMAR, SPL.PP) THIS WRIT PETITION IS FILED UNDER ARTICLES226& 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION482OF THE2CR.P.C., PRAYING TO QUASHING THE

PROCEEDINGS IN SPECIAL CC NO.135/2013 WHICH WAS PENDING ON THE FILE OF THE HON'BLE XLVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE FOR C.B.I. CASES AT BANGALORE, NOW PENDING ON THE FILE OF HON'BLE LXXXI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AT BANGALORE (CCH-82), WHICH IS ARISING OUT OF R.C. NO.15(A)/2012 ON THE FILE OF THE CBI/ACB/BENGALURU FOR THE OFFENCES UNDER SECTIONS120 READ WITH SECTION409 420, 434, 447, 468, 471 IPC AND UNDER SECTION132) READ WITH SECTIONS131)(c) AND (d) OF PREVENTION OF CORRUPTION ACT, 1988 VIDE ANNEXURE-C AND ETC. IN W.P. NO.17290/2018 BETWEEN: SRI S. MUTHAIAH SON OF SANNA SURIAH AGED ABOUT63YEARS DEPUTY CONSERVATOR OF FORESTS (RETIRED) RESIDING AT: NO.5398/3, 1ST MAIN, 1ST CROSS VINAYAKA BADAVANE DAVANAGERE - 577 005. ... PETITIONER (BY SRI HASHMATH PASHA, SENIOR ADVOCATE FOR SRI NASIR ALI, ADVOCATE) AND: STATE BY CBI/ACB GANGANAGAR BENGALURU - 560 032 REPRESENTED BY LEARNED SPECIAL PUBLIC PROSECUTOR ... RESPONDENT (BY SRI P. PRASANNA KUMAR, SPL.PP) THIS WRIT PETITION IS FILED UNDER ARTICLES226& 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION482OF CR.P.C., PRAYING TO QUASHING THE PROCEEDINGS IN SPECIAL CC NO.6/2014 WHICH WAS PENDING ON THE FILE OF THE HON'BLE XLVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE3FOR C.B.I. CASES AT BANGALORE, NOW PENDING ON THE FILE OF HON'BLE LXXXI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AT BANGALORE (CCH-82), WHICH IS ARISING OUT OF R.C. NO.14(A)/2012 ON THE FILE OF THE CBI/ACB/BENGALURU FOR THE OFFENCES UNDER SECTIONS120 READ WITH SECTIONS379 409, 420, 434, 447, 467, 468, 471 IPC AND UNDER SECTION132) READ WITH SECTIONS131)(c) AND (d) OF PREVENTION OF CORRUPTION ACT, 1988 VIDE ANNEXURE-C AND ETC. IN W.P. NO.17291/2018 BETWEEN: SRI S. MUTHAIAH SON OF SANNA SURIAH AGED ABOUT63YEARS DEPUTY CONSERVATOR OF FORESTS (RETIRED) RESIDING AT: NO.5398/3, 1ST MAIN, 1ST CROSS VINAYAKA BADAVANE DAVANAGERE - 577 005. ... PETITIONER (BY SRI HASHMATH PASHA, SENIOR ADVOCATE FOR SRI

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CORRUPTION ACT, 1988 VIDE ANNEXURE-C AND ETC. IN W.P. NO.19163/2021 BETWEEN: SRI S. MUTHAIAH S/O SANNA SURIAH AGED ABOUT 65 YEARS DEPUTY CONSERVATOR OF FORESTS (RETIRED) RESIDING AT: D.NO.1762, DATRI NILAYA, 1ST STAGE, 2ND CROSS, SRI SHIVAKUMARASWAMY BADAVANE, OPP. ST. JOHN'S HIGH SCHOOL DAVANAGERE - 577 005. ... PETITIONER (BY SRI HASHMATH PASHA, SENIOR ADVOCATE FOR SRI NASIR ALI, ADVOCATE) AND: STATE BY CBI BENGALURU REPRESENTED BY LEARNED SPECIAL PUBLIC PROSECUTOR MR. PRASANNA KUMAR P., HIGH COURT OF KARNATAKA BANGALORE - 560 001. ... RESPONDENT (BY SRI P. PRASANNA KUMAR, SPL.PP) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF THE CR.P.C., PRAYING TO QUASHING THE

ORDER

DATED 05.05.2020 PASSED IN SPECIAL CC NO.105/2014 AS PER ANNEXURE-N PENDING ON THE FILE THE HON'BLE LXXXI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AND SPECIAL COURT FOR MPs/MLAs, BANGALORE WHICH IS ARISING OUT OF FIR IN R.C. NO.16-A/2012 ON THE FILE OF RESPONDENT CBI, BANGALORE AS AN ABUSE OF PROCESS OF LAW AND CONSEQUENTLY AND ETC. IN W.P. NO.19176/2021 BETWEEN: SRI S. MUTHAIAH S/O SANNA SURIAH AGED ABOUT 65 YEARS DEPUTY CONSERVATOR OF FORESTS (RETIRED) RESIDING AT: D.NO.1762, DATRI NILAYA, 1ST STAGE, 2ND CROSS, SRI SHIVAKUMARASWAMY BADAVANE, OPP. ST. JOHN'S HIGH SCHOOL DAVANAGERE - 577 005. ... PETITIONER (BY SRI HASHMATH PASHA, SENIOR ADVOCATE FOR SRI NASIR ALI, ADVOCATE) AND: STATE BY CBI BENGALURU REPRESENTED BY LEARNED SPECIAL PUBLIC PROSECUTOR MR. PRASANNA KUMAR P., HIGH COURT OF KARNATAKA BANGALORE - 560 001. ... RESPONDENT (BY SRI P. PRASANNA KUMAR, SPL.PP) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF THE CR.P.C., PRAYING TO QUASHING THE

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ORDER

DATED 05.05.2020 PASSED IN SPECIAL C.C.NO.135/2013 AS PER ANNEXURE-N PENDING ON THE FILE OF HON'BLE LXXXI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AND SPECIAL COURT FOR MPs/MLAs, BANGALORE WHICH IS ARISING OUT OF FIR IN R.C. NO.15-A/2012 ON THE FILE OF RESPONDENT CBI, BANGALORE AS AN ABUSE OF PROCESS OF LAW AND CONSEQUENTLY AND ETC. THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED ON 28.06.2023 AND COMING ON FOR PRONOUNCEMENT OF

ORDER

S, THIS DAY, THE COURT MADE THE FOLLOWING:

9.

ORDER

S. SUNIL DUTT YADAV. J THIS

ORDER

HAS BEEN DIVIDED INTO THE FOLLOWING SECTIONS TO FACILITATE ANALYSIS: BRIEF FACTS ANALYSIS :- I. VALIDITY OF

ORDER

OF SANCTION FOR PROSECUTION - A. AUTHORITY COMPETENT TO GRANT SANCTION FOR PROSECUTION A.1. SANCTION FOR PROSECUTION UNDER SECTION 197 OF CR.P.C. AS REGARDS OFFENCES UNDER IPC A.2. SANCTION FOR PROSECUTION UNDER SECTION 19 OF P.C. ACT A.3. SANCTION AS REGARDS OFFENCES UNDER THE KARNATAKA FOREST ACT, 1963 B. APPLICATION OF MIND AND CONSIDERATION OF MATERIALS BY THE SANCTIONING AUTHORITY - B.1. W.P.NO.19179/2021 (SPL.CC. NO.135/2013) B.2. W.P.NO.19176/2021 (SPL.CC. 6/2014) B.3. W.P.NO.19178/2021 (SPL.CC.NO.21/2014) B.4. W.P.NO.19163/2021

(SPL.CC.NO.105/2014) II. QUASHING OF PROCEEDINGS¹⁰The petitioner is the accused in relation to the various First Information Reports (FIR) registered separately relating to the offence of illegally exporting mined Iron Ore material from Belekere Port without valid permit which is alleged to have been facilitated by the accused-petitioner, who was the then Deputy Conservator of Forests of Bellary District.

2. It is relevant to note that the registration of the FIRs was pursuant to the direction of the Apex Court in *Samaj Parivartana Samudaya and Others v. State of Karnataka and Others*¹ [Samaj Parivartana Samudaya]., whereby the Central Bureau of Investigation (CBI) was directed to investigate the alleged illegal mining of Iron Ore in Bellary Reserve Forest area by M/s. Associated Mining Companies.

3. The factual matrix and the legal contentions urged have an overlap in all of the petitions and in order to 1W.P. (Civil) No.562/2009 [SLP (Civil) Nos.7366-7367/2010]. 11 avoid passing of conflicting orders, the petitions are disposed off by a common order. BRIEF FACTS:- 4. The Apex Court in *Samaj Parivartana Samudaya* (supra) had constituted a Central Empowered Committee (CEC) to conduct a detailed enquiry into the alleged illegal mining in the State of Karnataka and directions were issued as contained in the orders extracted below:- "As recommended in the report of the CEC the CBI should institute FIR(s) as suggested in sub paragraphs (I) and (IV) at pages 12 and 14 respectively of the report and carry out thorough and intensive investigation including, if so required, custodial interrogation of any accused. []. Let copies of the CEC reports dated April 27, 2012 and September 5, 2012, be given to the CBI that may form the basic material for institution of FIR(s). It will be open to the CBI to refer to the other reports of the CEC on the issue submitted earlier. 12 Pursuant to the institution of the FIR(s) by the CBI as directed above, further proceedings in case No.189/2010 investigated by the CBI, CID, Karnataka, shall remain stayed. The CID, Karnataka shall hand over all records in regard to that case to the CBI."

Further, the Apex Court directed the CBI to conduct investigation of illegal extraction of Iron Ore in the forest areas of Karnataka which was transported to Belekere Port between 01.01.2009 to 31.05.2010.

5. Pursuant to the aforesaid directions of the Apex Court, the CBI has registered four FIRs, viz., R.C.Nos.13(A)/2012, 14(A)/2012, 15(A)/2012 and 16(A)/2012 for the following offences:- (a) Section 120-B, 379, 411, 420, 447 of Indian Penal Code; (b) Section 13(2) read with 13(1)(d) of the P.C. Act; (c) Section 24 of Indian Forest Act; (d) Section 21 read with Section 4(1), 4(1)(A) and Section 23 of Mines and Minerals Development and Regulations Act, 1957 ('MMDR Act' for brevity) 13

6. After completion of investigation, CBI has filed chargesheet against the petitioner and other accused and the petitioner has been charged as regards the commission of offences punishable under Sections 120-B read with Section 409, 420, 434, 447, 468, 471 of IPC and under Section 13(2) read with Section 13(1)(c) and (d) of P.C. Act. The cognizance was taken and charges were framed for the aforesaid offences and trial is in progress. After completion of investigation and taking note of the chargesheets, cognizance of the offence was taken in R.C.Nos.13-A/2012 (Spl. C.C.No.21/2014), 14-A/2012 (Spl. C.C.No.06/2014), 15-A/2012 (Spl.C.C.No.135/2013) and 16-A/2012 (Spl. C.C.No.105/2014).

7. The applications for discharge filed before the Special Court have been rejected and upon their rejection, the validity of proceedings have been called in question by invoking the jurisdiction under Section 482 of Cr.P.C. 14 Applications were also filed by the petitioner/accused before the Special Court under Section 19 of P.C. Act calling in question the validity of proceedings on the ground that the orders of sanction were illegal, which orders have also been called in question before this Court.

8. The details of the order impugned and the challenge before this Court is found as below:- Sl. Writ Petition Number Relief sought in the Writ Petition No.1. W.P.No.19176/2021 (i) Writ of certiorari quashing the order dated 05.05.2020 passed in Spl.C.C.No.6/2014 [R.C.No.14(A)/2012]. (ii) Quashing of the entire proceedings in Spl.C.C.No.6/2014 [R.C.No.14(A)/2012].

2. W.P.No.19178/2021 (i) Writ of certiorari quashing the order dated 05.05.2020 passed in Spl.C.C.No.21/2014 [R.C.No.13(A)/2012]. (ii) Quashing of the entire proceedings in Spl.C.C.No.21/2014 [R.C.No.13(A)/2012].

3. W.P.No.19179/2021 (i) Writ of certiorari quashing the order dated 05.05.2020 passed in Spl.C.C.No.135/2013 [R.C.No.15(A)/2012]. (ii) Quashing of the entire proceedings in Spl.C.C.No.135/2013 [R.C.No.15(A)/2012].

4. W.P.No.19163/2021 (i) Writ of certiorari quashing the order dated 05.05.2020 passed in Spl.C.C.No.105/2014 [R.C.No.16(A)/2012]. (ii) Quashing of the entire proceedings in Spl.C.C.No.105/2014 [R.C.No.16(A)/2012]. 15

5. W.P.No.17292/2018 Writ of Certiorari quashing the charge sheet in Spl.C.C.No.21/2014 [R.C.No.13(A)/2012].

6. W.P.No.17290/2018 Writ of certiorari quashing the proceedings in Spl.C.C.No.6/2014 (R.C.No.14-A/2012) 7. W.P.No.17291/2018 Writ of certiorari

quashing the proceedings in Spl.C.C.No.105/2014 (R.C.No.16-A/2012) 8.

W.P.No.16605/2018 Writ of certiorari quashing the proceedings in Spl.C.C.No.135/2013 (R.C.No.15-A/2012) ANALYSIS:- 9. The petitioner is stated

to be a Forest Officer of I.F.S. Cadre and was discharging duty as Deputy Conservator of Forests, Bellary Division at the relevant point of time. The directions by the Apex Court in its order of 07.09.2012 was to investigate cases relating to alleged illegal extraction of 50.79 lakh Metric Tons of Iron Ore from the forest areas between 01.01.2009 to 31.05.2010 and its illegal transportation to the Belekere Port. Subsequent to the Order of the Apex Court dated 07.09.2012, investigation was conducted, charge sheet was filed and cognizance was taken by the learned Special Judge. Thereafter the petitioner/accused has sought for 2 Samaj Parivartana Samudaya (supra) 16 quashing of proceedings and the charge sheet and also called in question the validity of the orders on validity of sanction for prosecution. I. VALIDITY OF

ORDER

OF SANCTION FOR PROSECUTION:- 10. The petitioner has assailed the order dated 05.05.2020 passed by the learned Special Judge as detailed in the Table supra at para 8 whereby, the Sanction orders issued by the State Government and Central Government according Sanction under Code of Criminal Procedure, Karnataka Forest Act and Prevention of Corruption Act respectively to prosecute the petitioner/accused has been upheld. However, it is the contention of the

petitioner that Sanction has not been granted by the Competent Authority. The petitioner further contends that the whole process was conducted in a mechanical manner, that the Authorities concerned have only appended the word approved, and that the sanctioning authority has merely endorsed the 17 draft sanction order submitted by the Investigating Authority. It was also contended that necessary material was not placed before the Authority which granted Sanction thus vitiating the order passed.

A. AUTHORITY COMPETENT TO GRANT SANCTION FOR PROSECUTION:-

A.1. SANCTION FOR PROSECUTION UNDER SECTION 197 OF CR.P.C. AS REGARDS OFFENCES UNDER IPC

11 The admitted facts being that petitioner Sri S. Muthaiah was an I.F.S. Officer [(IFS)(KN-1995)], and was working as Deputy Conservator of Forests, Bellary territorial division from 18.07.2008 to 19.05.2010.

12. Insofar as offences under IPC are concerned, Section 197 of Cr.P.C. mandates obtaining of sanction and relevant extract is as hereunder:-

"197. Prosecution of Judges and public servants.-(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction save as otherwise provided in the Lokpal and Lokayuktas Act, 2013-

(a) xxx (b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government:

13. The FIR makes out a case that in light of the findings of the CEC and Lokayukta of Karnataka that various Mining Companies, viz., M/s.Dream Logistics Co., India Ltd.; M/s.ILC Industries, M/s. S.B.Logistics, M/s. Shree Mallikarjun Shipping Pvt. Ltd., have indulged in illegal mining in the forest areas of Bellary, Bilekere and other places of Karnataka and transported such illegally mined Iron Ore without valid permits issued by the Department of Mines and Geology as also the Department of Forests without payment of required royalty and Forest

Development Tax. Such acts, it is stated to have been 19 done in connivance and in conspiracy with petitioner, the then Deputy Conservator of Forest Bellary, and his subordinates. It is alleged that the accused have caused wrongful loss to the Government of Karnataka and corresponding gain to themselves. Clearly, the above information contained in the FIR would indicate alleged commission of offence by the accused while being posted as a Deputy Conservator of Forest, Bellary. The petitioner being an I.F.S. Officer, "was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government."

4 14. The Circular issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training dated 27.10.1999 addressed to the Chief Secretaries of all State Governments though deals with sanction for prosecution under the P.C. Act against I.A.S. Officers, also adverts to sanction as 4 Section 197(1)(b) of Cr.P.C. 20 regards such Officers when discharging official duties in connection with the affairs of the State Government, which affirms the legal position as contained under Section 197 of Cr.P.C. The relevant portion of the said Circular at para-2 reads as follows:-

"2. If such a member of the All India Service is or was serving in connection with the affairs of the State Government, such sanction u/s 197(1) of the Cr.P.C. for the IPC offences will be required to be accorded by the State Government concerned.

15. As the petitioner was employed in connection with the affairs of the State Government at the time of alleged commission of offence, under Section 197(b) of Cr.P.C., previous sanction of the State Government is required.

16. In the present case, sanction of the State Government has been obtained as regards the alleged offence under Section 197 of Cr.P.C. as follows:- 21

W.P.No.19179/2021	W.P.No.19178/2021	W.P.No.19176/2021
W.P.No.19163/2021	Spl.C.C.No.135/2013	Spl.C.C.No.21/2014
Spl.C.C.No.6/2014	Spl.C.C.No.105/2014	[R.C.No.15(A)/2012].
[R.C.No.13(A)/2012].	[R.C.No.14(A)/2012].	[R.C.No.16(A)/2012].
Ex.P69(h)	Ex.P143	Sanction Ex.160
Sanction Ex.105	Sanction	Sanction order u/s order u/s 197 of order u/s 197 of order u/s 197 of 197 of Cr.P.C. Cr.P.C. issued by Cr.P.C. issued by Cr.P.C. issued

by issued by State State Government State Government State Government Government 17. Section 197 (1)(b) of Cr.P.C. which is applicable in the present factual matrix provides for sanction of the State Government. The term 'State Government' is not defined in the Cr.P.C. and we need to fall back on the provision under the Karnataka General Clauses Act of 1899, which defines 'State Government' as follows:- "3(38c) "State Government",- xxx (c) as respect anything done or to be done after 1st November, 1973 shall mean the Governor of the State of Karnataka; 18. It is also necessary to look into the provisions of the Karnataka Government (Transaction of Business) Rules, 1977 and in particular, Rule 18 and 19 and relevant extracts are as follows:- 22

"18. All orders or instruments made or executed by or on behalf of Government shall be expressed to be made or executed in the name of the Governor of Karnataka 19. Orders and instruments made and executed in the name of the Governor of Karnataka, shall be authenticated by the signature of an Additional Chief Secretary, a Principal Secretary, a Secretary, a Special Secretary, an Additional Secretary a Joint Secretary, a Deputy Secretary, an Under Secretary, a Desk Officer or any other officer holding these posts on ex-officio basis or by such other officer as may be specially empowered in that behalf by the Governor in the manner specified below, and such signature shall be deemed to be the proper authentication of such order or instrument. By Order and in the name of the Governor of Karnataka, (Signature) Name and designation of the Officer authorized to sign 19. Accordingly, where the sanction is required of the State Government, the order would be by the Governor of State of Karnataka⁵ and in terms of the Transaction of 5 3(38c) of the Karnataka General Clauses Act, 1899 23 Business Rules⁶, the order in the name of the Governor shall be authenticated by the Officers referred to under Rule 19 of the Rules which includes the 'Under Secretary'. In the present case, the sanction orders as per the Table above, have been passed in the following manner:- "BY

ORDER

AND IN THE NAME OF THE GOVERNOR OF KARNATAKA SD/- (Dr.BAGADI GAUTHAM) DEPUTY SECRETARY TO GOVERNMENT DP & AR (SERVICES)

20. Accordingly, the order passed is in complete compliance with the provisions of Karnataka General Clauses Act, 1899 and the Karnataka Government (Transaction of Business) Rules 1977 and no ground is made for interference with such order.

21. The contention of the petitioner that sanction for prosecution even under Section 197 of Cr.P.C. must be obtained from the appointing and removal authority, i.e. the President, whose power stands delegated in terms of 6 Karnataka Government (Transaction of Business) Rules, 1977 24 the Transaction of Business Rules is liable to be rejected in light of the plain words in Section 197 of Cr.P.C. which indicates that sanction is to be obtained from the State Government where the person is employed "in connection with the affairs of the State". A.2. SANCTION FOR PROSECUTION UNDER SECTION 19 OF P.C. ACT

22 In the present case, sanction of the Central Government has been obtained as regards the offence under Section 19 of the P.C. Act as follows:-

W.P.No.19179/2021 W.P.No.19178/2021 W.P.No.19176/2021

W.P.No.19163/2021 Spl.C.C.No.135/2013 Spl.C.C.No.21/2014 Spl.C.C.No.6/2014

Spl.C.C.No.105/2014 [R.C.No.15(A)/2012]. [R.C.No.13(A)/2012].

[R.C.No.14(A)/2012]. [R.C.No.16(A)/2012]. Ex.P67 Sanction Ex.146 Sanction

Ex.158 Sanction Ex.103 Sanction order u/s 19 of order u/s 19 of order u/s 19 of

order u/s 19 of P.C. Act issued by P.C. Act issued by P.C. Act issued by P.C. Act

issued by Central Central Central Central Government Government Government

Government 23. Under Section 19 of P.C. Act, no Court can take cognizance

"except with previous sanction" of the appropriate Government. Relevant extract of

Section 19 reads as follows:- 25

"19. Previous sanction necessary for prosecution.-(1) No court shall take cognizance of an offence punishable under sections 7, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction save as otherwise provided in the Lokpal and Lokayuktas Act, 2013- (a) in the case of a person who is employed, or as the case may be, was at the time of commission of the alleged offence employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government; (b) in the case of a person who is employed, or as the case

may be, was at the time of commission of the alleged offence employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government; (c) xxx (2) Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section (1) should be given by the Central Government or the State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed."

26 24. In the present case, as admittedly the petitioner is employed in connection with the affairs of the State and as he is an Officer of I.F.S. Cadre, the test to be answered in order to ascertain the 'Authority competent' to grant sanction would be "that Government or Authority which would have been competent to remove the Public Servant from his Office at the time when offence was alleged to have been committed."

7 25. It is to be noticed that Rule 6 of the Indian Forest Service (Recruitment) Rules, 1966 deals with the appointment into the Indian Forest Service and relevant extract of Rule 6 is as follows:

"6. Appointment to the Service.- 6(1) All appointment to the Service shall be made by the Central Government and no such appointment shall be made except after recruitment by one of the methods specified in rule 4."

7 Section 19(2) of the PC Act 27 26. Accordingly, an Officer of I.F.S. Cadre being appointed by the Central Government as enumerated under Rule 6 of the Indian Forest Service (Recruitment) Rules, 1966, his removal would also be by the same Authority and accordingly, sanction for prosecution under the P.C. Act would be of the Central Government.

27. In the absence of any definition of 'Central Government' in the P.C. Act, we have to fall back upon the definition under the General Clauses Act, 1897 and the relevant extract of Section 3(8)(b) reads as follows:-

"8. Central Government shall,- (a) xxx (b) in relation to anything done or to be done after the commencement of the Constitution, mean the President; and shall include,- xxx

28. The orders of the President in terms of Article 77 of the Constitution of India⁸ are to be made and executed in 8"77. Conduct of business of the Government of India.- (1) All executive action of the Government of India shall be expressed to be taken in the name of the President. 28 the name of the President and the authenticated as may be specified in the Rules.

29. In terms of Article 77 of the Constitution of India, the Rules framed are 'Authentication (Orders and Other Instruments) Rules, 2002'. Rule 2(1) refers to the mode of authentication as follows:-

"2. They shall come into force on the date of their publication in the official gazette. All orders and other instruments made and executed in the name of the President shall be authenticated - (1) by the signature of a Secretary, Special Secretary, Additional Secretary, Joint Secretary, Director, Deputy Secretary, or Under Secretary to the Government of India; 30. In the present case, the order of sanction as detailed supra have been passed by the Joint Secretary to (2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President. (3) xxx"

2. Government of India and Chief Vigilance Officer in the following manner:- "For and on behalf of the President of India Sd/- (Ravi S. Prasad) Joint Secretary to the Govt. of India and Chief Vigilance Officer

31. Accordingly, the sanction has been granted by the Competent Authority in terms of the Rules and statutory provisions as noticed above.

32. Though the trial Court has not adverted to the aspect in as much detail, however, the conclusion arrived at by the trial Court is correct and does not call for

interference. A.3. SANCTION AS REGARDS OFFENCES UNDER THE KARNATAKA FOREST ACT, 1963 33. In the present case, sanction of the State Government has been obtained as regards the offence under Section 114A of the Karnataka Forest Act as follows:- 30 W.P.No.19179/2021 W.P.No.19178/2021 W.P.No.19176/2021 W.P.No.19163/2021 Spl.C.C.No.135/2013 Spl.C.C.No.21/2014 Spl.C.C.No.6/2014 Spl.C.C.No.105/2014 [R.C.No.15(A)/2012]. [R.C.No.13(A)/2012]. [R.C.No.14(A)/2012]. [R.C.No.16(A)/2012]. Ex.69(f) Sanction Ex.142 Sanction Ex.159 Sanction Ex.106 Sanction order u/s 114A of order u/s 114A of order u/s 114A of order u/s 114A of Karnataka Forest Karnataka Forest Karnataka Forest Karnataka Forest Act Act Act Act 34. Insofar as the aspect of sanction for offences under the Karnataka Forest Act, Section 114A provides that prosecution shall not be entertained "except with the previous sanction of the State Government."

Relevant extract of Section 114A is as follows:

"114A. Suits or prosecution in respect of acts done under colour of duty not to be entertained without sanction of the State Government.- (1) In any case of alleged offence or of wrong alleged to have been committed by any Forest Officer, by any act done under colour or in excess of any such duty or authority under this Act, or wherein it shall appear to the court that offence if committed was of the character aforesaid the prosecution or suit shall not be entertained except with the previous sanction of the State Government.

35. The interpretation of 'State Government' would be in terms of the discussion made as regards sanction for prosecution under Section 197 of Cr.P.C. (see para19). 31

36. The sanction in the present case has been granted by the signatory in the following manner:- "BY

ORDER

AND IN THE NAME OF THE GOVERNOR OF KARNATAKA SD/- (DR.BAGADI GAUTHAM) DEPUTY SECRETARY TO GOVERNMENT, DP & AR (SERVICES)" The sanction granted in the aforementioned manner is in accordance with the

requirements of the applicable law.

37. Accordingly, it is concluded that sanction for prosecution under Code of Criminal Procedure, Prevention of Corruption Act and Karnataka Forest Act has been granted by the Competent Authority. B. APPLICATION OF MIND AND CONSIDERATION OF MATERIALS BY THE SANCTIONING AUTHORITY³⁸ In light of the orders dated 05.05.2020 passed by the learned Special Judge in Spl. C.C.Nos.135/2013, 21/2014, 6/2014 and 105/2014 on validity of sanction, the same is taken up for consideration individually. 32

39. This Court, by its order dated 22.05.2023 has summoned the documents marked as Exhibits (documents relating to grant of sanction) referred hereinbelow for perusal, from the Court of XLVI Additional City Civil and Sessions Judge and Special Judge for CBI Cases at Bengaluru now pending on the file of the LXXXI Additional City Civil and Sessions Judge at Bengaluru (CCCH-82) and the same have been examined. Spl.C.C.No.06/2014 Ex.D7 and Ex.D16 Spl.C.C.No.135/2013 Ex.D4 and Ex.P69 Spl.C.C.No.21/2014 Ex.D5 and Ex.D10 Spl.C.C.No.105/2014 Ex.D1 and Ex.D6 40. The evidence is led in support of the sanction orders by the following:- W.P.No.19179/2021 W.P.No.19178/2021 W.P.No.19176/2021 W.P.No.19163/2021 Spl.C.C.No.135/2013 Spl.C.C.No.21/2014 Spl.C.C.No.6/2014 Spl.C.C.No.105/2014 [R.C.No.15(A)/2012]. [R.C.No.13(A)/2012]. [R.C.No.14(A)/2012]. [R.C.No.16(A)/2012]. For sanction u/s 19 For sanction u/s 19 For sanction u/s 19 For sanction u/s 19 of P.C. Act - PW32 of P.C. Act - PW35 of P.C. Act - PW44 of P.C. Act - PW25 Mr.Ravishankar Mr.Ravishankar Mr.Ravishankar Mr.Ravishankar Prasad Prasad Prasad Prasad For sanction u/s 197 For sanction u/s 197 For sanction u/s 197 For sanction u/s 197 Cr.P.C. and u/s 114A Cr.P.C. and u/s Cr.P.C. and u/s Cr.P.C. and u/s 114A of Karnataka Forest 114A of Karnataka 114A of Karnataka of Karnataka Forest Act - PW33 Forest Act - PW34 Forest Act - PW43 Act - PW26 Dr.Bagadi Gautham Dr.Bagadi Gautham Dr.Bagadi Gautham Dr.Bagadi Gautham 33 B.1. W.P.No.19179/2021 (Spl.CC. No.135/2013) 41. It must be noted that insofar as offences under the Karnataka Forest Act are concerned, sanction for prosecution is contained in Ex.P69(f); for the offences punishable under IPC, order of sanction is passed by the State Government as per

Ex.P69(h) and for the offences under the P.C. Act, order of sanction is marked as Ex.P67. The Table containing the orders of sanction for offences under IPC, Karnataka Forest Act and as regards P.C. Act is detailed supra.

42. Sri Ravishankar Prasad, Additional Secretary in Ministry of Environment, Forest and Climate Change, supporting the orders of sanction under the P.C. Act has led in evidence, while Dr.Bagadi Gautham, Deputy Commissioner, Chikkamagalur at the time of adducing evidence, has led in evidence to support the orders of sanction of the State Government for the offences under the IPC and Karnataka Forest Act. 34

43. Sri Ravishankar Prasad has narrated in detail regarding the aspect of application of mind and specifically stated that before approval of the sanction our Department has examined the FIR, statement of the witness and the materials collected by the CBI during investigation which were forwarded by the State Government to our Ministry. It was deposed that the sanction orders under Section 197 Cr.P.C. as well as regards offences under the Karnataka Forest Act which were already passed by the State Government were forwarded to the Central Government. It was submitted that in terms of the procedure followed, concurrence of the Central Vigilance Commission (CVC) was obtained and only thereafter file was placed before the Minister of Environment. It was further deposed that detailed note sheet has been made by the officials of the Ministry of Environment and Forests, and eventually after due consideration sanction has been accorded.

44. It must be noted that Ex.D4 is the file maintained by the Government of India, Ministry of Environment and Forests containing all the materials forwarded by the State Government relating to according sanction for prosecution for offences under IPC, Cr.P.C. and Karnataka Forest Act. Ex.D4 also contains materials regarding the decision making of Central Government insofar as offences under the P.C. Act.

45. The detailed note sheet in Ex.D4 indicates background of the case and result of investigation. Insofar as result of investigation is enumerated, reference is made to the specific role of the petitioner and also explanation of the petitioner has been

adverted to. Ex.D4 also contains the letter of Chief Secretary, Government of Karnataka, addressed to the Secretary, Government of India, Ministry of Environment and Forests dated 14.08.2013 and lists the documents sent which are as follows:- "1)Investigation Report (as submitted by CBI) - The report includes version of the accused officer and comments of the Investigating Officer to rebut for their contentions (page no.1 to 274).

2) Case records - 10 boxes containing copy of case records have been appended. (Pherist page-1). 36

3) Draft prosecution sanction orders under PC Act pertaining to Sri S.Muthaiah (Page 1 - 8).

4) Draft prosecution sanction orders under PC Act pertaining to Sri Manoj Kumar Shukla (Page No.1- 8). 5)Opinion of State Law Department - (page no.3). 6)Original prosecution sanction order under IPC issued by the State Government in respect of Sri S. Muthaiah, IFS (G.O.No.DPAR/117/SFP/2013, dated:07/08/2013) (page-4).

7) Original prosecution sanction order under IPC issued by the State Government in respect of Sri Manoj Kumar Shukla, IFS (G.O.No.DPAR/117/ SFP/2013(1), dated:07/08/2013) (page-4).

46. Ex.D4 also contains a CBI report in R.C. 15A/2012. The said report contains detailed narration relating to removal of Halkundi, Andhra - Karnataka border Forest Check Post to facilitate the transportation of Iron Ore without permits and on fake Andhra Pradesh permits; explanation of the accused; details regarding summing up of evidence both, for and against the accused/suspect persons for whom sanction for prosecution is sought and conclusion regarding proof of allegation followed by conclusion. The said report contained a summary of 37 statement of the forest officials, revenue officials and other witnesses. The said report also contains the brief summary of the statement under Section 164 of Cr.P.C. of accused/petitioner (Sl.No.189 at Page No.188). The report contains list of 184 witnesses, description of documents at Sl.Nos.1 to 156, statements recorded before the Inspector of Police CBI, ACB Bangalore dated 09.03.2013,

10.03.2013 and interrogation report by the Inspector of Police, CBI.

47. The witness Sri Ravishankar Prasad was subjected to cross-examination and the petitioner seeks to rely on certain aspects that have been elicited during cross-examination.

48. The learned Special Judge while considering the validity of the order of sanction has passed a detailed order and referred to the evidence of PW.32 and in specific, has observed regarding the placing of material before the Sanctioning Authority as follows:- 38 But this PW.1 has stated that placing of materials is reflected in the note-sheet being prepared by his office. He says that he has personally gone through the said statement of the witnesses which have been recorded by the investigating officer. So also he has gone through the document collected by the I.O. before issuing the sanction orders.

49. Accordingly, it is clear that the material as listed in the note-sheet was put up before the Sanctioning Authority after Sri Ravishankar Prasad had reviewed the file.

50. As regards the contention relating to draft order being prepared by the State Government and copied by the Central Government, the learned Special Judge has observed as follows:- When the facts are similar in this case, therefore, we cannot find any fault in preparing the draft sanction order. Such conclusion arrived at cannot be faulted and does not call for interference. 39

51. Dr.Bagadi Gautham - PW.33, who has led in evidence pertaining to the sanction order by the State Government has got marked the entire files containing materials relevant to sanction at Ex.P69 and also got marked note-sheet at Ex. P69(b). He has deposed regarding the competence of the State Government to grant sanction, he has also deposed that along with a request for sanction, the note sheet of CBI, copy of FIR, copies of statement of witnesses recorded under Section 161 of Cr.P.C. during investigating and documents collected by the Investigation Officer, all of which was placed before the Chief Minister.

52. A perusal of Ex.P69 indicates that it contains the final report of the CBI dated 24.05.2013 in RC.No.15A/2012. It is further stated that along with the report, CBI had forwarded ten bundles of connected records. The note sheet in the file refers to the role of Sri S.Muthaiah/petitioner and refers to the contents of the report of CBI and contains the signature of the Chief 40 Minister apart from the signature of the officials concerned, opinion of the Additional Law Secretary approved by the Principal Law Secretary is found and accordingly, the sanction for prosecution has been issued.

53. The note sheet also contains a separate narration relating to grant of sanction as regards the offences under the Karnataka Forest Act. Such part of the note sheet details the role of the petitioner causing loss to the Government Exchequer by facilitating illegal sale and export of Iron Ore after removing Andhra-Karnataka border Check Post at Halkundi and contains the signature of Minister for Forest, Ecology and Environment Department, Government of Karnataka, signature of Principal Secretary, signature of Chief Secretary and the approval of the Chief Minister. Finally, the order of sanction for prosecution has been issued.

54. Similarly, permission has been granted as regards offences under IPC under Section 197 of Cr.P.C. and the note-sheet contains recommendations to the 41 Ministry of Forests, Government of India to sanction prosecution against Sri S.Muthaiah/Petitioner. Prior to such proceedings, the draft sanction order was forwarded along with CBI report to the State Government.

55. On 14.08.2013, the Chief Secretary to Government of Karnataka has addressed a communication to the Secretary to Government of India, Ministry of Environment and Forests, while narrating the grant of sanction for offences under IPC and noting that sanction under P.C. Act would be required in terms of the Department of Personnel and Training Circular No.107/8/889-AVD-I dated 27.10.1999, documents were forwarded as below:-

"1. Investigation Report (as submitted by CBI) - The report includes version of the accused officer and comments of the Investigating Officer to rebut for their contentions (page no.1 to 274).

- 2) Case records - 10 boxes containing copy of case records have been appended. (Pherist page-1).
 - 3) Draft prosecution sanction orders under PC Act pertaining to Sri S.Muthaiah (Page 1- 8). 42
 - 4) Draft prosecution sanction orders under PC Act pertaining to Sri Manoj Kumar Shukla (Page No.1-8).
 - 5) Opinion of State Law Department - (page no.3).
 - 6) Original prosecution sanction order under IPC issued by the State Government in respect of Sri S. Muthaiah, IFS (G.O.No.DPAR/117/ SFP/2013, dated:07/08/2013) (page-4).
 - 7) Original prosecution sanction order under IPC issued by the State Government in respect of Sri Manoj Kumar Shukla, IFS (G.O.No.DPAR/117/SFP/2013(1), dated:07/08/2013) (page-4).
56. Ex. P69 contains the case records submitted by CBI, ACB, Bengaluru. The said contents of which have been extracted hereinbelow:- Sl. Description No.1 CBI Report 2 Memo of Evidence - oral 3 Memo of Evidence - documentary 4 List of Witnesses 5 List of Documents 6 Accused statements (i) Sri Manoj Kumar Shukla (ii) Sri S.Muthaiah 7 Photocopies of relevant statement of witnesses. 8 Photocopies of relevant documents. 43
57. Ex.P69 also contains the details of ten bundles of records submitted by CBI, ACB, Bengaluru, which is detailed in the Table hereinbelow:- Sl.No.of Details of contents the box 1. Statement of witnesses Witness 1 to 190 Volume 1 to 10 D1 to D45 2. D46 to D70 Volume 11 to 20 3. D70 to D90 Volume 21 to 30 4. D91 to D129 Volume 31 to 40 5. D130 to D135 Volume 41 to 50 6. D135 to D138 Volume 51 to 60 7. D138 to D139 - V-9 Volume 61 to 70 8. D139 to D139 - V-19 Volume 71 to 80 9. D139 to D140 Volume 81 to 90 10. D141 to D156 Volume 91 to 101
58. Insofar as the challenge to the order granting sanction by the State Government, the learned Special Judge has noticed the evidence of PW.33 wherein, Dr.Bagadi Gautam has deposed that the entire file prepared in his office

marked as Ex.P69 was sent to the office of Chief Minister, after perusal of which sanction was accorded by the Chief Minister. The learned Special Judge at para-38 of the order has referred to presumption with regard to official acts while discussing the attacks as regards to procedure that was required to be followed by the officials.

59. While referring to the contention that the order of sanction sent to the Central Government and the order of sanction of the State Government are replicas of the draft orders sent by the Investigating Authority, which vitiates the order passed granting sanction on the ground of non-application of mind, the learned Special Judge observes as follows:- 40. When facts are similar and the competent responsible officer has prepared the order after going through the records, this defence, of the accused persons about the imitation of the draft sanction order, etc., becomes a weak (sic) defence. As stated supra, when the facts are similar we cannot expect any change in the sanction order to that of the draft sanction order. The draft sanction order may be a guidance to prepare the valid sanction order 45 Such conclusion of the learned Special Judge also does not call for interference.

60. Insofar as the contention that Chief Minister merely stated as "Cz" ('approved') and accordingly, there is no application of mind, the learned Special Judge observes as follows: 41. Only because such words have been used by the sanctioning authority, it does not mean that the entire business transaction of the Government is a futile exercise. No bias is alleged against any of the sanctioning authorities in this case, to favour the CBI or the prosecuting agency The said conclusion of the learned Special Judge is also well considered and sufficient and requires no interference.

61. The learned Special Judge has then referred to the orders granting sanction and upheld the same. The learned Special Judge at para-47 while deciding the legality 46 and validity of the sanction order, has observed rightly as follows:

"47. No doubt, there are certain admissions given in the cross-examination of PW32 and 33. But we are deciding the legality and validity of the sanction order. At this stage, we have to see that whether the sanctioning authority has applied its

mind and has issued the sanction 68 Spl.CC.135/2013 order. As laid down in the various judgments of Hon'ble Supreme Court of India, the court cannot sit over the sanction order and pass an order in favour of the accused persons. The guidelines which have been set out by the Hon'ble Supreme Court of India have to be followed. These accused No.2 and 7 can very well take advantage of these admissions at the time of final arguments in this case.

62. No doubt, the learned Special Judge has observed that the question as to whether relevant evidence which would have tilted the balance in favour of the accused was kept out of consideration is a matter that is to be decided in trial, is the only question that requires to be established by the accused, which is kept open. 47

63. The learned Special Judge has referred to various judgments of the Apex Court including the guidelines laid down in State of Maharashtra Through Central Bureau of Investigation v. Mahesh G. Jain⁹ [Mahesh G. Jain]., wherein it is observed that the adequacy of material placed before the sanctioning authority cannot be gone into by the Court, as it does not sit in appeal over the sanction order. The learned Special Judge observes that order of sanction ought not to be construed in a pedantic manner and has rejected the attack against the sanction order and the said order of learned Special Judge being well reasoned, does not call for interference.

64. The scope of interference in attack as against the order of sanction is limited and is laid down by the Apex Court in its various decisions and relevant extracts are reproduced below:- (a) C.S. Krishnamurthy v. State of Karnataka¹⁰ [C.S.Krishnamurthy].- 9 (2013) 8 SCC11910 (2005) 4 SCC8148 7. Therefore, the accused has to account for difference between the two. The sanction itself shows that there is something to be accounted for by the accused. When the sanction itself is very expressive, then in that case, the argument that particular material was not properly placed before the sanctioning authority for according sanction and the sanctioning authority has not applied its mind becomes unsustainable. When sanction order itself is eloquent enough, then in that case only formal evidence has to be produced by the sanctioning authority or by any other evidence

that the sanction was accorded by a competent person with due application of mind. In the present case the learned Additional Sessions Judge took a very narrow view that all the papers were not placed before the court to show that there was proper application of mind by the sanctioning authority. Though the sanctioning authority who came in the witness box could not answer some questions in cross-examination, yet this Court held that sanction itself is eloquent read with evidence of the sanctioning authority and the same is valid. In the present case, the facts contained in the sanction order read with evidence of the sanctioning authority makes it clear that sanction was properly accorded and is valid.

8. In this connection, a reference was made to a decision of the Constitution Bench in the case 49 of R.S. Pandit v. State of Bihar [1963 Supp (2) SCR652: (1964) 2 Cri LJ65 wherein Their Lordships after referring to a decision of the Privy Council in the case of Gokulchand Dwarkadas Morarka v. R. [AIR 1948 PC82:

49. Cri LJ261 observed as under: (SCR pp. 662-63) Section 6 of the Act also does not require the sanction to be given in a particular form. The principle expressed by the Privy Council, namely that the sanction should be given in respect of the facts constituting the offence charged equally applies to the sanction under Section 6 of the Act. In the present case all the facts constituting the offence of misconduct with which the appellant was charged were placed before the Government. The second principle, namely, that the facts should be referred to on the face of the sanction and if they do not so appear, the prosecution must prove them by extraneous evidence, is certainly sound having regard to the purpose of the requirements of a sanction. The said judgment is an authority for the point that if the order of sanction is eloquent, that would suffice and even in the absence of which it was open to the prosecution 50 to supplement the deficiencies in the order of sanction by extraneous evidence. (b) State of Maharashtra Through CBI v. Mahesh G. Jain¹¹ 14. From the aforesaid authorities the following principles can be culled out:

14. 1. It is incumbent on the prosecution to prove that the valid sanction has been granted by the sanctioning authority after being satisfied that a case for sanction

has been made out. 14.2. The sanction order may expressly show that the sanctioning authority has perused the material placed before it and, after consideration of the circumstances, has granted sanction for prosecution. 14.3. The prosecution may prove by adducing the evidence that the material was placed before the sanctioning authority and its satisfaction was arrived at upon perusal of the material placed before it. 14.4. Grant of sanction is only an administrative function and the sanctioning authority is required to prima facie reach the 11 (2013) 8 SCC11951 satisfaction that relevant facts would constitute the offence. 14.5. The adequacy of material placed before the sanctioning authority cannot be gone into by the court as it does not sit in appeal over the sanction order. 14.6. If the sanctioning authority has perused all the materials placed before it and some of them have not been proved that would not vitiate the order of sanction. 14.7. The order of sanction is a prerequisite as it is intended to provide a safeguard to a public servant against frivolous and vexatious litigants, but simultaneously an order of sanction should not be construed in a pedantic manner and there should not be a hypertechnical approach to test its validity. The above principles summarise the legal framework within which validity regarding order of sanction is to be tested and keeping this in mind the validity of the order of sanctions in the present case requires to be tested.

65. In light of the above, if the orders of sanction are looked into, it is clear that the same are eloquent enough. 52

66. The relevant extracts of the sanction order speak for themselves and the same are extracted hereinbelow:- EX.P67-

ORDER

OF SANCTION BY CENTRAL GOVERNMENT IN REGARD TO P.C. ACT12"6. Whereas it is alleged that Shri Muthaiah, the then DCF, Bellary Division and Shri Manoj Kumar Shukla, the then Conservator of Forests, Bellary, in collusion with Shri G.Janardhana Reddy, the then Bellary District -in-charge Minister and his associates, on 15th October 2008, removed the Andhra-Karnataka border forest check post existed at Halkundi, to facilitate the illegal transportation of iron ore without valid permits by three firms belonging to Shri Gali Janardhana Reddy and

his men."

15. Whereas, Shri Muthaiah, the then Deputy Conservator of Forests, and Shri Manoj Kumar Shukla, the then Conservator of Forests, Bellary, have admitted that Halkundi check post was removed by them at the behest of Shri G.Janardhana Reddy, the then Bellary district-in-charge Minister. Hence, Shri S. Muthiah and Shri Manoj Kumar Shukla did misuse their official positions as government servants and closed the Halkundi Forest Border check post with dishonest intention, in conspiracy with Shri.G.Janardhana Reddy and thereby caused wrongful loss to the Government of 12 No.15011/02/2013-AVU dated 20.05.2014 53 Karnataka, by evading the collection of Forest Tax at the said check post.

16. Whereas, the Karnataka Lokayuktha did conduct searches at Belekeri Port during February/March, 2010 and seized voluminous documents, including fake Andhra permits purported to be issued by the Department of Mines and Geology, Anantapur and Kadappa etc. During the course of investigation, the documents seized by the Karnataka Lokayukta that were used for transporting illegal iron ore to Belekeri Port were collected by the CBI. The examination of the officials of DMG Anantapur and Kadappa, Andhra Pradesh, revealed that they have not issued any permits for transporting iron ore from Andhra Pradesh to Karnataka during 2009-10. Shri K.Shivashankar Reddy, mine owner of M/s. K.Rajmohan Reddy Mines, Kadappa, have stated in their recorded statements that only on two occasions supply of about 850 Mts of iron ore in the name of M/s. Shree Manjunatheswara Minerals, Hospet, was shown. They have supplied the said quantity of iron ore through Shri. N.Muralidhara Reddy, Mineral Agent, working in the above referred mines. Shri N. Muralidhara Reddy in his statement has revealed that the above mentioned mine owners have only sold DMG permits got issued from DMG Kadappa, without actual supply of iron ore. It has further been revealed that various Andhra permits seized by Lokayuktha 54 from Belekeri port were not issued by DMG Kadappa and were forged ones. These forged Andhra permits were deposited with Belekeri port at the time of delivery of iron ore by claiming that the material was brought from Andhra Pradesh. The removal of Halkundi check post at Andhra-Karnataka border, helped them to make the claim and to freely transport the illegal iron ore to Belekeri port by using this modus

operandi.

17. Whereas, Shri. S.Muthaiah and Shri Manoj Kumar Shukla in collusion with Shri.G.Janardhana Reddy and his associates, removed the Andhra- karnataka border check post at Halkundi in October, 2008 to facilitate illegal transportation of iron ore without permits. They have colluded with Shri G.Janardhana Reddy and his associates, facilitated illegal mining and transportation of iron ore in Bellary district, enabled Sri.Janardhana Reddy and his associates to construct an approach road to Dalmia Mines through the leasehold areas of M/s.Veeyam Mines and to do large scale illegal mining in the Dalmia Mines in 2009-10. They have allowed Sri Janardhana Reddy and his Associates, illegal mining, store illegally extracted iron ore in Lakshminarayana Mines, P.K.Halli plot; SBM plot; P.K.Halli; MSPL Stockyard, Ingalagi, Veeyam Plot, Ingalagi, Karapudi Plot, Kariganur; Swastik Plot, Bellary road, V.Nagappa Stockyard, Kallahalli, SVK Mines and Plot, 55 Vyasanakere, SVK Plot, Danapur and other plots/stockyards falling under the jurisdiction of Bellary Forest Division. Both they have conceded to the demands of Shri.G.Janardhana Reddy and his cronies and harassed their rival mining owners, favoured the mines controlled by Shri Janardhana Reddy. They did not take action on the reports submitted by their subordinate officials on the illegal mining activity in the forest areas in Bellary District, accepted illegal gratification and allowed illegal mining and transportation. Shri Muthaiah and Shri Manoj Kumar Shukla have aided Shri Janardhana Reddy in usurping 40-60% of iron ore from other mine owners.

18. Whereas, Shri.S.Muthaiah facilitated illegal mining and transportation of iron ore, pressurized other mine owners, and also threatened them to comply with the conditions put by Shri G.Janardhana Reddy with regard to sharing the iron ore excavated from their mines.

19. Whereas, the aforesaid acts of Shri.S.Muthaiah, the then Deputy Conservator of Forests, Bellary and others, constitute offences punishable under section 120-B r/w 409, 420, 434, 447, 468, 471 of IPC and Sections 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.

20. And whereas, the President of India, being the authority, competent to remove Shri.S.Muthaiah, 56 IFS, KN:95, the then Deputy Conservator of Forests, Bellary Division, Karnataka, after fully and carefully examining the materials/records placed before him and taking into account the available evidence, including FIR, copies of statements of witnesses recorded u/s 161 of Cr.P.C1973 documents collected in the course of investigation by the Central Bureau of Investigation in RC-15(A)/2012/CBI/ACB/BLR, in respect of the said allegations, is satisfied that Shri.S.Muthaiah, IFS, KN:95, the then Deputy Conservator of Forests, Bellary Division, Karnataka, should be prosecuted for the said offences and any other offences made out from the facts mentioned above.

21. Now, therefore, the President of India thus hereby accord sanction as required under Section 197 Cr.P.C. and 19(1)(a) of the Prevention of Corruption Act, 1988 (Act No.49 of 1988) for the prosecution of Shri S. Muthaiah, IFS, KN:95, the then Deputy Conservator of Forests, Bellary, for the offences punishable under section 120-B r/w 409, 420, 434, 447, 468, 471 of IPC and sections 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and other offences made out from the above mentioned facts and punishable under the provisions of any law in respect of aforesaid acts for taking cognizance of the said offences by a court of competent jurisdiction."

57 EX.P-69(f) -

ORDER

OF SANCTION BY STATE GOVERNMENT IN REGARD TO KARNATAKA
FOREST ACT13

"6. That Shri S.Muthaiah, the then Deputy Conservator of Forests, Bellary and Shri Manoj Kumar Shukla, the then Conservator of Forests, Bellary, in collusion with Shri G.Janardhana Reddy, the then Bellary District-in-charge Minister and his associates removed the Andhra-Karnataka border forest check post existed at Halkundi in October 2018 (15/10/2008) to facilitate the illegal transportation of iron ore without valid permits by three firms of Gali Janardhana Reddy and his men.

17. That, Shri S. Muthaiah and Shri Manoj Kumar Shukla in collusion with Shri G.Janardhana Reddy and his associates removed the Andhra Karnataka Border Forest Check Post existing at Halkundi in October 2008 to facilitate illegal transportation of iron ore without permits. They colluded with Shri G.Janardhana Reddy and his associates and facilitated illegal mining and transportation of iron ore in Bellary District. They enabled Shri G.Janardhana Reddy and his associates to construct an approach road to Dalmia Mines through the lease hold area of M/s Veeyam Mines and to do large scale illegal mining in the Dalmia Mines during 2009-10. They allowed Shri G.Janardhana Reddy and allowed his associates to do illegal mining 13 G.O.No.DPAR117SFP20131), Bangalore dated 09/10/2013 58 and store illegally extracted iron ore in Lakshminarayana mines. P.K.Halli plot, SBM Plot, P.K. Halli, MSPL Stockyard Indalgi Veeyam Plot, Ingalgi, Karapudi plot, Kariganur, Swastik Plot, Bellary Road, V.Nagappa Stock yard, Kallahalli, SVK Mines and plot, Vyasanakere, SVK Plot, Danapur and other plots/stock yards falling under the jurisdiction of Bellary Forest Division. They conceded to the demands of Shri G.Janardhana Reddy and his cronies and harassed their rival mine owners and favoured the mines controlled by Shri G.Janardhana Reddy. They did not take action on the reports submitted by his subordinate officials regarding illegal mining activity in the forest areas in Bellary District. They accepted illegal gratification and allowed illegal/mining and transportation. They aided Shri G.Janardhana Reddy in usurping 40-60% of iron ore from other mine owners.

18. That, Shri S. Muthaiah, to facilitate illegal mining and transportation of iron ore was pressurizing other mine owners. He was also threatening them to comply with the conditions put by Shri Gali Janardhana Reddy in respect of sharing of iron ore excavated from their mines.

19. Whereas, the aforesaid acts of Shri S.Muthaiah, the then Deputy Conservator of Forests, Bellary and others constitute offences punishable under section 120-B r/w 59 409, 420, 434, 447, 468, 471 of IPC and Sections 13(2) r/w 13(1)(c) & (d) of PC Act, 1988.

20. And whereas, the Government of Karnataka after due and careful examination of the materials such as copy of FIR, copies of statement of witnesses recorded u/s sec. 161 Cr.PC1973 documents collected during the course of investigation by the CBI in RC-15 (A)/2012/CBI/ACB/Bangalore which were placed before it in regard to the said allegations, consider that a prima-facie case has been made out against the said Sri.S.Muthaiah the then Deputy Conservator of Forests, Bellary presently under suspension that he should be prosecuted for the above said offences.

21. Now, therefore, the Government of Karnataka do hereby accord sanction under section 114-A of the Karnataka Forest Act, 1963 for the prosecution of Shri S. Muthaiah, the then Deputy Conservator of Forests, Bellary, in a court of law for the aforesaid offences and for taking cognizance of the said offences by the court of competent jurisdiction."

EX.P69(h) - SANCTION BY THE STATE GOVERNMENT AS REGARDS OFFENCES UNDER IPC14 "Whereas, the Central Bureau of Investigation, Anti Corruption Branch, Bangalore has investigated in detail into the above said allegations 14 G.O. No.DPAR117SFP2013 Bangalore dated 7.8.13 60 in RC.15(A)/2012/CBI/ACB/BLR. The CBI has examined the witnesses and Government officials and scanned documents in connection with the above said allegations during the course of investigation. Whereas, the investigation by the CBI-ACB Bangalore, has brought forth enough evidence against Sri.S.Muthaiah, IFS(KN-1995) former DCF, Bellary district, Bellary with regard to the allegations made against him, listed as below: a) Sri.S.Muthaiah, IFS the then DCF, Bellary in collusion with others abused his official position and with deliberate intention to extend undue favour to M/s.Obalapuram Mining Company and omitted to collect the exchange fee. b) Removed Andhra Karnataka border check-post at Halkundi to facilitate illegal transportation of iron ore without valid permits by 3 firms of Gali Janardhana Reddy and his men. Transferred staff deployed at Halkundi Check-post without replacement. Thus the checking of vehicles carrying illegal iron ore and issuance of form No.29 and collection of forest tax were stopped with dishonest 64 intention to facilitate Sri.G.Janardhana Reddy and his associates in the transportation of illegal iron ore through the check- post and caused wrongful

loss to Government of 61 Karnataka by evading collection of the tax at the said check-post. c) By abusing his official position he helped M/s. OMC Company owned by G.Janardhana Reddy to transport their illegal iron ore freely without any permits or any checking. Withdrew the services of forest guards and foresters deployed at Halkundi Check Post and transferred them to their respective parent places. Whereas, the said acts of Sri. S.Muthaiah, IFS constitute offences punishable under sections 120-B r/w 409, 420, 434, 447, 468, 471 of Indian Penal Code 1860 and u/s 13(2) r/w 13(1)(c) & (d) of PC Act 1988. Whereas, the Government of Karnataka after due and careful examination of the materials such as copy of the FIR, statements of witnesses and the accused and related documents etc., collected during the course of investigation by the CBI-ACB in RC- 15(A)/2012/CBI/ACB BLR and also the defence statement of Sri.S.Muthaiah, IFS, which were placed before it in regard to the said allegations and circumstances of the case and on subjective 65 examination of the materials and having prima-facie, objectively satisfied and considered that it is a fit case to accord sanction to prosecute Sri.S.Muthaiah, in a Court of Law for the above said offences. 62 Now, therefore, the Government of Karnataka by the powers vested with it under section 197(1) of Cr.P.C1973 hereby accords sanction to the CBI for the prosecution of Sri S.Muthaiah, IFS (KN-1995), former Deputy Conservator of Forests, Bellary, for the aforesaid offences punishable under Sections 120-B r/w 409, 420, 434, 447, 468, 471 of the Indian Penal Code 1860.

67. Insofar as the contention that insufficient materials having been placed before the Authority as noticed above, communication has been addressed by the CBI to the State Government producing the CBI Report and the summary of the materials sent is forthcoming on bare perusal of the Index which is as follows: Sl. Description No.1 CBI Report 2 Memo of Evidence - oral 3 Memo of Evidence - documentary 4 List of Witnesses 5 List of Documents 6 Accused statements (i) Sri Manoj Kumar Shukla (ii) Sri S.Muthaiah 7 Photocopies of relevant statement of witnesses. 8 Photocopies of relevant documents. 63

68. It is noticed that the said report is exhaustive and contains all materials. In fact, the note sheet of the file marked as Ex.P69 recites that the CBI has not only sent the final report dated 24.05.2013 in RC.15A/2012- CBI/ACB/BLR against the

petitioner but have also sent along with the report CBI has forwarded 10 bundles of connected records which are kept in safe custody in the section.

69. Further, when the State Government has forwarded the sanction orders to the Central Government, all material that was before it has been sent which includes the volume of 10 boxes of papers as is evident from the letter dated 14.08.2013. The description of 10 boxes is as follows:-

Sl.No.	Details of contents the box
1.	Statement of witnesses Witness 1 to 190 Volume 1 to 10 D1 to D45
2.	D46 to D70 Volume 11 to 20
3.	D70 to D90 Volume 21 to 30
4.	D91 to D129 Volume 31 to 40
5.	D130 to D135 Volume 41 to 50
6.	D135 to D138 Volume 51 to 60
7.	D138 to D139 - V-9 Volume 61 to 70
8.	D139 to D139 - V-19 Volume 71 to 80
9.	D139 to D140 Volume 81 to 90
10.	D141 to D156 Volume 91 to 101

70. The contention that certain materials were not placed before the Authority is liable to be rejected, as the Authority in the orders of sanction passed in the orders impugned herein records that there has been a perusal of materials including FIR, copies of statement of witnesses recorded under Section 161 of Cr.P.C., documents collected in the course of investigation by CBI in R.C.15A/2012- CBI/ACB/BLR, and the order specifically states that all documents collected in the course of investigation by the CBI have been looked into.

71. The reference to ten boxes of documents forwarded by CBI can be construed as containing the entirety of investigation documents including Section 164 Cr.P.C. statement. The CBI report which makes a summary 65 of the material before it, has also referred to the Section 164 statement at Sl.No.189 and recorded a summary of the same. It could be inferred that the said statements under Section 164 Cr.P.C. is a part of the materials contained in the boxes sent by CBI.

72. The officers have not only led evidence relating to the sanction orders passed but have also led evidence to supplement the sanction order listing the material placed before the sanctioning Authority and if sanction order is read with such evidence the same would fall within the guidelines laid down by the Apex Court in C.S. Krishnamurthy (supra).

73. Even though there may be some discrepancies in the oral evidence of Sri.Ravishankar Prasad and Dr.Bagadi Gautam regarding the materials placed

before the sanctioning Authority, that by itself cannot outweigh evidence on sanction order and materials produced before the sanctioning Authority as would come out from Ex.D4 and Ex.P69. The oral evidence of witness cannot take away the effect of the note sheet which recites placing of materials of ten boxes before the Authority. A similar contention was rejected by the Apex Court in C.S. Krishnamurthy (supra) after referring to the observations of the Apex Court in Balaram Swain v. State of Orissa¹⁵ [Balaram Swain].. The relevant observations in para-10 in C.S. Krishnamurthy are extracted hereinbelow:- 10.In the case of Balaram Swain v. State of Orissa [1991 Supp (1) SCC510:

1991. SCC (Cri) 707]. the High Court reversed the finding of the trial court that the sanctioning authority has not applied his mind on the materials placed before him. It was observed in para 9 that the sanctioning authority, namely, PW4has stated on oath that he perused the consolidated report of the vigilance and fully applied his mind and thereafter issued the sanction. The admission of PW7in that case that the entire record was not looked into, was held to be not fatal to the sanction. The finding of the High Court was affirmed by the Apex Court. Likewise, PW4i.e. the sanctioning authority in the present case, has gone through the report of the Superintendent of Police and after discussing the matter with the Legal Department has accorded sanction. That is enough to show that there is due application of mind in the present case. 15 1991 Supp (1) SCC51067 74. It must be noted that the learned Special Judge was merely exercising power of judicial review and once the sanction order recites that there is perusal of material and evidence is led by the officers concerned which reveals that all materials collected during investigation has been placed before the sanctioning Authority, nothing further remains. The learned Special Judge nor this Court sit as a court of Appeal. In the absence of any mala fides established, it can be construed by invoking the presumption under Section 114 of Indian Evidence Act, 1872 that the acts are done as required, which presumption has not been rebutted. The oral evidence including statements made in cross- examination at the most only brings out that the witness does not recollect details of the specific materials perused. Such leeway ought to be granted as regards oral testimony of officials when there is an intervening time gap between the order granting sanction in the year 2013 and the evidence being led in the year 2019. 68

75. Insofar as the contention that there has been no application of mind by the Authority granting sanction as draft sanction order was sent by the Investigating Authority to the State Government and the State Government while forwarding the file to the Central Government had also forwarded a draft sanction order which draft sanction orders are almost identical to the sanction orders passed by the State Government and the Central Government has been rightly rejected by the learned Special Judge as noticed above.

76. It must be noted that in terms of the CBI Manual the draft sanction order is required to be sent to the sanctioning Authority. The relevant extract of Vigilance Manual, 2021 by the Central Vigilance Commission reads as follows: 6.6.2 Cases where prosecution recommended: The report, which may be accompanied by the draft sanction order, should give the rank and designation of the authority competent to dismiss the delinquent officer from service and the law or rules under which that authority is competent to do so. 69 It is in accordance with such practice that the draft sanction orders are sent by the Investigating Authority. The identity of the draft sanction order and the final order of sanction cannot by itself lead to a conclusive finding that the sanctioning Authority has acted without application of mind. The practice of sending draft sanction order is in fact mandated by the Vigilance Manual and much need not be read into such sending of draft sanction order nor can it be construed such action reflects an intention to dictate to the sanctioning Authority by the Investigation Authority.

77. Similarly, the use of the word "Cz" ("approved") by the Chief Minister and the Minister of Forest and Environment, Government of India, cannot by itself be reflective of non-application of mind. The practice of Constitutional/Senior Government functionaries of approving the notes put up by the administrative hierarchy cannot be faulted. The assent to the note by the word approved cannot be assailed as reflecting non-application of mind. The note-sheet at Exhibit-P69 and Exhibit-D4 is 70 typical of notes by administrative Authorities which are so full of details as in the present case that a perusal of the same would give a complete picture of the relevant facts and makes the tasks of the decision making functionary a simple exercise and the word approved must be read in conjunction with the content of the note which has led the Authority to a particular conclusion.

Mere existence of such notes which are a guide to the Authority will not necessarily result in conferring no discretion to the Authority, which is free to take any decision on such note. It is only when such note leads to a conclusion which differs with the decision making Authority that reasons maybe required to be spelt out. If however the decision making Authority accepts the leads as provided in the note sheet, the expression of consent to such lead by the word approved would be sufficient and there is no warrant for any further explanation or reasoning required from the authority. Accordingly, this Court finds no reason to interfere with the well considered order of the learned Special Judge. 71

78. It must also be noted that the Apex Court¹⁶ having held that the accused has no right to participate in the decision making process of the sanctioning Authority as it has been held to be an administrative decision, subjecting the order granting sanction to scrutiny more than what the learned Special Judge has subjected it to, is not warranted. B.2. W.P.No.19176/2021 (Spl.CC.6/2014) 79. The petitioner in this Writ Petition has sought for issuance of writ of certiorari to quash order passed on 05.05.2020 at Annexure-'N' whereby orders on validity of sanction have been passed by the learned Special Judge upholding the orders at Exhibits-P157 to P162 issued by the State Government and Central Government according sanction to prosecute Accused Nos.11 and 13.

80. The evidence has been let in by Dr.Bagadi Gautham as PW-43 on behalf of the State Government and Sri Ravishankar Prasad PW-44 who has led in evidence on 16 Superintendent of Police (C.B.I.) v. Deepak Chowdhary and Others - (1995) 6 SCC22572 behalf of the Central Government. On behalf of Prosecution, Exhibits-P.1 to P.162 have been marked.

81. The order of the learned Special Judge narrates that PW.43 has stated that the relevant documents have been sent by the Office of the CBI which includes copies of FIR, copies of statements recorded during investigation and five boxes of documents, all of which had been sent to the Office of the Chief Secretary along with the report.

82. The file of the Government of Karnataka is marked as Exhibit-D16 and contains a note sheet which has the summary of the allegations made in the FIR

as against accused Sri S.Muthaiah, the petitioner herein.

83. The C.B.I. Report in R.C.14A/2012 contains a summary of details relating to the accused; background of the case; allegations in FIR; result of investigation which contains the details relating to export proceeds, purchases made by M/s.ILC Industries Ltd., list of suppliers against whom investigation is completed, details of transportation 73 made to Belekeri Port; the role of accused No.11; regarding explanation of the accused; summing up of evidence, conclusion and final recommendation.

84. The details of case records submitted by CBI, Anti Corruption Branch, Bengaluru in R.C.14A/2012/CBI/ ACB/BLR is as follows:- Sl.No.of the Details of contents box 1 List of witnesses Witnesses 1 to 104 & 105 to 150 + D-1 to D-138 (Vol-3) (23 Volumes) 2 D-139 (Vol-1) to D-198 (21 Volumes) 3 D-199 to D-841 (19 Volumes) 4 D-842 to D-1393 (18 Volumes) 5 D-1394 to D-1663 (16 Volumes) 85. The contents of five boxes forwarded by CBI of documents are as follows:- Box No.1 - R.C.14A/2012-CBI/ACB/BLR Details of case records - from 01 to 138 (Vol.3)-23 volumes and list of witnesses:- 74 List of documents Serial Number Volume - 1 D-01 - D-06 Volume - 2 D-07 - D-08 Volume - 3 D-09(1) - D-09 (3) Volume - 4 D-09(4) - D-09(4) Volume - 5 D-09(5) - D-09(5) Volume - 6 D-09(6) - D-09(6) Volume - 7 D-10 - D-14 Volume - 8 D-15 - D-79 Volume - 9 D-80 - D-83 Volume - 10 D-84 - D-88 Volume - 11 D-89 - D-92 Volume - 12 D-93 - D-100 Volume - 13 D-101 - D-114 Volume - 14 D-115 - D-123 Volume - 15 D-124 - D-135 Volume - 16 D-136- D-136 Volume - 17 D-137 - D-137 Volume - 18 D-137-(Vol-1) Volume - 19 D-137-(Vol-2) Volume - 20 D-137-(Vol-3) Volume - 21 D-138-(Vol-1) Volume - 22 D-138-(Vol-2) Volume - 23 D-138-(Vol-3) Box No.2 - R.C.14A/2012-CBI/ACB/BLR Details of case records - from 139 (Vol.1) to 198 - 21 volumes:- List of documents Serial Number Volume - 1 D-139-(Vol-1) Volume - 2 D-139-(Vol-2) Volume - 3 D-139-(Vol-3) Volume - 4 D-139-(Vol-4) Volume - 5 D-139-(Vol-5) Volume - 6 D-140-D-150 75 Volume - 7 D-151 - D-159 Volume - 8 D-160 - D-162 Volume - 9 D-163 - D-164 Volume - 10 D-165 - D-166 Volume - 11 D-167 - D-168 Volume - 12 D-169 - D-170 Volume - 13 D-171 - --- Volume - 14 D-172 - --- Volume - 15 D-173 - D-174 Volume - 16 D-175- D-184 Volume - 17 D-185 - (Vol-1) Volume - 18 D-185 - (Vol-2) Volume - 19 D-186 - --- Volume - 20 D-187- ---

Volume - 21 D-188 - D-198 Box No.3 - R.C.14A/2012-CBI/ACB/BLR Details of case records - from 199 to 841 - 19 Volumes:- List of documents Serial Number

Volume - 1 D-199 - D-200 Volume - 2 D-201 - D-206 Volume - 3 D-207 - D-215
Volume - 4 D-216 - D-222 Volume - 5 D-223 - D-231 Volume - 6 D-232 - D-235
Volume - 7 D-236 - D-245 Volume - 8 D-246 - D-254 Volume - 9 D-255 - D-261
Volume - 10 D-262 - --- Volume - 11 D-263 - D-268 Volume - 12 D-269 - D-290
Volume - 13 D-291 - D-423 Volume - 14 D-424 - D-706 Volume - 15 D-707 - D-813
Volume - 16 D-814 - D-832 Volume - 17 D-833 - D-837 Volume - 18 D-838 - D-839
Volume - 19 D-840 - D-841 76 Box No.4 - R.C.14A/2012-CBI/ACB/BLR Details of case records - from 842 to 1393 - 18 Volumes:- List of documents Serial Number

Volume - 1 D-842 - D-845 Volume - 2 D-846 - D-848 Volume - 3 D-849 - ---
Volume - 4 D-850 - D-851 Volume - 5 D-852 - D-853 Volume - 6 D-854 - D-854 (Vol.1)
Volume - 7 D-854 - D-854 (Vol.2) Volume - 8 D-855 - D-856 Volume - 9 D-857 - D-862
Volume - 10 D-863 - D-873 Volume - 11 D-874 - D-877 Volume - 12 D-878 - D-879
Volume - 13 D-880 - D-885 Volume - 14 D-886 - D-897 Volume - 15 D-898 - D-1253
Volume - 16 D-1254 - D-1327 Volume - 17 D-1328 - --- Volume - 18 D-1329 - D-1393

Box No.5 - R.C.14A/2012-CBI/ACB/BLR Details of case records - from 1394 to 1663 - 16 Volumes:- List of documents Serial Number

Volume - 1 D-1394 - D-1397 Volume - 2 D-1398 - D-1414 Volume - 3 D-1415 - D-1432
Volume - 4 D-1433 - D-1437 Volume - 5 D-1438 - D-1439 Volume - 6 D-1440 - D-1441
Volume - 7 D-1442 - D-1443 Volume - 8 D-1444 - D-1445 Volume - 9 D-1446 - D-1447
Volume - 10 D-1448 - D-1500 77 Volume - 11 D-1501 - D-1501 (30) Volume - 12 D-1501 (31)- D-1501 (38)
Volume - 13 D-1501 (39)- D-1501 (42) Volume - 14 D-1501 (43)- D-1501 (45) Volume - 15 D-1501 (46)- D-1501
Volume - 16 D-1511 - D-1663

86. Upon consideration of all these materials, the Chief Minister has granted approval for sanction for prosecution both under Section 197 of Cr.P.C. as also as regards the offences under the Karnataka Forest Act, 1962 under Section 114A. PW.43, Dr.Bagadi Gautam, who was working as Deputy Secretary, DPAR Services at the relevant period of time has deposed that the CBI office had sent copies of the FIR along with copies of statements recorded during investigation and five boxes of documents to the Office of Chief Secretary along with report seeking sanction. It is deposed that according to the procedure, the file was sent to the Department of Personnel and Administrative Reforms and PW.43

went through the entire files/reports and two sets of recommendation were sent to the Chief Minister to accord sanction to prosecute accused No.11 (petitioner herein) and that the Chief Minister had approved 78 the recommendation both as regards IPC offences and also as regards offences under the Karnataka Forest Act.

87. It is also deposed that the proposal was sent to the Government of India, Ministry of Environment and Forests for according sanction to prosecute the petitioner for offences under the provisions of P.C. Act. It is specifically asserted that he personally went through all the records. It is reiterated that the Investigating Officer had sent the report along with five boxes of report and that all of such documents were also sent to the Chief Minister. Though there are certain stray admissions in response to suggestions, however, the same will not have the effect of watering down the procedure as followed, as reflected in the note sheet of the Government which is marked as an Exhibit.

88. Once the State Government had approved and accorded sanction, the proposal was forwarded to the Ministry of Environment and Forests, Vigilance Department in terms of the note sheet (Exhibit-D7) containing the 79 proceedings of Central Government, the details of documents forwarded are as follows:-

"2. Government of Karnataka has forwarded the following documents along with the proposal:- (a) Investigation report (as submitted by CBI) and it includes version of the accused officers and comments of the Investigation Officer to rebut the contentions and the accused statements; (b) Case records - 5 boxes containing copy of case records; (c) Draft sanction orders under P.C. Act pertaining to both Sri S.Muthaiah and Sri Manoj Kumar Shukla; (d) Opinion of State Law Department; (e) Copies of prosecution, sanction orders issued by the State Government under Karnataka Forest Act and Cr.P.C. in respect of (a) Sri S.Muthaiah (i) G.O.No.DPAR/32/SFP/2014(1), dated 22.02.2014 and (b) Sri Manoj Kumar Shukla - (i) G.O.No.DPAR/32/SFP/2014(3), dated 22.02.2014 and (ii) G.O.No.DPAR/32/SFP/2014(4), dated 22.02.2014.

89. Clearly, the entire investigation report as submitted by the CBI including the case records contained in about five boxes had been sent by the State

Government 80 to the Ministry of Environment and Forests. The note sheet contains the background of the case; crux of the allegations; details of accused persons; details regarding facilitation provided for the transportation of Iron Ore without permits and on fake Andhra Pradesh permits; role of accused-petitioner; explanation and defence of the accused; rebuttal to the explanation of the petitioner; summary of evidence of witnesses. It comes out from the note-sheet that the case was referred to CVC and such reference was approved by the Minister and with the recommendation of the Joint Secretary, the matter was placed for approval of the Minister and finally the approval was recorded.

90. The evidence is clear regarding the material being placed before the Competent Authority. The witnesses have withstood cross-examination, note sheet of the State Government at Ex.D16 and that of the Central Government at Ex.D7 clearly lists out records including CBI report with documents is contained in five boxes being placed before 81 the Authority while granting sanction by the Government of Karnataka and the said documents also being sent to the Central Government is borne out from the note sheet.

91. The CBI report by itself is voluminous and the narration made above in the note sheet contain all necessary details and accordingly approval by use of the word "Cz" ('approved') is sufficient in terms of the discussion supra at para 77.

92. Even in Ex.D7, the note sheet is voluminous and contains all necessary information, perusal of which would guide the competent authority to come to a correct conclusion.

93. The learned Special Judge also by a detailed order has arrived at a well considered decision that requires no interference.

94. The sanction orders are by themselves reflective of application of mind and are eloquent. The learned Special 82 Judge noted the relevant extracts of the sanction orders which are reproduced as below: EX.P158 (ANNEXURE-E) - SANCTION

ORDER

BY CENTRAL GOVERNMENT17

"18. Whereas, both Shri S. Muthaiah and Shri M. K. Shukla did not initiate action against the illegal mining activities carried out by Shri G. Janardhan Reddy and his companions either at the surrendered area of LMC mines or at the mining lease area of M/s. Ramgad Minerals and Mining Pvt. Ltd (Dalmia Mines) which also belonged to the State Government as statutory clearances were yet to be given for handing over the lease area(Dalmia Mines) to M/s Ramgad Minerals and Mining Pvt. Ltd., despite receipt of several complaints from M/s Ramgad Minerals and Mining Pvt. Ltd., Equally, they have not taken any action on the illegal encroachment or illegal mining carried out at the lease area of M/s MSPL at Vyasankere, i.e., in ML No.2416 by the lessees M/s SB Minerals, Vyasankere(ML No.2515) and M/s VINAG(ML No.2553).

19. Whereas, the investigation revealed that by the above acts Shri Muthaiah, in collusion with others have committed the offences punishable under sections 120-B r/w 409, 420, 379, 434, 447, 467, 468, 471 of IPC; u/s 13(2) r/w 13(1) (c) & 13(1)(d) of Prevention of Corruption Act, 1988. 17 No.15011/02/2014-AVU dated 20.10.2014 83 20. And Whereas, the President of India, the competent authority to remove the said Sri S.Muthaiah, IFS, KN:95 the then Deputy Conservator of Forest, Bellary Division, Karnataka State and presently under suspension, after duly and carefully examining all the materials, such as copy of the FIR, copies of the statements of witnesses and documents etc., collected during the course of investigation by the investigating agency-Central Bureau of Investigation(CBI) in RC.14(A)/2012/CBI/ACB/Bangalore, is satisfied that prima facie, a case is made out against Shri S. Muthaiah, IFS, KN:95 the then Deputy Conservator of Forest, Bellary Division, Karnataka State, presently under suspension.

21. Now, therefore, the President of India does hereby accord sanction as required under section 197 Cr. P.C. and 19(1)(a) of Prevention of Corruption Act, 1988 for the prosecution of Shri S.Muthaiah, IFS, KN:95 the then Deputy Conservator of Forest, Bellary Division, Karnataka State, presently under suspension for the offences punishable under Sec.120-B r/w 409, 420, 379, 434, 447, 467, 468, 471 of IPC U/s.13(2) r/w 13(1)(c) and 13(1)(d) of Prevention of Corruption Act, 1988 and other offences made out from the above mentioned facts and punishable under the provisions of any law in respect of aforesaid acts for taking cognizance

of the said offences by a court of competent jurisdiction."

84 EX.P.160 -

ORDER

OF SANCTION BY STATE GOVERNMENT AS REGARDS OFFENCE UNDER SECTION 197 OF CR.P.C.18

"15. Further both Sri. S. Muthaiah and Sri Manoj Kumar Shukla did not initiate action against the illegal mining activities carried out by Sri. G Janardhana Reddy and his associates either at the surrendered area of LMC mines or at the mining lease area of M/s Ramgad Minerals and Mining Pvt.. Ltd., (Dalmia Mines) which also belonged to the State Government as statutory clearances were yet to be given for handing over the lease area (Dalmia Mines) to M/s Ramgad Minerals and Mining Pvt., Ltd., despite receipt of several complaints from M/s Ramgad Minerals and Mining Pvt., Ltd. Similarly, they had not taken any action regarding the illegal encroachment or illegal mining carried out at the lease area of M/s MSPL at Vyasanakere i.e., in ML No.2416 by the lessees M/s SB Minerals, Vyasanakere (2515) and M/s VINAG (ML No.2553).

16) By the above acts Sri. S. Muthaiah, in collusion with others have committed the offences punishable under Sections 120-B, r/w 409, 420, 379, 434, 447, 467, 468, 471 of IPC; u/s 13 (2) r/w 13 (1) (c) and 13 (1)(d) of PC Act 1988.

17) WHEREAS, the above said acts of Sri. S. Muthaiah, the then Deputy Conservator of Forests, 18G.O. No.DPAR32SFP20142) Bangalore, dated 22.2.2014 85 Bellary District, Bellary, with others constitute the commission of the above said offences.

18) AND, WHEREAS, the Chief Minister on behalf of the Government of Karnataka, the competent authority to accord sanction against the said Sri. S. Muthaiah, the then Deputy Conservator of Forests, Bellary District, Bellary and presently under suspension, after fully and carefully examining all the materials, such as copy of the FIR, copies of the statements of witnesses, documents collected etc., during the course of investigation by the Investigating Agency in

RC.14(A)/2012/CBI/ ACB/Bangalore, which were placed before the Chief Minister for his consideration in regard to the said allegations, consider that a prima-facie case has been made out against Sri. S. Muthaiah, the then Deputy Conservator of Forests, Bellary District, Bellary, presently under suspension and that he should be prosecuted for the above said offences.

19) Now, therefore Government of Karnataka, do hereby accord sanction under Section 197 of Cr.P.C., for the prosecution of Sri S.Muthaiah, IFS in a court of law for the said offences and for taking cognizance of the said offences by the Court of Competent jurisdiction."

86 EX.P159 -

ORDER

OF SANCTION BY STATE GOVERNMENT AS REGARDS OFFENCE UNDER SECTION 114 OF THE KARNATAKA FOREST ACT 1919.-

"15. Further both Sri. S. Muthaiah and Sri Manoj Kumar Shukla did not initiate action against the illegal mining activities carried out by Sri G.Janardhan Reddy and his associates either at the surrendered area of LMC Mines or at the mining lease area of M/s Ramgad Minerals and Mining Pvt., Ltd., (Dalmia Mines) which also belonged to the State Government as statutory clearances were yet to be given for handing over the lease area (Dalmia Mines) to M/s Ramgad Minerals and Mining Pvt., Ltd., despite receipt of several complaints from M/s Ramgad Minerals and Mining Pvt., Ltd., Similarly, they had not taken any action regarding the illegal encroachment or illegal mining carried out at the lease area of M/s MSPL at Vyasanakere i.e., in ML No.2416 by the lessees M/s SB Minerals, Vyasanakere (2515) and M/s VINAG (ML No.2553).

16) By the above acts Sri. S. Muthaiah, in collusion with others have committed the offences punishable under Sections 120-B, r/w 409, 420, 379, 434, 447, 467, 468, 471 of IPC; u/s 13 (2) r/w 13 (1)(c) and 13 (1)(d) of PC Act 1988.

17) WHEREAS, the above said acts of Sri. S.Muthaiah, the then Deputy Conservator of Forests, 19 G.O. No.DPAR32SFP2014(1) Bangalore, dated

22.02.2014 87 Bellary District, Bellary, with others constitute the commission of the above said offences.

18) AND, WHEREAS, the Chief Minister on behalf of the Government of Karnataka, the competent authority to accord sanction against the said Sri. S. Muthaiah, the then Deputy Conservator of Forests, Bellary District, Bellary and presently under suspension, after fully and carefully examining all the materials, such as copy of the FIR, copies of the statements of witnesses, documents collected `etc., during the course of investigation by the Investigating Agency in RC.14(A)/2012/CBI /ACB/Bangalore, which were placed before the Chief Minister for his consideration in regard to the said allegations, consider that a prima-facie case has been made out against Sri. S. Muthaiah, the then Deputy Conservator of Forests, Bellary District, Bellary, presently under suspension and that he should be prosecuted for the above said offences.

19) Now, therefore Government of Karnataka, do hereby accord sanction under Section 114-A of karnataka Forest Act, 1963 for the prosecution of Sri S.Muthaiah, IFS in a Court of law for the said offences and for taking cognizance of the said offences by the court of competent jurisdiction."

88 95. Clearly, the sanction order speaks for itself and the learned Special Judge nor this Court are sitting in appeal and in the absence of any allegation of mala fides, no grounds are made out for interference in the orders of Sanction as upheld by the learned Special Judge. Further, the conclusion arrived supra at para 64 would also reveal narrow scope for interference.

96. It is also necessary to note that the reasoning of the learned Special Judge is identical substantively to the reasoning in the order passed in Spl.CC.No.135/2013 and accordingly, the discussion on the legal aspect regarding scope of interference is to be treated as a part of reasoning leading to non-interference with the order of the Special Judge insofar as Spl.CC.No.6/2014. B.3. W.P.No.19178/2021 (Spl.CC.No.21/2014) 97. The petitioner/accused No.2 has sought for setting aside of the order dated 05.05.2020 which is the order passed on validity of sanction, whereby the learned 89 Special Judge has upheld the sanction for prosecution issued by the State Government and Central

Government.

98. The facts are identical as narrated and the order dealt with in the other Writ Petitions, the only difference is of being involvement of Exporter M/s.Dream Logistics Co. (India) Pvt. Ltd., who is alleged to have exported 9.16 lakh Metric Tons of Iron Ore through Belekeri Port between 01.01.2009 and 31.05.2010. It is alleged that there was illegal mining in the forest area of Bellary without valid permits from the Department of Mines and Geology and Department of Forests and also without payment of royalty under Forest Development Acts. All these activities, it is alleged has been made in connivance and conspiracy with accused No.2 and other Government officials of other Departments, resulting in wrongful loss to Government of Karnataka and accordingly, FIR was registered for the offences punishable under 120-B read with Section 420, 379, 411, 447 of IPC, Section 13(2) read with Section 13(1)(d) of the P.C. Act, 1988, Section 21 read with 4(1), 90 4(1)(A) and Section 23 of MMDR and Section 24 of Karnataka Forest Act, 1963.

99. Insofar as sanction of prosecution for offences under the Karnataka Forest Act, P.C. Act and IPC, the Head of Branch C.B.I. and A.C.B. had sought for sanction for prosecution against the petitioner and Sri Manoj Kumar Shukla. The C.B.I. having registered a criminal case in R.C.13(A)/2012 on 13.09.2012 against M/s.Dream Logistics Co., requisition for sanction to Authorities was made. The note sheet with orders of sanction and other documents insofar as are relevant to the proceedings before the State Government has been marked as Ex.D.10. The note sheet contains synopsis of allegations as regards the petitioner (accused No.2) and also the allegations against Sri Manoj Kumar Shukla (accused No.10). The said Exhibit contains an index of the material that has been sent by the CBI, ACB, Bengaluru, which includes the statement of witnesses Nos.1 to 186 and other documents detailed as hereinbelow:- 91 Details of case records submitted by CBI, ACB, Bengaluru in R.C.13(A)/2012/CBI/ACB/BLR. Sl.No.of Details of contents the box 1. Statement of witnesses Witness 1 to 186 D-1 to D-180 (23 Volumes) 2. D-181 to D-427 (26 Volumes) 3. D-428 to D-713 (20 Volumes) 4. D-714 to D-1180 (19 Volumes) 5. D-1181 to D-1230 (11 Volumes) 6. Letters 100. The contents of boxes of documents are as follows:- Box No.1 - R.C.13A/2012-

CBI/ACB/BLR Details of case records - from 01 to 180 - 23 volumes and statement of witnesses 1 to 186:- List of Serial Number documents Volume - 1 D-01(1) - D-20(169) Volume - 2 D-21(1) - D-21(494) Volume - 3 D-22 - D-87 Volume - 4 D-88 - D-11 Volume - 5 D-112- D-112 (486) Volume - 6 D-113 - D-127 Volume - 7 D-128(1) - D-128(631)(Vol.1) 92 Volume - 8 D-128(614) - D-128(1115)(Vol.2) Volume - 9 D-129 - D-131 Volume - 10 D-132 - D-134 Volume - 11 D-135 - D-137 Volume - 12 D-138 - D-146 Volume - 13 D-147 - D-156 Volume - 14 D-157 - D-170 Volume - 15 D-171(1) - D-171(631)(Vol.1) Volume - 16 D-171(632) - D-171(1261)(Vol.2) Volume - 17 D-172(1) - D-172(400) Volume - 18 D-173(1) - D-173(475) Volume - 19 D-173(476) - D-173(1035) Volume - 20 D-174(1) - D-174(455) Volume - 21 D-175(1) - D-175(348) Volume - 22 D-176(1) - D-176(341) Volume - 23 D-177(1) - D-180 Box No.2 - R.C.13A/2012 Details of case records - from 181 to 427 - 26 Volumes:- List of documents Serial Number Volume - 1 D-181 - D-182 Volume - 2 D-183 - D-187 Volume - 3 D-188 - D-195 (ii) Volume - 4 D-196(i) - D-207 (ii) Volume - 5 D-208 - D-213 Volume - 6 D-214 - D-219 Volume - 7 D-220 - D-244 Volume - 8 D-245 - D-253 Volume - 9 D-254 - D-261 Volume - 10 D-262 - D-271 Volume - 11 D-272 - D-278 Volume - 12 D-279 - D-284 Volume - 13 D-285 - D-294 Volume - 14 D-295 - D-298 Volume - 15 D-299 - D-310 93 Volume - 16 D-311 - D-343 Volume - 17 D-344 - D-347 Volume - 18 D-348 - D-351 Volume - 19 D-352 - D-355 Volume - 20 D-356 - D-359 Volume - 21 D-360 - D-363 Volume - 22 D-364 - D-367 Volume - 23 D-368 - D-372 Volume - 24 D-373 - D-377 Volume - 25 D-378 - D-385 Volume - 26 D-386 - D-427 Box No.3 - R.C.13A/2012 Details of case records - from 428 to 713 - 20 Volumes:- List of documents Serial Number Volume - 1 D-428 - D-465 Volume - 2 D-466 - D-469 Volume - 3 D-470(485) - D-470(727) Volume - 4 D-471 - D-482 Volume - 5 D-483(1) - D-483(581) Volume - 6 D-484(1) - D-484(829) Volume - 7 D-485(1) - D-485(612) Volume - 8 D-486 - D-500 Volume - 9 D-501 - D-516 Volume - 10 D-517 - --- Volume - 11 D-518 - D-543 Volume - 12 D-544 - D-584 Volume - 13 D-585 - D-594 Volume - 14 D-595 - D-653 Volume - 15 D-654 - D-661 Volume - 16 D-662 - D-672 Volume - 17 D-673 - D-675 Volume - 18 D-676 - D-682 Volume - 19 D-683 - D-694 Volume - 20 D-695 - D-713 94 Box No.4 - R.C.13A/2012 Details of case records - from 714 to 1180 - 19 Volumes:- List of documents Serial Number Volume - 1 D-714 - D-718 Volume - 2 D-719 - D-724 Volume - 3 D-725 - D-733 Volume - 4 D-734 - D-735 Volume - 5 D-

736 - D-746 Volume - 6 D-747 - D-753 Volume - 7 D-754 - D-784 Volume - 8 D-785 - D-864 Volume - 9 D-865 - D-913 Volume - 10 D-914 - D-1076 Volume - 11 D-1077- D-1107 Volume - 12 D-1108-1 - D-1115 Volume - 13 D-1116 - D-1122 Volume - 14 D-1123 - D-1135 Volume - 15 D-1136 - D-1155 Volume - 16 D-1156 - D-1170 Volume - 17 D-1171 - D-1171 Volume - 18 D-1172 - D-1175 Volume - 19 D-1176 - D-1180 Box No.5 - R.C.13A/2012 Details of case records - from 1181 to 1230 - 11 Volumes:- List of documents Serial Number Volume - 1 D-1181 - D-1186 Volume - 2 D-1187 - D-1201 Volume - 3 D-1202 - D-1211 Volume - 4 D-1212 - D-1215 Volume - 5 D-1216 - D-1218 Volume - 6 D-1219 - D-1222 Volume - 7 D-1233 - (Vol.1) Volume - 8 D-1233 - (Vol.2) Volume - 9 D-1224 - D-1226 Volume - 10 D-1227 - D-1227 Volume - 11 D-1228 - D-1230 95 101. The file was put up for orders and after having obtained comments of the Deputy Secretary (Services), the Chief Secretary, in terms of the note sheet, approval for according sanction for prosecution to Sri Muthaiah has been granted by the Chief Minister. The proceedings also notes that in light of the approval granted, the Government Orders have been passed as regards sanction for prosecution for offences under the Karnataka Forest Act and under Code of Criminal Procedure as regards the petitioner. Subsequently, suitable proposal to the Government of India, Ministry of Environment and Forests has been sent with necessary documents. The note sheet would further reveal that the opinion of the Law Department has been obtained. The order dated 17.02.2014 of the State Government according sanction under Section 197 of Cr.P.C. for prosecution of the petitioner for the offences under IPC has been marked through Dr.Bagadi Gautham (PW-34) as Ex.P.143. 96

102. In terms of Ex.P.143/69(c), the details are enumerated regarding the complaint against M/s.Dream Logistics Co., R.C.13A/2012, the relevant facts relating to the offences made out, details are also found as regards the Competent Authority to accord sanction and formal order granting sanction.

103. Similar order on the same date granting sanction under Section 114A of the Karnataka Forest Act, 1963 for prosecution of the petitioner is marked as Ex.P.142/D69(a).

104. Dr.Bagadi Gautham, Deputy Commissioner, Chikkamagalur, who was the Deputy Secretary, DPAR Services at the relevant period of time has been examined as PW-34 and through him, has produced the relevant proceedings, which are marked as Ex.D.10 and he has also been subjected to cross-examination.

105. After the State Government had accorded sanction for prosecution, the file was forwarded by the Chief 97 Secretary to Government, Government of Karnataka to the Secretary to the Government of India, Ministry of Environment and Forests through letter dated 09.04.2014. The details of records sent are as follows:-

"1. Investigation Report (as submitted by CBI) - The report includes version of the accused officer and comments of the Investigation Officer to rebut their contentions (page no.1 to 255).

2) Case records - 5 boxes containing copy of case records have been appended. (Pherist placed at page 1-6).

3) Draft sanction orders under PC Act pertaining to both Sri S.Muthaiah (P.1 -10) and Sri Manoj Kumar Shukla, (P.11-20).

4) Opinion of State Law Department - (page No.1-3).

5) Copy of prosecution sanction order issued by the State Government under Karnataka Forest Act and Cr.P.C. in respect of :- (a) Sri S.Muthaiah, (i)(G.O.No.DPAR/30/SFP/2014(1), dated:17/02/2014). (ii)(G.O.No.DPAR/30/SFP/2014(2), dated:17/02/2014). (b)Sri Manoj Kumar Shukla (i)(G.O.No.DPAR/30/SFP/2014(3), dated:17/02/2014). (ii)(G.O.No.DPAR/30/SFP/2014(4), dated:17/02/2014)."

98 106. The file containing the note sheet and relevant documents referred to by the Ministry of Environment and Forests has been marked as Ex.D5. The note sheet refers to the documents furnished by Government of Karnataka, background of the case, explanation of defence of petitioner against whom prosecution has been sought, summing up of evidence both for, and against the

accused/suspected persons, conclusion whether allegation is proved, details of the statement submitted to the CBI by accused No.2 (petitioner herein), summary of statements of officials of the Forest Department and final recommendation of CBI.

107. Initially, the matter was referred to the Vigilance by the Central Government and note has been prepared accordingly. This is the procedure followed in terms of the Vigilance Manual of C.V.C. The file was then placed before the Joint Secretary to Government of India and Chief Vigilance Officer. Finally, the sanction orders have been issued by the Competent Authority. 99

108. The said file contains the C.B.I. report consisting of all details regarding the accused, allegations as per FIR, result of investigation, modus operandi - procedure adopted in the sale of Iron Ore, details of bank transactions, Calendar of Evidence (documentary) in R.C.13A/2012/CBI/ ACB/BLR, the statement of S. Muthaiah dated 08.11.2013 is also enclosed.

109. It is clear from the above narration that all the necessary material documents have been placed before the Authority competent to grant approval for sanction and a detailed note sheet is prepared leading to the competent Authority finally taking a decision. Such material is sufficient for the Competent Authority in recording its approval and proceeding to pass the order of sanction.

110. The Chief Minister has also by order merely observed - "Cz" ("approved"), which however is to be construed as being sufficient in light of the detailed note sheet and the materials placed. 100

111. The learned Special Judge by a well reasoned order identical in substantial aspects to the orders passed in R.C.15A/2012 and R.C.14A/2012 has held in the affirmative as regards validity of sanction orders. The learned Special Judge has rightly observed that granting of sanction is an Executive action and accordingly the scope of interference is narrow, that the Court does not sit in appeal and that minor contradictions in the oral evidence would not vitiate the orders granting sanction.

112. The sanction orders are by themselves reflective of application of mind and are eloquent. The learned Special Judge noted the relevant extracts of the sanction orders which are reproduced as below:- Ex.P142 -

ORDER

OF SANCTION BY STATE GOVERNMENT AS REGARDS OFFENCE UNDER SECTION 114 OF THE KARNATAKA FOREST ACT. 20

"16. Whereas, Sri. S. Muthaiah and Sri. Manoj Kumar Shukla in collusion with Sri. G. Janardhana Reddy and his associates removed the Andhra- Karnataka Border Forest Check-post existing at 20 G.O.No.DPAR30SFP20141), BANGALORE DATED:17/02/2014 101 Halkundi in October 2008 to facilitate illegal transportation of iron ore without permits. They colluded with Sri. G. Janardhana Reddy and his associates and facilitated illegal mining and transportation of iron ore in Bellary District. They enabled Sri. G. Janardhana Reddy and his associates to do large scale illegal mining in Dalmia Mines during 2009-10. They allowed Sri. G. Janardhana Reddy and allowed his associates to do illegal mining and store illegally extracted iron ore in Lakshminarayana mines, P.K. Halli Plot; SBM Plot, P.K. Halli; MSPL Stockyard, Ingalagi; Veeyam Plot, Ingalagi; Karapudi Plot, Kariganur; Swastik Plot, Bellary Road; V. Nagappa Stock Yard, Kallahalli; SVK Mines and Plot, Vyasanakere; SVK Plot, Danapur; SVK Plot, Jaisinghpur and other plots/stockyards falling under the jurisdiction of Bellary Forest Division. They conceded to the Sri. G. Janardhana Reddy and his cronies and harassed their rival mine owners and favoured the mines controlled by Sri. G. Janardhana Reddy. Sri. S.Muthaiah was also threatening them to comply with the conditions put by Sri. Gali Janardhana Reddy in respect of sharing of iron ore excavated from their mines. They did not take action on the reports submitted by his subordinate officials regarding illegal mining activity in the forest areas in Bellary District. They accepted illegal gratification and allowed illegal mining and transportation. They aided Sri. G. 102 Janardhana Reddy in usurping 40-60% of iron ore from other mine owners. Further, they failed to take any action on the large scale illegal transportation of iron ore which was done by overloading the vehicles with more than permitted quantity which enable the other accused Sri. K.V.Nagaraj, Sri. K. Mahesh Kumar and Sri. Idli Yarriswami to cause the transportation of illegal iron

ore sold by Sri. G. Janardhana Reddy and Sri. Shyamraj Singh to various parties and finally exported by M/s Dream Logistics Company (I) Pvt., Ltd.,

17) Whereas, the aforesaid acts Sri. S. Muthaiah, the then Deputy Conservator of Forests, Bellary and others constitute offences punishable under Section 120-B r/w 409, 420, 434, 447, 468, 471 of IPC and Sections 13(2) r/w 13 (1) (d) of PC Act, 1988.

18) And whereas, the Chief Minister on behalf of the Government of Karnataka, the competent authority to accord sanction against the said Sri. S. Muthaiah, the then Deputy Conservator of Forests, Bellary District, Bellary, Karnataka State and presently under suspension, after fully and carefully examining all the materials, such as, copy of the FIR, copies of statements of witnesses recorded U/s 161 of Cr.PC, 1973, documents collected etc., during the course of investigation by the investigating Agency in 103 RC-3(A)/2012/CBI/ACB/Bangalore, which were placed before the Chief Minister for his consideration in regard to the said allegations, consider that a prima-facie case has been made out against the said Sri. S. Muthaiah, the then Deputy Conservator of Forests, Bellary, presently under suspension and that he should be prosecuted for the said offences and any other offences made out from the facts mentioned above.

19) Now, therefore, Government of Karnataka, do hereby accord sanction under Section 114-A of Karnataka Forest Act, 1963 for the prosecution of Sri. S. Muthaiah, IFS, the then Deputy Conservator of Forests, Bellary, in a Court of Law for the aforesaid offences and for taking cognizance of the said offences by the Court of competent jurisdiction."

Ex.P-143 -

ORDER

OF SANCTION BY STATE GOVERNMENT AS REGARDS OFFENCE UNDER SECTION 197 OF CR.P.C.21

"16. Whereas, Sri. S. Muthaiah and Sri. Manoj Kumar Shukla in collusion with Sri. G. Janardhana Reddy and his associates removed the Andhra- Karnataka Border

Forest Check-post existing at Halkundi in October 2008 to facilitate illegal transportation of iron ore without permits. They colluded with Sri. G. Janardhana Reddy and his 21 G.O. No.DPA30SFP20142), BANGALORE DATED1702/2014 104 associates and facilitated illegal mining and transportation of iron ore in Bellary District. They enabled Sri. G. Janardhana Reddy and his associates to do large scale illegal mining in Dalmia Mines during 2009-10. They allowed Sri. G. Janardhana Reddy and allowed his associates to do illegal mining and store illegally extracted iron ore in Lakshminarayana mines, P.K. Halli Plot; SBM Plot, P.K. Halli; MSPL Stockyard, Ingalagi; Veeyam Plot, Ingalagi; Karapudi Plot, Kariganur; Swastik Plot, Bellary Road; V. Nagappa Stock Yard, Kallahalli; SVK Mines and Plot, Vyasanakere; SVK Plot, Danapur; SVK Plot, Jaisinghpur and other plots/stockyards falling under the jurisdiction of Bellary Forest Division. They conceded the demands to Sri. G. Janardhana Reddy and his cronies and harassed their rival mine owners and favoured the mines controlled by Sri. G. Janardhana Reddy. Sri. S. Muthaiah was also threatening them to comply with the conditions put by Sri. Gali Janardhana Reddy in respect of sharing of iron ore excavated from their mines. They did not take action on the reports submitted by his subordinate officials regarding illegal mining activity in the forest areas in Bellary District. They accepted illegal gratification and allowed illegal mining and transportation. They aided Sri. G. Janardhana Reddy in usurping 40-60% of iron ore from other mine owners. Further, they failed to take any action on 105 the large scale illegal transportation of iron ore which was done by overloading the vehicles with more than permitted quantity which enable the other accused Sri. K.V.Nagaraj, Sri. K. Mahesh Kumar and Sri. Idli Yarriswami to cause the transportation of illegal iron ore sold by Sri. G. Janardhana Reddy and Sri.Shyamraj Singh to various parties and finally exported by M/s Dream Logistics Company (I) Pvt., Ltd.,

17) Whereas, the aforesaid acts Sri. S.Muthaiah, the then Deputy Conservator of Forests,Bellary and others constitute offences punishable under Section 120-B r/w 409, 420, 434, 447, 468, 471 of IPC and Sections 13(2) r/w 13 (1) (d) of PC Act, 1988.

18) And whereas, the Chief Minister on behalf of the Government of Karnataka, the competent authority to accord sanction against the said Sri.S.Muthaiah, the then Deputy Conservator of Forests, Bellary District, Bellary, Karnataka State and presently under suspension, after fully and carefully examining the materials such as copy of the FIR, copies of statements of witnesses recorded Us 161 of Cr.PC, 1973, documents collected etc, during the course of investigation by the investigating Agency in RC-13(AV)2012/CBI/ACB/Bangalore, which were 106 placed before the Chief Minister for his consideration in regard to the said allegations, consider that a prima-facie case has been made out against the said Sri S. Muthaiah, the then Deputy Conservator of Forests, Bellary, presently under suspension and that he should be prosecuted for the said offences and any other offences made out from the facts mentioned above.

19) Now, therefore, Government of Karnataka, do hereby accord sanction under Section 197 of Cr.P.C. for the prosecution of Sri. S. Muthaiah, IFS, the then Deputy Conservator of Forests, Bellary, in a Court of Law for the aforesaid offences and for taking cognizance of the said offences by the Court of competent jurisdiction."

Ex.P-146 -

ORDER

OF SANCTION BY CENTRAL GOVERNMENT AS REGARDS OFFENCE UNDER P.C. ACT.22

16. Whereas, the investigation revealed that Shri S. Muthaiah and Shri Manoj Kumar Shukla in collusion with Shri Janardhana Reddy and his associates removed the Andhra Pradesh-Karnataka border forest check post existed at Halkundi, in October, 2008 to facilitate illegal transportation of iron ore without permits. Both they have colluded with Shri 22 G.O. No.DPA30SFP20142), BANGALORE DATED1702/2014 107 Janardhana Reddy and his companions; eased illegal mining and transportation of iron ore in Bellary District. They enabled Shri G.Janardhana Reddy and his associates to construct an approach road to Dalmia Mines through the lease hold area of M/s Veeyam Mines and to do large scale illegal mining in the Dalmia Mines during 2009-10. They allowed Shri G.

Janardhana Reddy and allowed his associates to do illegal mining and store illegally extracted iron ore in Lakshminarayana mines, P. K. Halli plot; S.B.M plot, PK Halli; MSPL Stock Yard, Ingalagi; Veeyam plot, Ingalagi; Karapudi plot, Kariganur; Swastik plot, Bellary Road; V. Nagappa Stockyard, Kallahalli; S.V.K. Mines and plot, Vyasanakere; SVK plot, Danapur; S.V.K plot, Jaisinghpur and other plots/stockyards falling under the jurisdiction of Bellary Forest Division. They granted to the demands of Shri .Janardhana Reddy and his associates; harassed their rival mine owners and favored the mines controlled by Shri G.Janardhana Reddy. Shri Muthaiah was also threatened them to comply with the conditions put by Shri Gali Janardhana Reddy in respect of sharing of iron ore excavated from their mines. Both Shri S. Muthaiah and Shri Manoj Kumar Shukla have not taken any action on the reports submitted by his subordinate officials with regard to illegal mining activity that has been going on in the forest areas in Bellary district. 108 They have accepted illegal gratification; allowed illegal mining and transportation. They aided Shri G.Janardhana Reddy in appropriating 40-60% of iron ore from other mine owners. Further, they failed to take any action on the large scale illegal transportation of iron ore which was done by overloading the vehicles with more than permitted quantity that enabled the other accused Shri K.V.Nagaraj, Shri K. Mahesh Kumar and Shri Idly Yarriswami to cause the transportation of illegal iron ore sold by Shri G Janardhan Reddy and Shri Shyamraj Singh to various parties and finally exported by M/s Dream Logistics Company (I) Pvt. Ltd.

17. Whereas, the investigation revealed that the aforesaid acts of Shri.S. Muthaiah, the then Dy. Conservator of Forests, Bellary and others constitute offences punishable under section 120-B r/w 409, 420, 434, 447, 468, 471 of IPC and Sections 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988.

18. And whereas, the President of India, the competent authority to remove the said Shri S. Muthaiah, IFS, KN:95, the then Deputy Conservator of Forest, Bellary Division, Karnataka State and presently under suspension, after duly and carefully examining all the materials, such as copy of the FIR, copies of the statements of witnesses recorded u/s 109 161 of Cr. P.C., 1973, and documents etc., collected during the course of investigation by the investigating agency, i.e., Central Bureau

of Investigation(CBI) in RC. 13(A)/2012/CBI/ACB/ Bangalore, which were placed before the President for his consideration for the said allegations and the President of India is satisfied that prima facie, a case is made out against Shri S. Muthaiah, IFS, KN:95, the then Deputy Conservator of Forest, Bellary Division, Karnataka State, presently under suspension.

19. Now, therefore, the President of India does hereby accord sanction as required under section 197 Cr. P.C. and 19(1)(a) of the of Prevention of Corruption Act, 1988 for the prosecution of Shri S. Muthaiah, IFS, KN:95, the then Deputy Conservator of Forests, Bellary, for the offences punishable under section 120-B r/w 409, 420, 379, 434, 447, 467, 468, 471 of IPC; u/s 13(2) r/w 13(1)(c) & 13(1)(d) of Prevention of Corruption Act, 1988 and other offences made out from the above mentioned facts and punishable under the provisions of any law in respect of aforesaid acts for taking cognizance of the said offences by a court of competent jurisdiction."

110 113. Clearly, the sanction order speaks for itself and the learned Special Judge nor this Court are sitting in appeal and in the absence of any allegation of mala fides, no grounds are made out for interference in the orders of Sanction as upheld by the learned Special Judge.

114. The discussion made supra at para 64 are to be taken note of to support conclusion of non-interference.

115. Accordingly, the order of learned Special Judge does not call for interference. B.4. W.P.No.19163/2021 (Spl. CC.No.105/2014) 116. The petitioner/accused No.2 has challenged the order on validity of sanction dated 05.05.2020 at Annexure- 'N', whereby the orders issued by the State Government and Central Government according sanction to prosecute the petitioner have been held to be valid.

117. The Superintendent of Police, CBI, ACB, Bengaluru has forwarded CBI report in 111 RC.16(A)/2012/CBI/ACB/BLR/8558 and has requested the State Government to accord sanction for prosecution against the petitioner (accused No.2) and Sri Manoj Kumar Shukla (accused No.8) with respect to offences under the P.C. Act, Cr.P.C., and Karnataka Forest Act. It is further made out from the

note sheet that CBI report and the volume containing oral and documentary evidence are placed below. The note sheet and connected records maintained by Government of Karnataka in R.C.16(A)/2012/CBI/ ACB/BLR/8558 is marked as Ex.D6.

118. The main allegations in terms of the CBI report as noticed in the note sheet is that during the period between 01.01.2009 to 31.05.2010, a quantity of 88.06 Metric Tons of Iron Ore was exported from Belekeri Port by 73 exporters and about 50.00 lakh Metric Tons of Iron Ore was exported without permits. It is further alleged that M/s.Sri Mallikarjuna Shipping Private Ltd., had mined illegally in forest areas and transported Iron Ore without valid permits issued by the Department of Mines and 112 Department of Forest without payment of royalty and Forest Development Tax.

119. The note sheet contains the summary of allegations against the petitioner who was the then Deputy Conservator of Forest, Bellary and in collusion with G.Janardhana Reddy, had removed the Andhra - Karnataka border forest check post at Halkundi on 15.10.2008 to facilitate illegal transportation of Iron Ore without permit. It is further alleged that issuance of Form-29 and collection of forest tax was stopped with the dishonest intention to facilitate transport of Iron Ore freely without any permits or checking.

120. The note sheet indicates that file was put up before the State Government for according of sanction under Section 197 of Cr.P.C., 114A of Karnataka Forest Act and making recommendation to the Central Government to grant sanction of prosecution under Section 19(1)(a) of P.C. Act. Same has been approved by the Chief Minister with the note 'Cz' ('approved'). 113

121. After issuance of orders as noted above pursuant to the approval by State Government, the file was forwarded to Government of India, Ministry of Environment and Forests for considering grant of sanction under Section 19(1)(a) of P.C. Act. It is noticed that the opinion of Deputy Secretary to Government, Law, Justice and Human Rights Department of Government of Karnataka was also taken.

122. The file also contains a letter by the CBI, Anti Corruption Branch dated 17/18.12.2015 addressed to the Chief Secretary, Government of Karnataka and had forwarded a self-contained note showing the background of the case. The records submitted by CBI, Anti Corruption Branch in RC.16A/2012/CBI/ ACB/BLR are as follows:- Sl.No.of Details of contents the box 1. R.C.16(A)/2012-BLR Calendar of Evidence (DOCUMENTARY - Page 1-387 and ORAL - Page 1-135) + D-1 to D-246 (23 Volumes) 2. D-247 to D-384 (19 Volumes) 3. D-385 to D-418 (20 Volumes) 114 4. D-419 to D-466 (19 Volumes) 5. D-467 to D-508 (19 Volumes) 6. D-507-508 (A) to D-650 (18 Volumes) 7. D-651 to D-1235 (21 Volumes) 8. D-1236 to D-1898 (22 Volumes) 123. It is further evident that the entirety of records received by the State Government from the CBI was forwarded to Government of India and the list of documents sent by the State Government alongwith communication dated 24.04.2014 is extracted as below:-

"1. Investigation Report (as submitted by CBI) - The report includes version of the accused officer and comments of the Investigation Officer to rebut their contentions (page no.1 to 109).

2) Case records - 8 boxes containing copy of case records have been appended. (Pherist placed at page 1-9).

3) Draft sanction orders under PC Act pertaining to both Sri S.Muthaiah (P.1 -10) and Sri Manoj Kumar Shukla, (P.11-21).

4) Opinion of State Law Department - (page no.1- 3).

5) Copy of prosecution sanction order issued by the State Government under Karnataka Forest Act and Cr.P.C. in respect of :- 115 (a) Sri S.Muthaiah, (i)(G.O.No.DPAR/33/SFP/2014(1), dated:18/02/2014). (ii)(G.O.No.DPAR/33/SFP/2014(2), dated:18/02/2014). (b) Sri Manoj Kumar Shukla (i)(G.O.No.DPAR/33/SFP/2014(3), dated:18/02/2014). (ii)(G.O.No.DPAR/33/SFP/2014(4), dated:18/02/2014).

124. On a perusal of materials placed before the State Government, it is clear that all relevant materials including the CBI report has been placed before the State

Government and it cannot be stated that materials placed before the sanctioning authority was incomplete. The manner in which the note sheet is prepared with relevant comments does also indicate that though the granting of sanction is by a cryptic note 'Cz' ("approved"), the same could pass scrutiny in light of the contents of the note sheet.

125. Insofar as sanction under Section 19(1)(a) of P.C. Act, upon Central Government receiving the proposal by Government of Karnataka, the note sheet is prepared by 116 the Joint Secretary and Chief Vigilance Officer. The file containing the relevant records in the office of Central Government is marked as Ex.D1.

126. The note sheet contains examination of the case including the offences with respect to which cases are registered; background of the case; details regarding orders of the Apex Court; allegations in the FIR; result of investigation by the CBI containing necessary details (removal of check post at the border, wrongful loss caused to Government, explanation of accused person, rebuttal to the defence of petitioner, role of Sri S.Muthaiah, summing up evidence, conclusion and final recommendation).

127. The file was forwarded to the Central Vigilance Commission as per applicable Guidelines prior to which concurrence of Minister, Environment and Forests was sought and obtained. The note sheet refers to Minister for Environment and Forests having approved grant of sanction for prosecution after which the matter was referred to Vigilance and finally the orders were passed. 117

128. The CBI report is a part of the said file and contains all necessary details including details of the offences, details of the accused, background of the case, allegations in FIR, result of investigation, details regarding procurement and legality, details regarding removal of Halkundi Check Post, details regarding wrongful loss and wrongful gain, explanation and defence of the accused, rebuttal of defence of the accused, role of the accused, reference to the statement recorded under Section 164 before the Magistrate in RC.No.16(A)/2012, summing up of evidence, conclusion and final recommendation made for sanction of prosecution.

129. The evidence of Dr.Bagadi Gautham, who was working as Deputy Secretary, DPAR Services at relevant point of time, has been adduced on behalf of the prosecution as PW26 and has been cross-examined in detail.

130. The sanction by Government of Karnataka under Section 197 Cr.P.C. for offences under IPC is marked as 118 Ex.P105, sanction for prosecution under Section 114A of Karnataka Forest Act, Ex.P106 is marked through Dr.Bagadi Gautham.

131. Similarly, the evidence of Sri Ravishankar Prasad who was working as Joint Secretary and Chief Vigilance Officer in Ministry of Environment and Forests, Government of India has been adduced as PW25 and has also been cross-examined at length and has got marked Ex.P103, which is the order of sanction by the Central Government and Ex.D1, which is the file containing the particulars relating to orders of sanction by the Central Government.

132. Identical suggestions as in other complaints are made and replies are obtained in support of their contention to the effect that sanction orders are similar to the draft sanction orders and regarding the Competent Authority to sign the sanction orders and other contentions of the accused as are recorded in the evidence in complaints, viz., RC.Nos.13A/2012, 14A/2012 and 15A/2012. 119

133. Specific suggestions have been made regarding the eight boxes of documents not finding a mention in the note sheet. However, as regards such specific question, Ex.D6 contains reference that the said eight boxes were sent as per document in Ex.D6 at page No.317.

134. The learned Special Judge has passed a detailed order on 05.05.2020 containing the summary of background facts, complaint allegations and supports the order by detailed reasoning. The Special Court has extracted relevant portions of the sanction orders which are as follows:- EX.P103 -

ORDER

OF SANCTION BY CENTRAL GOVERNMENT23

"19. Whereas, the investigation has also disclosed that both Shri M.K.Shukla and Shri.S.Muthaiah have not initiated any action against the illegal mining activities carried out by Shri G.Janardhan Reddy and his companions either at the surrendered area of LMC mines or at the mining lease area of M/s.Ramgad Minerals and Mining Pvt. Ltd (Dalmia Mines) which also belonged to the State Government 23 No.15011/3/2014-AVU dated 20.10.2014 120 as statutory clearances were yet to be given for handing over the lease area (Dalmia Mines) to M/s. Ramgad Minerals and Mining Pvt. Ltd., regardless of receipt of several complaints from M/s.Ramgad Minerals and Mining Pvt. Ltd. Similarly they had not taken any action regarding the illegal encroachment or illegal mining carried out at the lease area of M/s.MSPL at Vyasankere ie., in ML No.2416 by the lessees M/s. SB Minerals, Vyasankere (ML.2515) etc., 20. Whereas, in prolongation to the said conspiracy, the investigation revealed that the above acts of Sri. Satish Krishna Sail, (A-1) Managing Director of M/s. Shree Mallikarjun Shipping Pvt. Ltd., Shri S.Muthaiah, (A-2) the then Dy.Conservator of Forests, Bellary; Shri S P Raju (A-3) the then Dy.Director, Department of Mines and Geology, Hospet, Shri G.Janardhana Reddy (A-4), the then Bellary District incharge Minister, Shri M.Ali Khan (A- 5), partner, M/s. Devi Entrprises and PA to Shri G.Janardhana Reddy; Shri Kenche Mahesh Kumar @ Karapudi Mahesh (A-6), partner, M/s. Shree Lakshmivenkateswara Minerals; Shri KVN nagaraj @ Swastik Nagaraj (A-7), Director, M/s. Swastik Steels Hospet Pvt. Ltd., Shri Manoj Kumar Shukla (A-8), the then Conservator of Forests, Bellary; Shri Ramakanth Yallappa Hullar (A-9), the then Circle Inspector, Sandur Circle; Shri B.Nagendra (A-10), 121 Partner, M/s. Eagle Traders and Logistics; Shri B.P.Anand Kumar @ Anand Singh (A-11), Proprietor, M/s.Vyshnavi Minerals; Shri Shyam Raj Singh (A- 12), Partner, M/s. SVK Minerals; Shri Praveen Singh, (A-13) Director, M/s. Sai Krishna Minerals Pvt. Ltd., Shri.K.V.N Govindraj (A-14), Shri Jakeer Sharief (A-

15) Shri Kuruba Nagaraj (A-16), Partner M/s.Eagle Traders and Logistics, Shri K.Janardhana Reddy (A-

17) Parnter, M/s. SB Logistics and M/s. Shree Mallikarjun Shipping Pvt. Ltd., (A-18), (represented by its Managing Director Shri Satish Krishna Sail) caused the wrongful loss of over and above Rs.90.72 crore to the Government exchequer and

wrongful gain for themselves.

21. Whereas, by the above acts Sri.S.Muthaiah, IFS, KN:95, the then Deputy Conservator of Forests, Bellary in collusion with others have committed the offences punishable under sections 120-B r/w 409, 420, 434, 447, 468, 471 of IPC; u/s 13(2) r/w 13(1)(c) & (d) of Prevention of Corruption Act, 1988.

22. Whereas, the above said acts of Shri.S.Muthaiah, IFS, KN:95, the then Deputy Conservator of Forests, Bellary Circle, Bellary (Accused No.2) with others constitute the commission of the above said offences. 122

23. And Whereas, the President of India, the competent authority to remove the said Shri S.Muttaiah, the then Conservator of Forests, Bellary Circle, Bellary and presently under suspension, after duly and carefully examining all the materials, such as copy of the FIR, copies of the statements of witnesses and documents etc., collected during the course of investigation by the investigating agency, that is, Cental Bureau of Investigation (CBI) in RC16A)/2012/CBI/ACB/Bangalore, which were placed before the President for his consideration for the said allegations and the President of India is satisfied that prima facie, a case is made out against Shri S.Muthiah, IFS, KN:95, the then Deputy Conservator of Forests, Bellary Circle, Bellary presently under suspension.

24. Now, therefore, the President of India does hereby accords sanction for the prosecution of Shri S.Muthaiah, IFS, KN:95, the then Deputy Conservator of Forests, Bellary, u/s 19(1)(a) of Prevention of Corruption Act, 1988 and other offences made out from the above mentioned facts and punishable under the provisions of any law in respect of aforesaid acts for taking cognizance of the said offences by a court of competent jurisdiction."

123 EX.P105 -

ORDER

OF SANCTION BY STATE GOVERNMENT UNDER SECTION197OF CR.P.C.24

"14. That in pursuance of the said conspiracy, Sri.S.P.Raju (A-3) the then Deputy director, Department of Mines and Geology, Hospet during the period 2009-10 had

not taken any action regarding the violation of mining activities at the lease area of SB Minerals, Vyasanakere Mines (ML.2515) and instructed his subordinate official to file a wrong report stating that no mining activity was being undertaken at Vyasanakere mines. That he had also submitted false reports mentioning that no mining activity was being carried out in the decreed area between SB Minerals (SVK Vyasanakere ML.2515) and M/s. MSPL at Vyasanakere (ML.2416), whereas in reality rampant illegal mining was going on in the said area which was well within his knowledge. That in furtherance to the said conspiracy, Sri.S.P.Raju (A-3) had not inspected any of the mines despite several complaints lodged by the mine owner M/s. Ramgad Minerals and Mining Pvt. Ltd., also known as Dalmia Mines (ML.No.2010) regarding the illegal encroachment by the neighbouring lessees into said Dalmia mines (ML.2010).

15) That in pursuance of the said conspiracy Sri.Ramakanth Yallappa Hullar (A-9), the then Circle 24 GO NO.DPAR33SFP20142) Bangalore Dated 18-02-2014 124 Inspector, Sandur Circle in conspiracy with other accused persons facilitated Sri.Karapudi Mahesh (A- 6), Sri. Swastik Nagaraj (A-7) and other accused persons to transport illegal iron ore without permits from his jurisdiction during the period 2009-10. That despite reporting the said illegal transportation by his subordinates, he did not take any action, instead instructed his subordinates not to touch the vehicles belonging to the said accused persons thereby enabling the accused persons to transport the illegal iron ore without permits to Belekeri Port and in return he had accepted illegal gratifications from the said accused persons.

16) That investigation has also disclosed that vide letter No.Est./deputation/CR.23/2005.06/362 dated 23-03-2009, Sri.S.Muthaiah, the then Deputy Conservator of Forests, Bellary had written a letter to the conservator of Forests, Bellary intimating that at the monthly meeting of RFOs and ACFs of Bellary Division held at the office of DCF, Bellary on 02-03- 2009, it was decided to withdraw the services of the Foresters and Forest Guards deployed at Halkundi Check-post and recommended for withdrawing the staff deployed at Halkundi Check-post and to transfer them to their respective parent places. Whereas, no such decision was taken in the said monthly meeting of RFOs and ACFs. In pursuant to the said letter, Sri Manoj Kumar Shukla vide his 125 order

No.17/2009.10 dated 24.06.2009 transferred the Forest staff deployed at Halakundi Check Post in connivance with other accused persons. When the staff deployed in the said Halakundi Check Post (Andhra-Karnataka Border Check Post) were transferred without replacement, the Check Post automatically closed.

17) That investigation has also disclosed that Sri.S. Muthaiah had intimated to Dr.U.V.Singh vide his letter No.Compt/Lok/BCD/89/2007/ARE-2(F) dated 17-03-2009 that he had not obtained any order from competent authority to stop issuance of exchange permits at Halkundi Andhra-Karnataka border check-posts. That Sri.Biswajit Mishra, who was posted as Deputy Conservator of Forests, Bellary in October-November 2009, had written a D.O.letter vide letter to Sri.Manoj Kumar Shukla, conservator of forests, expressing concern regarding the stoppage of issuance of Form 29 at Halkundi Check-post and had clearly stated that as per Rule 145(4) of KFR1969 a pass ie., Form 29 is mandated for transport or removal of forest produce from outside the State. Moreover Rule 152(1) also clearly stipulates that no forest produce brought into the State by road or water shall be conveyed within the limits of the State beyond the first check-post after its entry into the State without a pass in Form 29 issued under Rule 145 after the surrender of the Import Pass. Thus, it is clear that any forest produce entering into the State of Karnataka would require a pass in Form 29 for transportation of forest produce within the State. Sri.Biswajit Mishra had expressed concern, that if this matter was not sorted then it would become difficult to regulate the transportation of iron ore in Karnataka and he had also expressed concern that exempting from issuing Form-29 would result in the loss of revenue to the State Government. He had also brought to the notice that even the Honble Lokayuktha had mentioned that stoppage of issuance of Form-29 would result in an annual revenue loss of Rs.14 lakhs.

18) That Investigation has also disclosed that a direction was also issued from the office of the Additional Principal Chief conservator of Forests, Bangalore vide letter No.B4/Departmental passes/CR-7, 09-10 dated 19/20-11-2009 addressed to the Conservator of Forests, Bellary ie., and also to DCF, Bellary vide the directions was issued to issue Form No.29 as scheduled at Halkundi Check-post. That, despite clear instruction for the resumption of issuing Form-29, no coercive

action/decision was taken by Shri S. Muthaiah and also by Shri S.M.K.Shukla for the resumption of the issuance of Form 29 clearly revealing that both had actively colluded with other accused persons in the illegal excavation/transportation of iron ore. Thus, the 127 checking of vehicles carrying illegal iron ore and issuance of Form No.29 and collection of Forest Tax (Government Revenue) were stopped with dishonest intention to facilitate Sri.G.Janardhana Reddy and his associates in transportation of illegal iron ore through the said Karnataka Andhra border forest check-post. In this manner, Sri.S.Muthaiah, the then Deputy Conservator of Forest, Bellary and Sri. Manoj Kumar Shukla, the then CF, Bellary have colluded with Sri.G.Janardhana Reddy, the then minister with the Government of Karnataka.

19) It is also revealed that both Sri.S.Muthaiah and Sri. Manoj Kumar Shukla did not initiate action against the illegal mining activities carried out by Sri.G.Janardhana Reddy and his associates either at the surrendered area of LMC mines or at the mining lease area of M/s. Ramgad Minerals and Mining Pvt, Ltd., (Dalmia Mines) which also belonged to the State Government as statutory clearances were yet to be given for handing over the lease area (Dalmia Mines) to M/s.Ramgad Minerals and Mining Pvt, Ltd. Despite receipt of several complaints from M/s.Ramgad Minerals and Mining Pvt. Ltd. Similarly, they had not taken any action regarding the illegal encroachment or illegal mining carried out at the lease area of M/s. MSPL at Vyasanakere ie., in ML No.2416 by the lessees M/s S.B.Minerals, Vyasanakere (ML.2515) etc., 128

20) That the above acts of Sri.Satish Krishna Sail (A-1), managing Director, M/s. Shree Mallikarjun Shipping Pvt, Ltd., Sri.Muthaiah (A-2) the then Deputy Conservator of Forests, Bellary, Shri S P Raju (A-3) the then Dy.Director, Department of Mines and Geology, Hospet, Shri G.Janardhana Reddy (A-4), the then Bellary District incharge Minister, Shri M.Ali Khan (A-5), partner, M/s. Devi Entrprises and PA to Shri G.Janardhana Reddy; Shri Kenche Mahesh Kumar @ Karapudi Mahesh (A-6), partner, M/s. Shree Lakshmivenkateswara Minerals; Shri KVN nagaraj @ Swastik Nagaraj (A-7), Director, M/s. Swastik Steels Hospet Pvt. Ltd., Shri Manoj Kumar Shukla (A-8), the then Conservator of Forests, Bellary; Shri Ramakanth Yallappa Hullar (A-9), the then Circle Inspector, Sandur Circle;

Shri B.Nagendra (A-10), Partner, M/s. Eagle Traders and Logistics; Shri B.P.Anand Kumar @ Anand Singh (A- 11), Proprietor, M/s. Vyshnavi Minerals; Shri Shyam Raj Singh (A-12), Partner, M/s. SVK Minerals; Shri Praveen Singh, (A-13) Director, M/s. Sai Krishna Minerals Pvt. Ltd., Shri.K.V.N Govindraj (A-14), Shri Jakeer Sharief (A-15) Shri Kuruba Nagaraj (A-16), Partner M/s. Eagle Traders and Logistics, Shri K.Janardhana Reddy (A-17) Parnter, M/s. SB Logistics and M/s. Shree Mallikarjun Shipping Pvt. Ltd., (A-18), (represented by its Managing Director Shri Satish Krishna Sail) caused the wrongful loss of 129 more than Rs.90.72 crore to the Govt. exchequer and wrongful gain for themselves.

21) By the above acts, Sri.S.Muthaiah, the then Deputy Conservator of Forests, Bellary in collusion with others has committed the offences punishable under sections 120-B r/w 409, 420, 434, 447, 468, 471 of IPC; under section 13(2) r/w 13(1)(c) and (d) of PC Act 1988.

22) AND, WHEREAS, the Chief Minister on behalf of the Government of Karnataka, the competent authority to accord sanction against the said Sri.S.Muthaiah, the then Dy.Conservator of Forests, Bellary Circle, Bellary and present under suspension, after fully and carefully examining all the material placed before me, such as, copy of the FIR, copies of the statements of witnesses and other documents collected during the course of investigation in RC16A)/2012/CBI/ACB/Bangalore, which were placed before the Chief Minister for his consideration in regard to the said allegations, consider that a prima-facie case has been made out against Sri. S.Muthaiah, the then Dy. Conservator of Forests, Bellary District, Bellary, Karnataka, presently under suspension and that he should be prosecuted for the above said offences. 130

23) Now, therefore, Government of Karnataka, do hereby accord sanction under section 197 of Cr.P.C for the prosecution of Sri.S.Muthaiah, IFS in a court of law for the said offences and for taking cognizance of the said offences by the court of competent jurisdiction. EX.P106 -

ORDER

OF SANCTION BY STATE GOVERNMENT UNDER SECTION114 OF KARNATAKA FOREST ACT.25

"13. That in pursuance of the said conspiracy the iron ore supplied by M/s. Eagle Traders and Logistics, M/s. Arshad Exports, M/s. Sree Lakshmi Venkateswara Minerals etc., to M/s.SMSPL (A-18) were transported to Belekeri Port by using fake and forged permits purportedly issued by Department of Mines and Geology, Andhra Pradesh.

14) That in pursuance of the said conspiracy, Sri. S.P.Raju (A-3) the then Deputy director, Department of Mines and Geology, Hospet during the period 2009- 10 had not taken any action regarding the violation of mining activities at the lease area of SB Minerals, Vyasanakere Mines (ML.2515) and instructed his subordinate official to file a wrong report stating that no mining activity was being undertaken at Vyasanakere mines. That he had also submitted false reports mentioning that no mining activity was being carried out in the decreed area between SB Minerals 25 G.O. No.DPAR SFP20141) Bangalore Dated 18-02-2014 131 (SVK Vyasanakere ML.2515) and M/s. MSPL at Vyasanakere (ML.2416), whereas in reality rampant illegal mining was going on in the said area which was well within his knowledge. That in furtherance to the said conspiracy, Sri.S.P.Raju (A-3) had not inspected any of the mines despite several complaints lodged by the mine owner M/s. Ramgad Minerals and Mining Pvt. Ltd., also known as Dalmia Mines (ML.No.2010) regarding the illegal encroachment by the neighbouring lessees into said Dalmia mines (ML.2010).

15) That in pursuance of the said conspiracy Sri.Ramakanth Yallappa Hullar (A-9), the then Circle Inspector, Sandur Circle in conspiracy with other accused persons facilitated Sri.Karapudi Mahesh (A-6), Sri. Swastik Nagaraj (A-7) and other accused persons to transport illegal iron ore without permits from his jurisdiction during the period 2009-10. That despite reporting the said illegal transportation by his subordinates, he did not take any action, instead instructed his subordinates not to touch the vehicles belonging to the said accused persons thereby enabling the accused persons to transport the illegal iron ore without permits to Belekeri Port and in return he had accepted illegal gratifications from the said accused persons. 132

16) That investigation has also disclosed that vide letter No.Est./deputation/CR.23/2005.06/362 dated 23-03-2009, Sri.S.Muthaiah, the then Deputy Conservator of Forests, Bellary had written a letter to the conservator of Forests, Bellary intimating that at the monthly meeting of RFOs and ACFs of Bellary Division held at the office of DCF, Bellary on 02-03- 2009, it was decided to withdraw the services of the Foresters and Forest Guards deployed at Halkundi Check-post and recommended for withdrawing the staff deployed at Halkundi Check-post and to transfer them to their respective parent places. Accordingly, Sri .Manoj Kumar Shukla, the then Conservator of Forests, Bellary Circle vide his order No.17/2009.10 dated 24-06-2009 transferred the forest staff deployed at Halkundi check-post in connivance with other accused persons. When the staff deployed in the said Halkundi Check-post (Andhra-Karnataka Border Check-post) were transferred without replacement, the check-post automatically closed.

17) That investigation has also disclosed that Sri. S. Muthaiah had intimated to Dr.U.V.Singh Vide his letter No.Compt/Lok/BCD/89/2007/ ARE-2(F) dated 17-03-2009 that he had not obtained any order from competent authority to stop issuance of exchange permits at Halkundi Andhra-Karnataka border check- posts. That Sri.Biswajit Mishra, who was posted as Deputy Conservator of Forests, Bellary in October- 133 November 2009, had written a D.O.letter vide letter to Sri.Manoj Kumar Shukla, conservator of forests, expressing concern regarding the stoppage of issuance of Form 29 at Halkundi Check-post and had clearly stated that as per Rule 145(4) of KFR1969 a pass ie., Form 29 is mandated for transport or removal of forest produce from outside the State. Moreover Rule 152(1) also clearly stipulates that no forest produce brought into the State by road or water shall be conveyed within the limits of the State beyond the first check-post after its entry into the State without a pass in Form 29 issued under Rule 145 after the surrender of the Import Pass. Thus, it is clear that any forest produce entering into the State of Karnataka would require a pass in Form 29 for transportation of forest produce with the State. Sri.Biswajit Mishra had expressed concern, that if this matter was not sorted then it would become difficult to regulate the transportation of iron ore in Karnataka and he had also expressed concern that exempting from issuing Form-29 would result in the loss of revenue to the State Government. He had also brought to the notice that even the Honble Lokayuktha had mentioned

that stoppage of issuance of Form-29 would result in an annual revenue loss of Rs.14 lakhs.

18) That Investigation has also disclosed that a direction was also issued from the office of the 134 Additional Principal Chief conservator of Forests, Bangalore vide letter No.B4/Departmental passes/CR- 7, 09-10 dated 19/20-11-2009 addressed to the Conservator of Forests, Bellary ie., and also to DCF, Bellary vide the directions was issued to issue Form No.29 as scheduled at Halkundi Check-post. That, despite clear instruction for the resumption of issuing Form-29 no coercive action/decision was taken by Sri S.Muthaiah and also by Sri M.K.Shukla for the resumption of the issuance of Form 29 clearly revealing that both had actively colluded with other accused persons in the illegal excavation/transportation of iron ore. Thus, the checking of vehicles carrying illegal iron ore and issuance of Form No.29 and collection of Forest Tax (Government Revenue) were stopped with dishonest intention to facilitate Sri.G.Janardhana Reddy and his associates in transportation of illegal iron ore through the said border road/check-post. In this manner, Sri.S.Muthaiah, the then Deputy Conservator of Forest, Bellary and Sri.manoj Kumar Shukla, the then CF, Bellary have colluded with Sri.G.Janardhana Reddy, the then minister with the Government of Karnataka.

19) It is also revealed that both Sri.S.Muthaiah and Sri. M K Shukla did not initiate action against the illegal mining activities carried out by Sri.G.Janardhana Reddy and his associates either at 135 the surrendered area of LMC mines or at the mining lease area of M/s.Ramgad Minerals and Mining Pvt, Ltd., (Dalmia Mines) which also belonged to the State Government as statutory clearances were yet to be given for handing over the lease area (Dalmia Mines) to M/s. Ramgad Minerals and Mining Pvt. Ltd. Similarly, they had not taken any action regarding the illegal encroachment or illegal mining carried out at the lease area of M/s. MSPL at Vyasanakere ie., in ML No.2416 by the lessees M/s S.B.Minerals, Vyasanakere (ML.2515) etc.,

20) That the above acts of Sri.Satish Krishna Sail (A- 1), managing Director, M/s. Shree Mallikarjun Shipping Pvt, Ltd., Sri.Muthaiah (A-2) the then Deputy Conservator of Forests, Bellary, Shri S P Raju (A-3) the then Dy.Director,

Department of Mines and Geology, Hospet, Shri G.Janardhana Reddy (A-4), the then Bellary District incharge Minister, Shri M.Ali Khan (A-5), partner, M/s. Devi Entrprises and PA to Shri G.Janardhana Reddy; Shri Kenche Mahesh Kumar @ Karapudi Mahesh (A-6), partner, M/s. Shree Lakshmivenkateswara Minerals; Shri KVN nagaraj @ Swastik Nagaraj (A-7), Director, M/s. Swastik Steels Hospet Pvt. Ltd., Shri Manoj Kumar Shukla (A-8), the then Conservator of Forests, Bellary; Shri Ramakanth Yallappa Hullar (A-9), the then Circle Inspector, Sandur Circle; Shri B.Nagendra (A-10), Partner, M/s. 136 Eagle Traders and Logistics; Shri B.P.Anand Kumar @ Anand Singh (A-11), Proprietor, M/s. Vyshnavi Minerals; Shri Shyam Raj Singh (A-12), Partner, M/s. SVK Minerals; Shri Praveen Singh, (A-13) Director, M/s. Sai Krishna Minerals Pvt. Ltd., Shri.K.V.N Govindraaj (A-14), Shri Jakeer Sharief (A-15) Shri Kuruba Nagaraj (A-16), Partner M/s. Eagle Traders and Logistics, Shri K.Janardhana Reddy (A-17) Parnter, M/s. SB Logistics and M/s. Shree Mallikarjun Shipping Pvt. Ltd., (A-18), (represented by its Managing Director Shri Satish Krishna Sail) caused the wrongful loss of more than Rs.90.72 crore to the Government exchequer and wrongful gain for themselves.

21) By the above acts, Sri.S.Muthaiah, the then Deputy Conservator of Forests, Bellary incollusion with others has committed the offences punishable under sections 120-B r/w 409, 420, 434, 447, 468, 471 of IPC; under section 13(2) r/w 13(1) (c) and (d) of PC Act 1988.

22) AND, WHEREAS, the Chief Minister on behalf of the Government of Karnataka, the competent authority to accord sanction against the said Sri.S.Muthaiah, the then Dy.Conservator of Forests, Bellary Circle, Bellary and present under suspension, after fully and carefully examining all the material placed before me, such as, copy of the FIR, copies of 137 the statements of witnesses and other documents collected during the course of investigation in RC16A)/2012/CBI/ACB/Bangalore, which were placed before the Chief Minister for his consideration in regard to the said allegations, consider that a prima- facie case has been made out against Sri. S. Muthaiah, the then Dy. Conservator of Forests, Bellary District, Bellary, Karnataka, presently under suspension and that he should be prosecuted for the above said offences.

23) Now, therefore, Government of Karnataka, do hereby accord sanction under section 114-A of Karnataka Forest Act, 1963 for the prosecution of Sri.S.Muthaiah, IFS in a court of law for the said offences and for taking cognizance of the said offences by the court of competent jurisdiction.

135. A perusal of the said extracts clearly indicate that the orders granting sanction are eloquent and contain all necessary details and the order speaks for itself. The Court, records the answer of PW.25 to the effect that all materials were placed as was reflected in the charge sheet. It is observed that though there were some admissions by the witnesses, however, the same would not vitiate the 138 order granting sanction. The Court also records evidence of PW.27 and PW.28 in support of the order of sanction detailing the procedure followed for grant of sanction. The Court records the law laid down by the Apex Court in CBI v. Ashok Kumar Aggarwal²⁶ and Mahesh G. Jain (supra) and also observes that sanction orders being public documents, in terms of Section 74 of the Indian Evidence Act, the same can be proved in terms of Sections 76 and 78 of Indian Evidence Act and that the same are proved in the present case. The Court records that the truth of allegations need not be gone into by the sanctioning authority and that on a perusal of Ex.P103 to Ex.P111, it is clear that the Government has considered all materials placed on record with regard to allegations made against the accused persons.

136. The Special Court also records the detailed note sheet prepared by the Department of Environment and Forests, which shows that the sanctioning authority has considered all aspects. The Special Court finally concludes 26 (2014) 14 SCC295139 that it is not for the sanctioning authority to judge the truth of allegations made against the accused persons by calling for records of the case. It is noted that the grant of sanction is an administrative function, the presumption under Section 114(e) of the Indian Evidence Act would enable drawing of presumption that official acts have been performed regularly. Eventually, the conclusion is that there is no case made out for interference with the orders of sanction.

137. Having perused Ex.D6 and Ex.D1, it is clear that all necessary materials were before the Authorities concerned, detailed note sheets have guided the Authorities in granting approval to the orders of sanction, minor contradictions in the evidence will not take away the written evidence as contained in the records marked in Ex.D1 and Ex.D6. The Courts do not sit as Appellate Authorities as against the orders of sanction and in the absence of mala fides and in light of the materials placed before the sanctioning authority, there is no warrant to interfere with 140 the said orders and accordingly, this Court concurs with the view of the learned Special Judge. II QUASHING OF PROCEEDINGS:- 138. The petitioner has sought for quashing the proceedings in Spl. CC. Nos.135/2013, 105/2014, 6/2014 and 21/2014 pending on the file of Special Judge for CBI Cases and now pending before the Addl. City Civil and Sessions Judge, Bangalore, registered for the offences punishable under Sections 120-B read with Section 409, 420, 434, 447, 468, 471 of IPC and under Section 13(2) read with Section 13(1)(c) and (d) of P.C. Act.

139. It must be noticed that the present petition has been filed under Section 482 of Cr.P.C. and during the pendency of the proceedings before the Special Court, the discharge applications had been filed. The Special Court has rejected the applications filed seeking discharge by its order dated 17.04.2017 and the correctness of such order has not been directly assailed in the present proceedings though the 141 petitioner resorts for quashing of proceedings while invoking the jurisdiction under Section 482 of Cr.P.C.

140. Sri Hashmath Pasha, learned Senior Counsel appearing for Sri Nasir Ali for the petitioner has assailed the validity of proceedings primarily on the ground that there are multiple FIRs registered which have an overlap and such FIRs are registered only on the ground that there are different exporters who are involved. It is contended that though there is only one offence and the other offences stated to have been committed, the same are in the course of same transaction and occurrence. It is also contended that there is violation of the principle enshrined under Article 20(2) of the Constitution of India and the provisions under Section 300 of Cr.P.C.

141. It is contended that the lands were not forest lands and there was only a proposal under Section 4 of the Karnataka Forest Act and accordingly, no case could be made out against the petitioner, who is a Forest Officer. 142

142. It is further contended that Iron Ore is a non-forest produce and accordingly, no offence is made under the provisions of the Karnataka Forest Act.

143. It is also contended that there is no clarity as to whether the mining is in forest area or Patta lands or lands after expiry of lease retained by the Government.

144. It is contended that there has to be a joint trial as regards all offences and if it is not so done, the petitioner would be put to serious prejudice.

145. Sri P. Prasanna Kumar, learned Special Public Prosecutor appearing on behalf of respondent-CBI has however contended that multiple FIRs can be registered for distinct offences if the allegations in the subsequent FIRs cover different allegations. It is contended that separate FIRs have been registered in R.C.Nos.13(A)/2012, 14(A)/2012, 15(A)/2012 and No.16(A)/2012 and the Table extracted in para-5 of the written arguments for the purpose of convenience is extracted below:

143. R.C.No.Allegation 13(A)/2012 The said FIR was registered for the export of 9.16 Lac MT of Iron Ore by M/s.Dream Logistics Co. India Ltd. between 01.01.2009 to 31.05.2010. 14(A)/2012 The said FIR was registered for the export of 9.86 Lac MT of Iron Ore by M/s.ILC Industries between 01.01.2009 to 31.05.2010. 15(A)/2012 The said FIR was registered for the export of 7.74 Lac MT of Iron Ore by M/s.S.B. Logistics between 01.01.2009 to 31.05.2010. 16(A)/2012 The said FIR was registered for the export of 7.23 Lac MT of Iron Ore by M/s.Shree Mallikarjuna Shipping Pvt. Ltd., between 01.01.2009 to 31.05.2010.

146. It is submitted that respondent-CBI has filed separate charge sheets in light of separate transactions. It is further submitted that four charge sheets have been filed as regards four FIRs in light of each FIR constituting a separate and distinct offence. It is submitted that though the modus operandi in committing the offence

is the same, it cannot be construed that the distinct offences committed on the basis of a common *modus operandi* is to be construed as constituting a single offence. 144

147. It is also submitted that the question of violation of Article 20(2) of the Constitution of India or Section 300 of Cr.P.C. does not arise, as the petitioner has neither been convicted or acquitted for the offence on the basis of same set of facts on a prior occasion. Accordingly, it is submitted that the contention of double jeopardy does not apply.

148. Insofar as the contention that the alleged offence is in fact not an offence as the alleged mining is in non-forest area, it is submitted that Section 17 of the Karnataka Forest Act provides for defining the limits of a forest which is intended to constitute a reserve forest and to declare the same to be a reserved forest from the date fixed by such notification. It is submitted that once a notification is passed under Section 17(2) of Karnataka Forest Act, such forest shall be deemed to be a reserved forest. Accordingly, it is submitted that it is not the case of the petitioner that the area in question where illegal mining has occurred is a reserved forest, but it is the case of the respondent-CBI that illegal mining has taken place in a 145 forest area. It is submitted that even if the leasehold rights granted have expired, on expiry of such leasehold period, the land held by the private mining companies would fall back within the jurisdiction of the Forest Department.

149. It is further contended that the registration of FIRs was pursuant to the direction of the Apex Court in *Samaj Parivartana Samudaya* (supra), which directions were issued pursuant to the acceptance of the report of the CEC and the observations made in the order of CEC was to the effect that FIRs are to be registered and investigation carried out relating to illegal extraction of Iron Ore from the forest areas of Karnataka.

150. The Special Court in Spl.CC.No.135/2013, while dismissing the application for discharge has made a detailed analysis of the contentions raised by the petitioner. The Special Court has recorded a specific finding at para-121 of the order that Under the given set of circumstances, at this stage, it is not possible to say accusations made against this accused No.2 in the case on hand and other

accused in 146 Spl. C.C.Nos.116/2012 are one and the same. It is also to be noted that the learned Special Judge has recorded a similar finding insofar as the contentions of the petitioner are concerned in Spl.CC.Nos.105/2014, 06/2014 and 21/2014.

151. Insofar as the contention regarding forest area is concerned and regarding forest produce, the learned Special Judge has recorded a finding by relying on Section 80 of the Karnataka Forest Act that there is a presumption that forest area belongs to the Government until the contrary is proved.

152. It must be seen that the question as to whether Iron Ore which was subject matter of transportation and alleged part of illegal export was forest produce, that the land from which such Iron Ore was extracted was forest land, is a finding that can be recorded only on the basis of evidence and records, which aspect of appreciation is a matter best to be left to the trial Court. 147

153. The question whether the area from which illegal mining has been resorted to after expiry of lease would still retain the character of forest land, whether mining was from a part of the forest land, whether the Iron Ore itself would come within the purview of 'forest produce', are matters that need not be adjudicated at this stage so as to close a prosecution which is being tested in trial.

154. It is also to be noticed that the finding as regards forest land or non-forest land while interpreting the notification ought not to be embarked upon wherein the same question would arise as regards co-accused who are not parties in the present proceedings and accordingly, Court must refrain from recording a finding that may jeopardize prosecution against other accused persons against whom the trial is in progress.

155. Insofar as the question of multiple FIRs is concerned, taking into consideration the submission of learned Special Public Prosecutor appearing for CBI and relying on the Table extracted supra, it is to be noticed that 148 R.C.No.13(A)/2012 was registered as regards export of Iron Ore by M/s.Dream Logistics India Co., Ltd., for the period between 01.01.2009 to 31.05.2010; as regards R.C.No.14(A)/2012, FIR was registered for export of 9.86 lakhs of Metric

Ton of Iron Ore by M/s.ILC Industries between 1.1.2009 to 31.05.2010; as regards R.C.No.15(A)/2012, FIR was registered for export of 7.74 lakh Metric Ton of Iron Ore by M/s. S.B.Logistics between 1.1.2009 to 31.05.2010; while R.C.No.16(A)/2012, FIR was registered for export of of 7.23 lakh Metric Ton of Iron Ore by M/s.Mallikarjuna Shipping Pvt. Ltd. between 1.1.2009 to 31.05.2010. Accordingly, the export of Iron Ore of different quantities by different Companies have been registered as a separate FIR as noticed from the Table extracted supra and accordingly, there is a substance in the contention that the subject matter of each of the FIRs are distinct and accordingly, the question of accepting the contention that there are multiple FIRs with respect to the same offence prima facie cannot be accepted. 149

156. Though it is contended that there is an overlap of FIRs, however, learned Special Public Prosecutor appearing for CBI has rightly pointed out that though the modus operandi is the same, however, there are separate and distinct overt acts in course of separate transactions which constitute different offences and accordingly, it cannot be contended that there are no multiple sets of offences that have been committed. Any finding after a detailed analysis regarding overlapping of offences, is a matter that could be arrived at only during trial and beyond the limited scope of limited jurisdiction under Section 482 of Cr.P.C. to appreciate evidence and interfere with the findings made in the order of discharge. Similarly, as to whether offence made out in R.C.No.18(A)/2011 has an overlap with R.C.Nos.13(A)/2012, 14(A)/2012, 15(A)/2012 and 16(A)/2012 are also factual findings to be arrived at after appreciation of evidence which ought not to be made in exercise of present jurisdiction invoked. 150

157. It must be noted that the present FIRs having been registered pursuant to the order of the Apex Court in Samaj Parivartana Samudaya (supra) cannot be interfered with lightly without permitting the trial to conclude. The legal effect of lands notified under Section 4 of the Karnataka Forest Act and as to whether it would qualify to be forest land, whether the mining was in fact carried out in forest land carrying out mining in lands where leasehold rights have expired and whether such land if earlier was forest land are again factually dense contentions which are mixed questions of fact and law which can be gone into only by the trial Court.

Insofar as the relief sought as regards forest offences is concerned, it must be noticed that charges framed do not pertain to forest offences and accordingly, the question of adjudication sought for by the petitioner does not arise for consideration. 151

158. Insofar as the contention of the petitioner that R.C.No.18(A)/2011 which is the complaint that is comprehensive may be permitted to proceed with while the other complaints could be stayed as noticed above, prima facie, the subject matter of each of the FIRs constitute a separate offence. The alternative contention that there could be consolidation of FIRs in light of Section 219 and 223 of Cr.P.C., it must be observed that such application ought to have been filed before the trial Court, as it is the trial Court to decide as regards such request and more importantly, such request must be made prior to commencement of the trial. The trial being at an advanced stage, it is not open for such consideration at the present stage.

159. It must be noticed that as against the order dismissing application for discharge, revision under Section 397(2) of Cr.P.C. would be maintainable. The petitioner not having challenged the said orders in revision proceedings and having invoked the present jurisdiction, which is 152 narrower than the jurisdiction in appeal/revision, the scope of interference being limited in light of the discussion made above, the Court has refused to interfere and intervene in the proceedings before the trial Court, which ought to be allowed to be proceeded.

160. It is also necessary to note that the proceedings before the trial Court are at an advanced stage except in R.C.No.18(A)/2011. The orders of sanction have been upheld and a specific finding is being recorded as regards the validity of such orders, the evidence of many of witnesses have been recorded and their cross-examination is complete and at this stage, no case is made out for interference.

161. It is also to be noticed that the discretionary jurisdiction under Section 482 of Cr.P.C. is to be exercised to prevent abuse of process or to secure ends of justice only in exceptional cases. Where interference in exercise of such jurisdiction requires appreciation of evidence, finding on facts, it would be best left for such matters to be decided 153 during trial. In the present case, it must also be kept in

mind that any finding regarding mining operations in a forest area or in non-forest area would have implication as regards other criminal cases also pending and accordingly, it may not be appropriate to jeopardize the cases against other accused by recording a finding as against the petitioner alone.

162. Accordingly, this Court does not find any scope for interference and the Writ Petitions are dismissed. Sd/- JUDGE VGR

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