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Santhosh Eappen vs the Union of India

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Court : Kerala

Decided On : Jan-12-2021

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : WP(C)/20668/2020

Appellant : Santhosh Eappen

Respondent : The Union of India

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN TUESDAY, THE 12TH DAY OF JANUARY 2021/ 22ND POUSHA, 1942 WP(C).No.20668 OF 2020(G) PETITIONER: SANTHOSH EAPPEN AGED 49 YEARS S/O. C. C. EAPPEN, RESIDING AT UNITAC ARCADE, 2ND FLOOR, OPP. DECATHLON, N. H. BYPASS, THYCOODAM, VYTTILLA, ERNAKULAM DISTRICT BY ADVS. SRI.K.N.ABHILASH SRI.SUNIL NAIR PALAKKAT SMT.N.K.SHEEBA SRI.M.A.AHAMMAD SAHEER SRI.P.B.MUHAMMED AJEESH SRI.A.FRANCIS SRI.P.T.BINDURAJ RESPONDENTS:

1 THE UNION OF INDIA REPRESENTED BY THE SECRETARY OF THE HOME DEPARTMENT OF THE UNION OF INDIA, MINISTRY OF HOME AFFAIRS, NORTH BLOCK, CENTRAL SECRETARIAT, NEW DELHI - 110 001. 2 THE CENTRAL BUREAU OF INVESTIGATION REPRESENTED BY ITS DIRECTOR, CENTRAL BUREAU OF INVESTIGATION, CGO COMPLEX, LODHI ROAD, NEW DELHI - 110 001. 3 THE SUPERINTENDENT OF POLICE CBI - KOCHI UNIT, KATHRIKADAVU, ERNAKULAM - 682 017. 4 INSPECTOR OF POLICE CBI - KOCHI UNIT, KATHRIKADAVU, ERNAKULAM - 682 017. 5 DEPARTMENT OF PERSONNEL AND TRAINING OF THE GOVERNMENT OF INDIA REPRESENTED BY ITS SECRETARY, NATIONAL INVESTIGATION AGENCY, DEPARTMENT OF PERSONNEL AND TRAINING OF THE

GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI - 110 001. 6 THE STATE OF KERALA REPRESENTED BY CHIEF SECRETARY OF THE GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM - 695 001. 7 ANIL AKKARE MEMBER OF LEGISLATIVE ASSSEMBLY, VADAKKANCHERY, THRISSUR DISTRICT, PIN - 678683. R1 BY ADV. SRI.K.RAMAKUMAR (SR.) R1 & R5 BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA R6 BY SRI.P.NARAYANAN, SENIOR GOVT. PLEADER R6 BY SRI.V.MANU, SENIOR GOVT. PLEADER R6 BY SRI.SUMAN CHAKRAVARTHY, SENIOR GOVT.PLEADER R7 BY ADV. SRI.K.B.GANGESH R7 BY ADV. SMT.SMITHA CHATHANARAMBATH R7 BY ADV. SMT.ATHIRA A.MENON R7 BY ADV. SRI.AMAL S KUMAR R2 TO R4 ADV.SRI.SASTHAMANGALAM S.AJITHKUMAR THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON

21-12-2020, ALONG WITH Crl.MC.4375/2020(F), THE COURT ON 12-01-2021 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN TUESDAY, THE 12TH DAY OF JANUARY 2021/ 22ND POUSHA, 1942 Crl.MC.No.4375 OF 2020(F) (AGAINST FIR NO.RC 5(A)/2020/CBI/ACB/COCHIN DATED 24.09.2020 OF CHIEF JUDL.MAGISTRATE, ERNAKULAM) PETITIONER: THE CHIEF EXECUTIVE OFFICER LIVELIHOOD, INCLUSION AND FINANCIAL EMPOWERMENT MISSION(THE LIFE MISSION), GOVERNMENT OF KERALA 2ND FLOOR, PTC TOWER, SS KOVIL ROAD, THAMPANOOR, THIRUVANANTHAPURAM 695 001. BY ADVS. SRI.P.NARAYANAN, SPL.GOVERNMENT PLEADER SRI.V.MANU, SENIOR GOVT. PLEADER SRI.SUMAN CHAKRAVARTHY, SENIOR GOVT.PLEADER RESPONDENTS:

1 THE CENTRAL BUREAU OF INVESTIGATION REPRESENTED BY THE HEAD OF BRANCH, CBI KERALA, THIRUVANANTHAPURAM 695 001. 2 THE SUPERINTENDET OF POLICE, ANTI CORRUPTION BUREAU, CENTRAL BUREAU OF INVESTIGATIONS, KOCHI, CBI ROAD, KATHRIKADAVU, KALOOR, ERNAKULAM 682 017. 3 ANIL AKKARE, SWARAJ, WADAKKANCHERRY P.O. THRISSUR 680 582. R1 & R2 BY SRI. SASTHAMANGALAM S. AJITHKUMAR, SPL.P.P. FOR C.B.I. R3 BY ADV. SRI.K.B.GANGESH THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON

21-12-2020, ALONG WITH WP(C).20668/2020(G), THE COURT ON 12-01-2021 PASSED THE FOLLOWING: Crl.M.C.No.4375/2020 4 CR

COMMON JUDGMENT

The writ petition and the Crl.M.C. came up together for hearing as the issue involved in both the cases pertains to the registration of FIR by the CBI with respect to the same matter and none of the counsel objected to the joint hearing.

2. The writ petitioner prayed for quashing Ext.P5 FIR registered by the CBI. He is a businessman who formed a company under the name and style of Unitac Builders and Developers for entering into the field of

construction and another company Sane Ventures LLP for conducting business in hospitality and construction sectors. As part of his business, he entered into two agreements - Exts.P1 and P2 dated 31/7/2019 with the Consulate General of UAE, Trivandrum, Kerala for the

construction of residential apartments for

construction, an amount of Rs.14,50,00,000/-(Rupees fourteen crores fifty lakhs) was transferred by the UAE Consulate to the companies' account. Exts.P1 and P2 were executed in sequence upon an agreement dated Crescent Authority (a voluntary humanitarian organization affiliated to the International Federation of Red Cross). As per the said agreement, the UAE Red Crescent agreed to give assistance to the recent Kerala flood victims by spending AED 10,000,000 (ten million UAE dirhams) for constructing homes and a health centre. Later the petitioner was asked by Consular General of UAE, Trivandrum, Kerala through one Swapna Suresh to give an amount of AED 2 million or equivalent Indian rupee for awarding the present and future projects. An amount of Rs.3,80,00,000/- (Rupees three crores eighty lakhs) was converted into US Dollar as per the instruction given by UAE Consulate General,

Trivandrum, Kerala and it was entrusted

of UAE, Trivandrum, Kerala. Another amount of Rs.68,00,000/- (Rupees sixty eight lakhs) was transferred to ISOMO trading company owned by one Mr.Sandeep Nair for its liaison works. In addition to that, Mrs.Swapna Suresh demanded five i-phones from the petitioner and it was accordingly handed over to her. Ext.P3 is the true copy of the purchase bill dated construction work was started in the property owned by the State Government. The petitioner does not come under the ambit of Section 4 of the Foreign Contribution (Regulation) Act, 2010 (for short, the FCR Act). The registration of FIR is ultravires and falls outside the scope of Delhi Special Police Establishment Act, 1946 since no consent was

given as mandated under

Section 6 of the Act. Hence, the writ petition to declare that the CBI has no power to investigate a crime within the territory of the State Government without getting consent under Section 6 of the Delhi Special Police Establishment Act, to declare Ext.P7 resolution as unconstitutional, to declare that the 2nd Crl.M.C.No.4375/2020 7

respondent has no jurisdiction to investigate into the affairs of the petitioner's company, to declare that the power under Entry 80 of List I (Union List) of 7 th schedule can be exercised only by way of a proper legislative process and to quash Ext.P5 on the ground that the FIR was registered by the CBI without complying with the requirements of a preliminary enquiry as mandated by the judgment of the Apex Court in Lalita Kumari's case.

3. In Crl.M.C., the petitioner, the Chief Executive Officer, Livelihood, Inclusion and Financial Empowerment Mission (LIFE Mission), Government of Kerala sought to quash FIR No.RC 5(A)/2020/CBI/ACB/COCHIN dated 24/09/2020 (Annexure C) registered on the basis of Annexure A complaint lodged by Anil Akkara, MLA alleging offence under Section 35 r/w Section 3 of FCR Act r/w Section 120 B of IPC.

4. The Union of India submitted a written objection through Sri.K.Ramkumar, Senior Counsel for Union of India that a writ petition cannot be maintained to quash the criminal proceedings initiated Crl.M.C.No.4375/2020 8

and the FIR registered, by relying on Union of India v. T.R.Varma (AIR 1957 SC 882). Reliance was also placed on State of West Bengal and Others v. Swapan Kumar Guha and others [AIR 1982 SC 949] with respect to the scope of Art.226 of the Constitution and its restriction in interfering with the investigation. Secondly, that the accused cannot choose a particular investigating agency

of his choice by relying on the decisions in Romila Thapar and others v. Union of India and others [(2018) 10 SCC 753] and Arnab Ranjan Goswami v. Union of India

and others [2020 KHC 6393]. Thirdly, that the investigation was initiated by the CBI as per the consent given by the State Government and request made through letter dated 8/7/2020 D.O.No.1130/2020/CM. Fourthly, as per Manual for Disciplinary Proceedings dealing with vigilance enquiry, three categories of cases alone can be investigated by the Vigilance and

Anti-corruption Bureau viz., (1) cases registered under the Prevention of Corruption Act (2) Disciplinary proceedings pending before a Tribunal or Departmental Disciplinary Authority or Inquiring Authority on the Crl.M.C.No.4375/2020 9 basis of an enquiry conducted by the Vigilance Division

(3) Any other disciplinary proceedings relating to

receipt of illegal gratification, misappropriation of public funds or property and nepotism. Fifthly, that the Govt. of Kerala (the Hon'ble The Chief Minister) by D.O.NO.1130/2020/CM dated 8/7/2020 addressed to the Hon'ble Prime Minister of India requesting an effective and co-ordinated investigation by Central Agencies. Sixthly, that the petitioner cannot be permitted to approbate and reprobate at the same time by claiming exemption under the provisions of FCR Act and lastly, that the CBI, being a constitutional entity, can exercise their power without even an executive order.

5. The contentions raised by the CBI are that the Govt. Pleader is not expected to file the quash petition as Government is not in the array of accused, that the FIR was registered only against the unknown

officials of the LIFE Mission, that the MoU is a subterfuge akin to taking a shower with a raincoat, and that the complaint discloses cognizable offence under the FCR Act. Crl.M.C.No.4375/2020 10

6. It is submitted that the LIFE Mission is a

unique complete housing project of the Government of Kerala among the four programmes launched as per G.O. (P)No.41/2016/P&EAD, for providing housing facilities to all the landless and homeless persons in the State

of Kerala. LIFE Mission Project envisages constructionof ho

International Federation of Red Cross and Red Crescent Societies, agreed to provide 10 million UAE dirhams for constructing housing units to the victims of recent Kerala flood and a health centre, for which a Memorandum of Understanding was entered into on Government of Kerala through the Chief Executive Officer of LIFE Mission, by which it was agreed to provide 10 million UAE dirhams for that purpose, more specifically, 7 million UAE dirhams for the purpose of constructing homes and 3 million UAE dirhams for the Crl.M.C.No.4375/2020 11

construction of a health centre. In furtherance of thea

Trivandrum, Kerala and Unitac Builders and Developers for the construction of dwelling units and Sane Ventures LLP for health Centre over a property having an extent of 2.17 Acres of land owned by the State Government vested with the Wadakkenchery Municipality. Based on the two construction agreements, Exts.P1 and P2, 40% of project cost of 10 million UAE dirhams was transferred to the account of M/s. Unitac Builders and Developers and M/s Sane Ventures LLP on 1/8/2019 and purpose of construction and the construction of building was commenced. It was at this juncture that a complaint was preferred before the CBI by the then MLA Anil Akkara, which has resulted in the registration of the abovesaid crime.

7. It is alleged that the complaint and subsequent registration of FIR was intended to sabotage and torpedo the very functioning of the LIFE Mission and Crl.M.C.No.4375/2020 12 to malign the State Government with ulterior political motives. As per the definition given to the expression

'foreign contribution' under Section 2(1)(h) and 'foreign source' under Section 2(1)(j) r/w Section 3 of FCR Act, the offence alleged in the complaint would not stand attracted. Further, it is submitted that the allegations that the foreign contribution received by M/s Unitac Builders and Developers and M/s Sane Ventures LLP directly from Red Crescent was utilized to pay commission to various middlemen including government representatives and government officials

are misconceived. Neither Unitac Builders and Developers nor Sane Ventures LLP would fall within the scope of Section 3 of FCR Act and they will not come under the purview of categories of persons prohibited from receiving any foreign contribution. Further, it was submitted that an offence under Section 3(2)(b) can be fastened only against a deliverer of a foreign currency and not against the recipient and sought corroboration from State of Karnataka v. L.Muniswamy and others [(1977) 2 SCC 699), State of Karnataka v. M.Devendrappa Crl.M.C.No.4375/2020 13 and another [(2002) 3 SCC 89] and R.P.Kapur v. State of Punjab [(1960) 3 SCR 388]. In any event, Section 4(a) of the Act excludes application of Section 3 in cases where a person accepts foreign contribution by way of 'salary, wages or other remuneration due to him or to

any group of persons working under him'. LIFE Mission is neither a person, which would come under the purview of Section 2(1)(m) of the FCR Act nor a recipient or acceptor of any foreign contribution and hence there would not arise any necessity for having a registration under Section 11 of FCR Act. The Central Government by Notification No. S.O.459 (E) dated 30.01.2020 (Ext.P6)

exempted organizations(not being a political party), constituted or established by or under a Central Act or a State Act or by any administrative or executive

order of the Central Government or any State Government

and wholly owned by the respective Government and required to have their accounts compulsorily audited by the Comptroller and Auditor General of India (CAG) or any of the agencies of the CAG, from the operation of the FCR Act. The frame work of agreement entered into Crl.M.C.No.4375/2020 14 between UAE Red Crescent with the contractors does not have any legal relationship with LIFE Mission or State Government. The State Government or the LIFE Mission has no role to play either in the construction of housing units through a contractor or builder of the choice of sponsor - UAE Red Crescent. Neither the State Government nor the LIFE Mission has accepted any contribution from UAE Red Crescent, but was directly transferred to the accounts of Unitac Builders and Developers and Sane Ventures LLP. Provisions of FCR Act cannot be read extensively so as to include transaction

not included or expressly exempted unde

irregularities in LIFE housing scheme. The allegation in the FIR registered by Vigilance and Anti-corruption Bureau pertains to kickbacks received by Mrs.Swapna Suresh (former Secretary to Consular General UAE- Kerala) and the other cohorts allegedly on behalf of Mr.Sivasanker IAS (P.S. to Chief Minister). It is contended that all these officers and offences would Crl.M.C.No.4375/2020 15 fall under the Prevention of Corruption Act, 1947 r/w

Indian Penal Code. The FIR registered under the FCR Act hence is a device to hound the officials of LIFE Mission. It was registered by transgressing into the states power which is a challenge to the very federal

structure envisaged by the Constitution of India. The CBI cannot conduct a roving enquiry and it is violative of Article 21 of the Constitution of India impinging upon the rights of the petitioner and took reliance from Shree Shree Ram Janki Ji Asthan Tapovan Mandir and another v. State of Jharkhand and others [(2019) 6 SCC

777] and Secretary, Minor Irrigation & Rural Engineering Services, U.P.& Others v. Sahngoo Ram Arya & another [(2002) 5 SCC 521}.

8. The entire Case Diary was produced before this

Court in a sealed cover by the CBI. Before dealing with the grounds raised by the parties, it is necessary to consider the nature and scope of inherent power of the High Court under Section 482 Cr.P.C.. The exercise of jurisdiction under Section 482 Cr.P.C. was well considered and laid down by a three Judge Bench of the Crl.M.C.No.4375/2020 16 Apex Court in M.Devendrappa's case (supra) that it is not the rule of law, but an exception and it will not confer any new powers on the High court except the inherent powers possessed by it envisaging three

circumstances namely, (i) to give effect to an order

under the Code, (ii) to prevent abuse of the process of the court, and (iii) to otherwise secure the ends of

justice. It is neither possible nor desirable to laydown

(supra) and also in R.P.Kapur's case (supra). A roving enquiry as that of a trial court, appellate court or revisional court is not expected to be conducted while exercising the jurisdiction under Section 482 Cr.P.C., but the jurisdiction is confined only to the three contours laid down in Devendrappa's case (supra). When FIR was registered or investigation was commenced by an authority having no jurisdiction to enquire into the allegation, it would certainly be a matter to be considered by exercising the jurisdiction under Section Crl.M.C.No.4375/2020 17 482 Cr.P.C. If the allegations contained in the FIR are found to be made with ulterior motive to harass the petitioners without any legal basis, it is well within the inherent power of this Court to stop the proceeding by quashing it. (Harmanpreet Singh Ahluwalia and others v. State of Punjab and others[(2009) 7 SCC 712]).

9. The contention that no consent/permission was granted under Section 6 of the Delhi Special Police Establishment Act, 1946 cannot be maintained on the reason that by notification No.15421/SSA5-2017/Home dated 8/6/2017, the Kerala Government has accorded sanction under Section 6 of the Delhi Special Police

Establishment Act enabling the CBI to re

to the Central Government to employ Central Agencies

concerned for an effective and co

registered and investigation was initiated without the Crl.M.C.No.4375/2020 18 consent as envisaged under Section 6 of the Delhi Special Police Establishment Act is totally devoid of merit. In fact, when there is revelation of an offence which would fall under any of the provisions of FCR Act, Section 43 of the FCR Act would come into play, which is a non-obstante clause and would operate notwithstanding anything contained in the Cr.P.C. and any offence punishable under the Act can be investigated by such authority as the Central Government may specify in this behalf.

10. Inter alia, it was contended that Section 43 of FCR Act cannot be utilized to exclude investigation by state agencies, namely the Vigilance and Anti- corruption

Bureau. FIR No.02/2020 of VACB-SIU-1 regarding the kickbacks received by Mrs.Swapana Suresh (former Secretary to the Consular General UAE) and other associates allegedly on behalf of Mr.Sivasanker

IAS (P.S. to Chief Minister) was registered, hence submitted that, it should be investigated independent of FCR Act and that the two investigations cannot be merged and used as a device to hound the officials of Crl.M.C.No.4375/2020 19 LIFE Mission. Registration of FIR by the CBI transgressing into the State's power is a challenge to the very federal system envisaged by the Constitution of India and the same ought not be countenanced by this Court, it was submitted. But, the investigation commenced by the Vigilance and Anti-Corruption Bureau may have its own limitations when the matter pertains to large scale malpractice involving office of Consular General UAE, Trivandrum, Kerala and its officials and hence the investigation initiated by a competent authority, a Central Agency, cannot be curtailed by exercising the inherent jurisdiction under Section 482 Cr.P.C., unless it is per se illegal and without any basis.

11. One of the contentions raised is that the CEO,

LIFE Mission has so far not been made as accused in the crime and as such, has no locus standi to maintain Crl.M.C. to quash the FIR registered. In the complaint which led to the registration of FIR, there are allegations against the office bearers of LIFE Mission including its Chairman, Vice-Chairman, former CEO, Crl.M.C.No.4375/2020 20 present CEO, the earlier officers of UAE Consulate, Trivandrum, Kerala namely Swapna Suresh, Sarith and their ally Sandeep Nair and the Managing Director of Unitac Builders and Developers and Sane Ventures LLP - Mr.Santhosh Eappen. It is submitted that the investigation is being directed against unknown officials of LIFE Mission and hence, the CEO, LIFE Mission has got every right to challenge the investigation by invoking the inherent jurisdiction of this Court and took reliance from Divine Retreat Centre v. State of Kerala and others (2008 (3) SCC 542), State of U.P. v. Mohd. Naim [(1964) 2 SCR 363 = AIR 1964 SC 703], Union of India v. State of Maharashtra (2003 SCC OnLine Bom. 1312). It was countered by the counsel for the CBI by citing Gulzar Ahmed Azmi and another v. Union of India and others [(2012) 10 SCC 731], Janata Dal

and others v. H.S.Chowdhary and others [(1991) 3 SCC 756], Ashok Kumar Pandey v. State of West Bengal [(2004) 3 SCC 349], State of Haryana and others v. Ch.Bhajan Lal and others [(1992) SCC (Cri) 426], Central Bureau of Investigation v. Arvind Khanna Crl.M.C.No.4375/2020 21 [(2019) 10 SCC 686] in support of their argument that an accused person alone can raise all questions and challenge the proceedings initiated against him and not by a third party. Further it is submitted that the legal position is consistent and settled in that it is not within the authority of accused to ask for investigation by a particular agency or to conduct investigation in a particular manner (Romila Thapar and others v. Union of India and others [(2018) 10 SCC 753] and Arnab Ranjan Goswami v. Union of India and others [2020 KHC 6393]). The legal position laid down in Janata Dal's case, Gulzar Ahmed's case and Ashok Kumar Pandey's case (supra) is pertaining to a public interest litigation claiming relief by a third party under the guise of public interest which was declined by the Apex Court, hence it cannot be extended to the instant case. The two applications submitted for impleadment in the Crl.M.C. by a social worker and a journalist viz., Crl.M.A.No.3/2020 and 4/2020,cannot be entertained in view of the legal position settled as above, hence both the applications deserves only Crl.M.C.No.4375/2020 22

dismissal and I do so. In fact, the CEO or any of the officials under LIFE Mission was not specifically made as an accused, but the crime was registered against unknown officials of LIFE Mission which would certainly carry the meaning that the investigation was initiated against the officials of LIFE Mission, including CEO. The mere fact that the CEO was not specifically made as an accused to the crime by itself will not take away his right to challenge the same, if it is directed

against him. The locus standi to maintain a challenge under Section 482 Cr.P.C. must be ascertained based on the principle of natural justice and the likelihood of causing adverse effect or consequences on the persons concerned.

12. Indisputably, it is the Chief Minister, who had canvassed financial aid and contribution from a foreign source, UAE Red Crescent. There is no much dispute that UAE Red Crescent is a foreign body. It is by virtue of Section 3 of the FCR Act, a prohibition imposed from

receiving and accepting contribution from a f

admitted case that Unitac Builders and Developers and Sane Ventures LLP headed by Santhosh Eappen entered into two agreements, Exts.P1 and P2 not with UAE Red Crescent or the State Government or LIFE Mission, but with an entirely independent body, the Consular General UAE, Trivandrum, Kerala, having its main office at MC Tower, Manacaud, TC 72/1227 (1-4), Muttathara, Near Fort Police Station, Trivandrum - 695009, by which they have received considerable amount to the extent of 40% out of the 10 million UAE dirhams from UAE Red Crescent routed through Consular General UAE, Trivandrum, Kerala, wherein neither the State Government nor the LIFE Mission or UAE Red Crescent is a party.

13. One of the counterpoints raised by the LIFE

Mission is that they have not received

Developers and Sane Ventures LLP, no criminal liability can be fastened against the LIFE Mission or the State

Government. They are not parties to the

Kerala (wrongly pleaded as UAE Red Crescent) with Unitac Builders and Developers and Sane Ventures LLP (Exts.P1 and P2). Further, it was asserted that they would stand excluded by virtue of operation of Explanation 3 to Section 2(1)(h) of FCR Act. The expressions foreign contribution and foreign source are defined in Section 2(1)(h) and (j) respectively, which are extracted below for reference:

> (h) foreign contribution means the donation, delivery or transfer made by any foreign source, - (i). of any article, not being an article given to a person as a gift for his personal use, if the market value, in India, of such article, on the date of such gift, is not more than such sum as may be specified from time to time, by the Central Government by the rules made by it in this behalf; (ii). of any currency, whether Indian or foreign; (iii). of any security as defined in clause (h) of section 2 of the Securities

Contracts (Regulation) Act, 1956 (42 of 1956) and includes any foreign security as defined in clause (o) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999). Explanation 1.- A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause. Explanation 2.-- The interest accrued on the foreign contribution deposited in any bank referred to in sub-section (1) of section 17 or any other income derived from the foreign contribution or interest thereon shall also be

deemed to be foreign contribution within the meaning of this clause. Explanation 3.-- Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent of a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause; (emphasis supplied)

(j) "foreign source" includes,--

(i). the Government of any foreign country or territory and any agency of such Government; (ii). any international agency, not being the United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify in this behalf; (iii). a foreign company; (iv). a corporation, not being a foreign company, incorporated in a foreign country or territory; (v). a multi-national corporation referred to in sub-clause (iv) of clause (g); (vi). a company within the meaning of the

Companies Act, 1956 (1 of 1956) and more than one- half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:-- (A). the Government of a foreign country or territory; (B). the citizens of a foreign country or territory; (C). corporations incorporated in a foreign country or territory; (D). trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory;

(E). foreign company; (Provided that where the nominal value of share capital is within the limits specified for foreign investment under the Foreign Exchange Management Act, 1999 (42 of 1999), or the rules or regulations made thereunder, then, notwithstanding a nominal value of share capital of a company being more than one half of such value at the time of making the contribution, such company shall not be a foreign source;) (vii). a trade union in any foreign country or territory, whether or not registered in such foreign country or territory; (viii). a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory; (ix). a society, club or other association of individuals formed or registered outside India; (x). a citizen of a foreign country.

14. It is an admitted case that initially MoU was

signed by LIFE Mission with UAE Red Crescent. The various clauses enumerated in the MoU would itself show that the UAE Red Crescent agreed to provide financial help to the tune of 10 million dirhams, out of which 7 million dirhams will be allocated to build homes to the victims of recent Kerala flood and 3 million dirhams

will be allocated for the construction o

affiliated to international federation of Red Cross, to the State Government to their project - Livelihood, Inclusion and Financial Empowerment Mission (LIFE Mission).

The MoU was entered into between the State Government/LIFE Mission on one side with UAE Red Crescent on the other side. There may not be any dispute with respect to the status of UAE Red Crescent

and it would squarely fall under the purview of a foreign source as defined under Section 2(1)(j) of FCR Act. The donation, delivery or transfer made by any such foreign source either by way of any currency whether Indian or foreign or article or any security, donation would come under the purview of the expression foreign contribution as defined under Section 2(1)(h) of the Act. It is true that the State Government or the LIFE Mission did not receive any foreign currency, security, donation, delivery of transfer of any article so as to extend criminal liability as against them by virtue of the definition under Section 2(1)(h) and (j) of the Act. But quite interestingly, as per the MoU entered into, what is agreed into by the Red Crescent Crl.M.C.No.4375/2020 28 is to provide foreign contribution/aid for the construction of dwelling units and a health centre for

the victims of recent Kerala flood and MoU even according to LIFE Mission was entered into by the State Government with the Red Crescent. This would show it is the foreign contribution given to the State Government for the purpose of dwelling units and health centre to the victims of recent Kerala flood, but Exts.P1 and P2 agreements were entered into by two other persons, the Consular General of UAE, Trivandrum, Kerala in one part and two other third parties viz., Unitac Builders and Developers and Sane Ventures LLP, that too, without the juncture of the UAE Red Crescent or State Government or the LIFE Mission, who are the parties to the MoU. It is

against the understanding arrived at under the MoU signed by CEO of LIFE Mission on one part with UAE Red Crescent on the other part. Neither the UAE Red Crescent nor the State Government or the LIFE Mission is a party to the two subsequent agreements, Exts.P1 and P2, entered into for the implementation of Ext.R7(a) MoU signed by LIFE Mission (State Government) Crl.M.C.No.4375/2020 29

with UAE Red Crescent. Further, what is agre

dirhams to construct housing units and a health centre for the victims of recent Kerala flood. No subsequent agreements were entered into between the fund provider and the acceptor in furtherance of Ext.R7(a) MoU. On the other hand, two other agreements were entered into, Exts.P1 and P2 by two other persons for the purpose of utilizing the foreign contribution without the juncture of the fund provider or the acceptor. This would prima facie show the extent of foul play which is writ large on its face. Article (2) of the MoU says that: Article (2) Both parties partnership

1. The Memorandum of Understanding aims

> to establish a framework to provide the second party and aid amounting (10,000,000) ten million dirhams of which (7,000,000) seven million dirhams will be allocated to build homes for the victims of recent Kerala flood and (3,000,000) million will be allocated for the construction of a health centre operated by the second party in accordance with the agreements, plans and detailed designs which shall be made and signed subsequently between the two parties. Accordingly, it's agreed to form a memorandum of understanding which would provide a general framework governing the relationship of the two parties through

Crl.M.C.No.4375/2020 30 the exchange of skills and cooperation in the projects and other types of mutual cooperation.

2. Both party's partnership depends on

> the principle of a project after a project which means each party has the right to suggest a project to be executed by both parties jointly. Each party has the full and absolute freedom to approve or reject the project according to its own discretion and its rating for the suggested project significance and worthiness.

3. An agreement shall be made for each

project on which both parties agree to execute. This agreement shall include all conditions. Obligations and responsibilities of each party including, but not limited to the following: - The project objectives - The project term - Resources required to execute the project, including the budget - The project financing plan - The project management and its procedures -The project practical plan Strategy of reporting, controlling and assessing - Both parties communication plan - Responsibilities, obligations, duties and contributions assumed to be fulfilled by each party. Both party's communication plan. Responsibilities, obligations, duties and contributions assumed to be fulfilled by each party. (emphasis supplied)

15. Indisputably no subsequent agreements as

envisaged under Article (2) of MoU were entered into by the two parties viz. LIFE Mission (State Government) and UAE Red Crescent, without which the contribution Crl.M.C.No.4375/2020 31

agreed to be given (Ten Million UAE dirhams) under the MoU was diverted to the hands of third persons, two companies, viz. Unitac Builders and Developers and Sane Ventures LLP headed by Mr. Santhosh Eappen, for which Exts.P1 and P2 agreements were entered into by these two companies with yet another person - the Consular General UAE, Trivandrum, Kerala, without the juncture of either the UAE Red Crescent, the fund provider or

the State Government or the LIFE Mission, in whose favour the amount was agreed to be given under the MoU,

thereby, the foreign contribution intended to the benefit of flood victims of Kerala was diverted into the hands of third persons with ultimate aims for which Exts.P1 and P2 were executed between two other persons in active connivance with the officials under the LIFE Mission and their henchmen in collusion with officials

of Consulate General UAE, Trivandrum, Kerala. It is just contrary to the spirit and understanding arrived at by the parties under the MoU. Strange enough, it appears

that such agreements, Exts.P1 and P2, were entered into by two other persons for the construction Crl.M.C.No.4375/2020 32 of building in the property owned by the State Government, thereby they have played and implemented a device in the nature of Exts.P1 and P2 and diverted the

funds to the hands of a third persons without the intervention of either the State Government or the fund provider - UAE Red Crescent by avoiding audit by CAG regarding its expenditure and procedures to be adopted with respect to construction over the property of the Government and the implementation of project of the Government so as to get kickbacks and gratification. It is seemed to be so unfortunate that Exts.P1 and P2

agreements were accepted by CEO, LIFE Mission and offered all sort of help to implement the said agreements. Mr.Santhosh Eappen, who is the head of two private companies in his writ petition, had admitted the involvement of kickbacks and gratification and explained his own version with respect to the circumstances under which he had entered into Exts.P1 and P2 agreements in furtherance of MoU. The admissions made by him in his writ petition would itself show his alleged role in the commission of offence and he cannot Crl.M.C.No.4375/2020 33 escape from the liability as he is well aware of the MoU and the understanding arrived at by the UAE Red Crescent with the LIFE Mission. It would suggest that he had knowingly entered into Exts.P1 and P2 agreements overturning the MoU and diverted the foreign contribution to his own hands and played his own role in the game by evading audit by CAG and the procedure and legal formalities to be complied with in awarding a

government work. The admission made by

instance to various officials would itself prima facie

satisfy his alleged role in the commiss

General, Swapna Suresh and other officials for awarding the work under Exts.P1 and P2 agreements. Strange enough that the CEO of LIFE Mission by its letter dated

26.08.2019 (Exts.R7(b)) addressed to

prepared for building construction by Unitac Energy Solutions India Pvt. Ltd. (yet another company) and permitted to go with the construction work, that too, without having an agreement executed as envisaged under Article (2) of MoU and in total violation of legal formalities to be complied with in awarding a Government work. In fact, in furtherance of the MoU, no agreement or arrangement whatsoever was entered into by the parties to the MoU, instead the CEO of LIFE Mission has perpetrated the abovesaid delinquency by accepting intervention of third persons for the building construction and permitted them to go with building construction and even offered all sort of help in obtaining the necessary plan and permit from the local authority for the construction. The irony is that, even according to Santhosh Eappen, on receipt of Rs.14,50,00,000/- (Rupees fourteen crores fifty lakhs, he was asked by the Consular General of UAE - Kerala, through Swapna Suresh, to give an amount of AED 2 million or equivalent Indian rupee to one Mr.Khalidh, the economic head of UAE Consulate. Accordingly an Crl.M.C.No.4375/2020 35 amount of Rs.3,80,00,000/- (Rupees three crores eighty lakhs) was converted into US Dollar and given to him. This would prima facie suggest that the UAE Consulate General, Trivandrum, Kerala, who entered into Exts.P1 and P2 agreements with two companies, had played a considerable role for getting kickbacks by acting as a middleman in the transfer of foreign contribution from UAE Red Crescent. It is an admitted case that the fund

provider is not Consulate General UAE, Tri

company owned by one Sandeep Nair at the instance of Swapna Suresh. At her request, he had also purchased five i-phones for presenting the same by way of gratification for awarding the work in his favour under Exts.P1 and P2. The foreign contribution provided by the fund provider UAE Red Crescent was effectively diverted by manipulating two agreements, Exts.P1 and P2 and inducting strangers, without the juncture of fund Crl.M.C.No.4375/2020 36

provider and the beneficiary so as to get kickbacks with the active connivance and help of IAS officials connected with the project, including the CEO of LIFE Mission, who had provided and offered all sort of help and facilitated it. The extent of foul

play by these officials in facilitating creation of Exts.P1 and P2 agreement, induction of third person into the issue so as to obtain kickbacks by avoiding audit by CAG is

prima facie evident and clear from the abovesaid conduct and hence neither Santhosh Eappen nor the officials under the LIFE Mission who had done all these mischief can escape from the criminal liability.

16. The learned Senior Counsel Sri.K.V.Viswanathan

relied on Article (6) in the MoU to sanctify execution of Exts.P1 and P2 agreements without the juncture of the State Government or the LIFE Mission and to wriggle out of the liability pertaining to the diversion of funds with third parties, the Unitac Builders and Developers and Sane Ventures LLP. But it strains the credulity to accept why such a clause was incorporated in anticipation and what is behind it. Further, no Crl.M.C.No.4375/2020 37 separate agreement was entered into by either of the parties in consonance with Article (6) of the MoU and as such, they cannot seek any protection under the umbrella of Article(6) of the MoU. It is so obvious that something fishy was there even at the time of execution of MoU. The fact that such a clause (Article (6)) incorporated in the MoU giving freedom to both the parties to the MoU to keep their independency apart from the MoU and to contract with third parties would itself reveal a well hatched conspiracy to induct strangers into the transaction and to divert the foreign contribution to the hands of a third person. As stated earlier, no subsequent agreement was entered into by any of the parties to the MoU either in consonance with Article (6) of MoU or otherwise. As such, no sanctity can be attached to the execution of Exts.P1 and P2 agreements entered into without the fund provider, a foreign source, and the State Government or the LIFE Mission to whom the fund was actually intended.

17. The requirement of a preliminary enquiry before Crl.M.C.No.4375/2020 38 registration of crime under Section 154 Cr.P.C. would

arise only when the information rece

need not be any preliminary enquiry so as to register a crime under Section 154 Cr.P.C.. A clear distinction was drawn by the constitutional Bench of the Apex

Court in Lalita Kumari v. Government of Uttar Pradesh and others [(2014) 2 SCC 1]. Hence the non-conduct of preliminary enquiry in the instant case will not vitiate the FIR registered based on the information disclosing commission of a cognizable offence.

18. A constitution Bench of the Apex Court in

Subramanian Swamy v. Director, Centr

Special Police Establishment Act, 1946 and hence the challenge against its constitutional validity does not arise for consideration.

19. Further, there is no compliance of mandate Crl.M.C.No.4375/2020 39

under Article 299 of the Constitution

Limited v. Union of India and Others [(2012) 11 SCC 1] and People for Economical and Effictive Medicare v. Union Govt. of India (AIR 2002 AP 282 : 2002 SCC Online AP 171). What matters is not the nomenclature of the document, but the substance. Ext.R7(a) cannot be considered as a mere understanding arrived at, but includes the offer made by UAE Red Crescent and its acceptance by LIFE Mission. Further, no other agreement was entered into by the parties to the MoU, though the foreign contribution offered was transferred subsequently. It is would prima facie show the real nature of MoU. By its very nature, prima facie it appears that it would constitute a concluded contract with respect to foreign contribution and its acceptance. It would be fatuous and absurd to accept the argument that there is no requirement of compliance Crl.M.C.No.4375/2020 40 with the mandate under Article 299 of the Constitution. It should be in compliance with the constitutional requirement under Article 299 of the Constitution of India, which mandates that (a) the Government contracts must be expressed as to be made by the President or the Governor (b) that they shall be executed by the competent person and in the prescribed manner (c) if the above requirements are not complied with (1)Government is not bound by the contract because Article 299 is mandatory; (2) the officer executing the contract would be personally bound;(3) the Government, however, if it enjoys the benefit of performance by the other party to the contract, would be bound to recompense on the principle of quantum meruit or

quantum valebat(service or goods received). Even the Doctrine of Indoor Management cannot be applied in the case of Government contract and contracts of Government Corporations, where certain formalities are required to be observed. It cannot be even accepted that the CEO of the LIFE Mission who is a senior IAS Officer and his allies are not aware of the said legal requirement. Crl.M.C.No.4375/2020 41 There is no plausible or acceptable reason for non-execution of subsequent agreements as envisaged in the MoU between the parties thereto, but instead of it facilitated induction of two agreements entered into by third persons namely Unitac Builders and Developers and

Sane Ventures LLP with the UAE Consulate

utilization of funds received from a foreign source. A well designed foul play and criminal conspiracy to misappropriate foreign contribution by evading audit by CAG are prima facie clear from the said facts and as such, it appears that they cannot claim any exemption under Ext.P6 notification issued by the Central Government. The vital part of Ext.P6 notification is resting on the compulsory audit of the account by CAG or any other agencies of CAG and when that vital part is defeated, they cannot claim the exemption under that notification.

20. The asseveration that the amount received by Unitac Builders and Developers and Sane Ventures LLP Crl.M.C.No.4375/2020 42

from UAE Red Crescent is for the service rendered by them in the ordinary course of their business and as such it will stand excluded by virtue of Explanation 3 to Section 2(1)(h)of the FCR Act cannot be accepted. Explanation 3 is extracted below for reference:

> Explanation 3.-- Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent of a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within

the meaning of this clause (emphasis supplied)

21. The expression in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received should be understood in relation to the genuine

transaction/business done in the ordinary course of business of any person who had received any payment from a foreign source towards its cost or service and cannot be extended to a transaction used as a device to divert foreign contribution to a third person,that too, without the juncture of the person to whom it was Crl.M.C.No.4375/2020 43 actually intended to give. A clear nexus of criminal conspiracy to divert the foreign contribution to the hands of a third person - Unitac Builders and Developers and Sane Ventures LLP is prima facie evident from the mere fact that no agreement was entered into between the UAE Red Crescent and the State Government in furtherance of MoU. None of them entered into any subsequent agreement with any of the parties to Exts.P1

and P2. On the other hand, two other in

contribution by allowing them to enter into separate agreements with UAE Consulate General, Trivandrum, Kerala and hence it satisfies a prima facie case to be investigated by the CBI.

22. Inter alia, it was contended that even if it is

assumed that the transaction with Red Crescent would stand covered by Section 3(2)(b) of FCR Act, 2010, the said provision covers only the deliverer of foreign currency and not the recipient and as such the FIR is liable to be quashed by relying on the decisions in Crl.M.C.No.4375/2020 44 State of Karnataka v. L.Muniswamy [(1977) 2 SCC 699], State of Karnataka v. M.Devendrappa and another [(2002) 3 SCC 89] and R.P.Kapur v. State of Punjab[(1960) 3 SCR

388]. It is too difficult to accept the abovesaid argument as what is prohibited under Section 3 is the prohibition to accept foreign contribution. The expression no foreign contribution shall be accepted by stands for acceptance and receipt of foreign contribution and not with respect to the deliverer, but with the recipient.

23. The learned Senior Counsel Sri.K.V.Viswanathan also submitted that it is settled law that when the law visits a person with serious penal consequences, extra care must be taken to ensure that those who the

legislature did not intend to cover are not robed in by stretching the language of law by relying on the decision in Niranjan Singh K.S. Punjabi v. Jitendra Bhimraj Bijaya and others [(1990) 4 SCC 76], Usman Bhai Dawoodbhai Memon and others v. State of Gujarat [(1998) 2 SCC 271]. But, the question of interpretation of a penal statute and rule of interpretation of criminal

Crl.M.C.No.4375/2020 45 provision cannot be applied at the initial stage of investigation by conducting a roving enquiry, though the same can be a ground of attack or defence at the final stage after completion of investigation.

24. The FIR registered and the investigation initiated by the CBI also brought under attack on the reason that the crime was registered on extraneous considerations with the ultimate aim to gain political mileage and it will be used as a weapon against the State Government under the guise of the said investigation. LIFE Mission is admittedly one of the comprehensive development projects formulated by the State Government having State Level Mission, District Level Mission and Local Self Government Mission. The Chairman of State Level Mission is the Chief Minister of the State. The Ministers of the Local Self Government is the Co-Chairman and Ministers of Finance, Housing, Social Justice, Electricity, Water Resources, Labour and Schedule Castes and Scheduled Tribes Development and Fisheries are its Vice-Chairman. The leader of opposition in the State Legislative Assembly Crl.M.C.No.4375/2020 46

is a special invitee to the State Level Mission and Chief Secretary is its member, while the Secretary for Local Self Government is its Secretary. It is one of the stellar programmes launched by the State Government based on the policy decision taken by the present ruling dispensation in the State.

25. It is an admitted case that LIFE Mission is a project formulated and launched by the State Government based on a policy decision. Then it is upto

the civil servants, the non-political executive (permanent executive) to implement it by due process of law. The typical nature of the facts involved in the instant case would reveal a high profile intellectual fraud played in furtherance of MoU so as to avoid audit by CAG and to get kickbacks and gratifications. The very nature of the mischief done in furtherance of MoU would suggest involvement of highly educated professionals - a master mind behind it. Our written constitution which is supreme adumbrates as well as divides powers, roles and functions of three wings of the State - the legislature, the executive and the Crl.M.C.No.4375/2020 47 judiciary. It was observed by a three Judge Bench of the Apex court in Dr.Ashwani Kumar v. Union of India and another [2019 (12) SCALE 125] that:

> These divisions are boundaries and limits fixed by the Constitution to check and prevent transgression by any one of the three branches into the powers, functions and tasks that fall within the domain of the other wing. The three branches have to respect the constitutional division and not disturb the allocation of roles and functions between the triad. Adherence to the constitutional scheme dividing the powers and functions is a guard and check against potential abuse of power and the rule of law is secured when each branch observes the constitutional limitations to their powers, functions and roles.

26. The Constitution of legislature and its functions were also taken into consideration by the Apex Court in the following lines:

> Legislature, as an institution and a wing of the Government, is a microcosm of bigger social community possessing qualities of a democratic institution in terms of composition, diversity and accountability. Legislature uses in-built procedures carefully designed and adopted to bring a plenitude of representations and resources as they have access to information,skills,expertise and knowledge of the people working within the institution and outside in the form of executive.

27. The executive in its broad definition includes the political executive (the Chief Minister and the

Ministers) and the non-political executive (

executive is to ensure proper implementation of laws passed by the legislature and to check and balance the governance in accordance with the law in force. The function of IAS officials, who are the permanent executive (non-political executive), is to assist the

political executive (the Chief Minister, Ministers andthe

implementing policy decisions in accordance with the law in force. They being the steel frames in the governance in our democratic system, burdened with the job of assisting formulation of policy decision and its implementation strictly in accordance with the constitutional mandates and the law in force. They are bound to take up all legal objections with its legal consequences to the notice of political executive in writing, while formulating and implementing policy decisions, otherwise, it would be tantamount to collaborating with the political executive rather than maintaining a healthy confrontation. The duties cast Crl.M.C.No.4375/2020 49 upon civil servants, the IAS officials, being non- political executive are two folded that (1) they should assist in formulating policy decisions by the political executives and (2) to implement it by applying check and balance which stands for scrutinizing its legal validity in the light of present law in force and the constitutional requirement and to strike a balance in accordance with the law safeguarding the interests of

all citizens including fundamental rights

legislature), there should be strict adherence to the present law in force by the non-political executive viz. the civil servants- IAS officials connected with the issue. Their failure to address the issue or mischief, if any, done by them in the matter of its

implementation, cannot, by itself, be a

notice with its legal consequences in writing or by Crl.M.C.No.4375/2020 50 that means they have obtained a personal benefit with knowledge of the breach or mischief done. Even pro- active steps taken by the political executive (Chief Minister, Ministers and legislature) in the implementation of the project/policy decisions may not, by itself, make them responsible for any criminal liability, especially in a case of this nature, wherein a well designed and intelligent hidden agenda was

scrupulously employed by the civil servants in connivance with the middleman, the Consulate General of UAE, Trivandrum, Kerala, unless it was known or made known to them with its legal consequences specifically in writing by the civil servants, who are bound to do

it by exercising a healthy confrontation. In the instant case, it appears that all these mischief were done at the time of implementation of part of project LIFE Mission by the permanent members attached to it - the IAS officers with Swapna Suresh, Sandeep Nair, Sarith, Santhosh Eappen and their allies. The mere fact that policy decisions were taken by the Chief Minister, the Ministers or the Legislature, may not by itself be

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sufficient to extend criminal liability against

political executive merely because they have taken a policy decision and pro-active steps in its implementation. With that observation, the present Crl.M.C. and the writ petition are hereby dismissed. The impleading petitions - Crl.M.A.No.3/2020 and 4/2020 are also dismissed.

Sd/- P.SOMARAJAN SV JUDGE Crl.M.C.No.4375/2020 52 APPENDIX OF WP(C) 20668/2020 PETITIONER'S/S EXHIBITS: EXHIBIT P1 THE TRUE COPY OF THE AGREEMENT DATED 31.07.2019 EXECUTED BETWEEN THE UNITAC BUILDERS PVT. LTD AND UAE CONSULATE. EXHIBIT P2 THE TRUE COPY OF THE AGREEMENT DATED 31.07.2019 EXECUTED BETWEEN THE SANE VENTURE PVT. LTD AND UAE CONSULATE. EXHIBIT P3 THE TRUE COPY OF THE BILL DATED 29.11.2019 ISSUED BY LULU HYPER MARKET. EXHIBIT P4

THE TRUE COPY OF THE COMPLAINT DATED 20.09.2020 SUBMITTED BY THE 7TH RESPONDENT BEFORE THE 3RD RESPONDENT. EXHIBIT P5 THE TRUE COPY OF THE FIR NO.RC5[A]/2020/CBI/ACB/KOCHIN OF THE 3RD RESPONDENT DATED 24.09.2020. EXHIBIT P6 THE TRUE COPY OF THE NOTIFICATION DATED 30.1.2020 S.O.459(e) ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P7 THE TRUE COPY OF THE RESOLUTION WITH ORDER

DATED 1.4.1963 ISSUED BY THE GOVERNMENT OF INDIA. EXHIBIT P8 THE TRUE COPY OF THE NOTIFICATION DATED 27.10.2011 SO-2446[E] ISSUED BY THE CENTRAL GOVERNMENT. RESPONDENT'S/S EXHIBITS: EXHIBIT R7 (a) TRUE COPY OF AGREEMENT EXECUTED BETWEEN UNITED ARAB EMIRATES RED CRESCENT AUTHORITY AND LIFE MISSION ON 11/7/2019 EXHIBIT R7 (b) TRUE COPY OF LETTER DATED 26/8/2019 SUBMITTED BY CEO, LIFE MISSION TO UAE RED CRESCENT AUTHORITY Crl.M.C.No.4375/2020 53 APPENDIX OF Crl.MC 4375/2020 PETITIONER'S/S ANNEXURES: ANNEXURE A CERTIFIED COPY OF THE COMPLAINT 20.09.2020 BEFORE THE FIRST RESPONDENT. ANNEXURE B TRUE PHOTOCOPY OF FIR NO. RC 0332020A0005 DATED 24.09.2020 AS AVAILABLE IN THE WEBSITE OF THE CENTRAL BUREAU OF INSTIGATIONS AND DOWNLOADED. ANNEXURE C CERTIFIED COPY OF FIR NO. RC

5(A)/2020/ACB/CBI/ COCHIN ON 24.09.2020 SUBMITTED BEFORE THE COURT OF THE LEARNED CHIEF JUDICIAL MAGISTRATE, ERNAKULAM. ANNEXURE D TRUE COPY OF THE LETTER NO. LM/EW/15/PILOT THRISSUR /2018-19 DATED 26.08.2019 FROM THE PETITIONER TO THE GENERAL SECRETARY, RED CRESCENT. ANNEXURE E TRUE PHOTOCOPY OF NOTIFICATION NO. SO 1492

(E) DATED 01.07.2011. ANNEXURE F TRUE PHOTOCOPY OF NOTIFICATION NO. SO 459

(E) DATED 30.01.2020. ANNEXURE G TRUE COPY OF THE NOTIFICATION NO. SO. 2446

(E) DATED 27.10.2011 ISSUED BY THE MINISTRY

OF HOME AFFAIRS, GOVERNMENT OF INDIA. ANNEXURE H TRUE PHOTOCOPY OF THE ORDER DATED 28.09.2020 ISSUED BY THE INSPECTOR OF POLICE, ACB, CBI, KOCHI TO THE PETITIONER. ANNEXURE I TRUE COPY OF G.O.(P)NO.41/2016/P& E AD DATED 28/09/2016 ANNEXURE J TRUE COPY OF G.O.(MS)NO.160/16/LSGD DATED 8/11/2016 ANNEXURE K TRUE COPY OF G.O.(Rt)NO.3569/2016/LSGD DATED 31/12/2016 ANNEXURE L TRUE COPY OF THE GAZETTE NOTIFICATION G.O. (P)NO.83/2019/TD OF THE TAXES(J)DEPARTMENT DATED 3/6/2019 ANNEXURE M TRUE COPY OF THE GAZETTE NOTIFICATION G.O. (P)NO.84/2019/TD OF THE TAXES(J)DEPARTMENT DATED 3/6/2019 ANNEXURE N TRUE COPY OF THE PRINT OUT OF THE HOME PAGE OF LIFE MISSION DATED 30/09/2020 Crl.M.C.No.4375/2020 54 ANNEXURE O TRUE COPY OF THE GOVERNMENT ORDER G.O. (Rt)No.483/2020/LSGD DATED 27/02/2020 ANNEXURE P TRUE COPY OF THE GOVERNMENT ORDER G.O. (Rt)No.1704/2020/LSGD DATED 22/09/2020 ANNEXURE Q TRUE COPY OF THE GOVERNMENT ORDER G.O. (Ms)No.126/2020/LSGD DATED 20/08/2020 // TRUE COPY // Sd/- P.S. TO JUDGE

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