

Umesh Kumar Ips Vs. the State of Andhra Pradesh Rep. by Its Chief Secretary, General Administration Department, Andhra Pradesh Secretariat, Hyderabad and Others.

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Court : Andhra Pradesh

Decided On : Apr-11-2012

Judge : Ramesh Ranganathan

Appeal No. : Writ Petition No. 27062 of 2011

Appellant : Umesh Kumar Ips

Respondent : The State of Andhra Pradesh Rep. by Its Chief Secretary, General Administration Department, Andhra Pradesh Secretariat, Hyderabad and Others.

Advocate for Pet/Ap. : Sri. Prabhakar Sripada

Judgement :

The petitioner herein seeks a direction from this Court

(1) to direct respondents 1 and 2, (i.e., the Government of Andhra Pradesh represented by its Chief Secretary; and the Government of Andhra Pradesh represented by its Principal Secretary, Home Department), to transfer Crime No.53 of 2011 on the file of P.S. CID, Hyderabad to the Central Bureau of Investigation (C.B.I) or to direct investigation of the said complaint under the supervision of an officer senior to Sri V. Dinesh Reddy, IPS, Director General of

Police (DGP) (respondent No.4);

(2) to direct CBI to enquire into the entire property transactions of the 4th respondent and his wife, and examine if Sri Y. Ravi Prasad and Sri A. Krishna Reddy are holding 542 properties as benamies of the 4th respondent and his wife;

(3) to direct the Government of Andhra Pradesh and the Union of India to order an enquiry for initiating disciplinary action against the 4th respondent on the basis of the petitioners letters dated 08.03.2011, 27.04.2011, 21.06.2011, 02.09.2011 and 09.09.2011, for violation of Rule 3(1) of the All India Services (Conduct) Rules, 1968 (hereinafter referred to as the Conduct Rules); and

(4) to direct both the Government of A.P., and the Union of India, to call upon the 4th respondent to furnish a full and complete statement of all movable and immovable properties acquired or sold by him, or by any member of his family, in accordance with Rule 16(5) of the Conduct Rules, and initiate disciplinary action under Rule 3(1) and Rules 16(1),

(3) and

(4) of the Conduct Rules.

2. Facts, in so far as they are relevant to the reliefs sought for in this Writ Petition, are that the Vigilance Commissioner, A.P. Vigilance Commission, Hyderabad, forwarded a copy of the complaint petition, and its enclosures, purported to have been put in by one Sri T. Ramulu Naik, organizing secretary of the All India Banjara Seva Sangham, Ranga Reddy District. Allegations were levelled, in the said complaint petition, against Sri V. Dinesh Reddy, IPS (4th respondent herein). The Vigilance Commissioner requested that necessary action be taken on the complaint petition. While the file was being examined by the State Government to verify the genuineness of the petition, the Joint Secretary to the Government of India, Ministry of Home Affairs, New Delhi, vide letter dated 05.05.2011, enclosed a copy of the complaint dated 22.04.2011, along with its enclosures, sent in the name of Sri M.A. Khan, Member of Parliament. The complaint alleged that the 4th respondent had disproportionate assets, and his wife had purchased huge extents

of land either herself or through benamies. The Joint Secretary informed that the matter should be looked into, and a detailed report sent to the Ministry for sending a suitable reply. While matters stood thus the fourth respondent informed the 1st respondent, vide letter dated 28.05.2011, that he had got the matter enquired into, and it was found that the representationist Sri T. Ramulu Naik did not exist, and it was a pseudonym petition. The fourth respondent requested the Government to order a CID probe as it was a case of forgery, criminal conspiracy and cheating. In his letter dated 23.05.2011, Sri M.A. Khan (Member of Parliament-Rajya Sabha) informed the Joint Secretary, Ministry of Home Affairs, Government of India that the letter sent in his name earlier was fabricated; no such letter was addressed by him either to the Home Secretary or to any one else; and the letter be treated as false. Thereafter the State Government, vide memo dated 02.08.2011, requested the Additional Director-General of Police, CID (7th respondent herein) to conduct an enquiry, and submit a report to the Government, into (a) who had forged the letter of Sri M.A. Khan, M.P; and (b) who had obtained all these documents running into hundreds of pages from the concerned Sub-Registrars offices. The 7th respondent informed the 4th respondent, by his letter dated 22.08.2011, that an officer of the CID had conducted an enquiry, and had submitted a detailed report; the enquiry report established the prima facie role of the petitioner; and, therefore, the matter required a further detailed enquiry in order to unearth real facts, and ascertain who had forged the signature of Sri M.A. Khan, Member of Parliament. An FIR was registered in Crime No.53/2011 on 25.08.2011 for offences under Sections 471, 468 and 120-B IPC against Sri T. Sunil Reddy (Accused No.1), and two others. In the complaint filed in Cr. No.53 of 2011 Sri T. Sunil Reddy and two others are alleged to have secured certified copies of registered documents by filing search applications in the names of third parties forging their signatures with the ulterior motive of maligning a senior police officer; to have created a false representation in the name of a fictitious person i.e., one Sri Tejavath Ramulu Naik, organizing secretary of the All India Banjara Seva Sangham, Rangareddy District, and a false covering letter dated 22.04.2011 purported to have been written by Sri M.A. Khan, MP (Rajya Sabha), for enquiry into the matter alleged in the representation; Sri M.A. Khan had informed that no such letter was addressed by him at any point of time, and the signature did not

belong to him; during the course of enquiry at the sub-registrars offices at Maheshwaram, Champapet and Medchal, it was revealed that one Lokesh, a document writer at Champapet SRO, had applied for certified copies, and had collected about 30 certified copies of registered documents; on examination, Sri D. Lokesh stated that he had obtained certified copies of registered documents at the instance of Sri N. Sharath Reddy, a childhood friend; upon enquiry Sri Sharath Reddy stated that he had acted on the instructions of his distant relative Sri T. Sunil Reddy who, in turn, revealed that, on the instructions of a Senior Officer, he had collected certified copies of the registered documents with the help of the said Lokesh and Sharath; on his being examined, Sri R. Ramavath Roop Singh stated that he did not lodge any such complaint against any of the officers, and there was no organizing secretary in the name of Tejavath Ramulu Naik; the Secretary, Gram Panchayat, Shamshabad informed in writing that no house bearing Door No.2-34/A is in existence in the village; these facts reveal that Sri T. Sunil Reddy, with a malafide intention, had collected certified copies of registered documents from the sub-registrars offices at Maheshwaram, Champapet and Medchal; he had also created a false representation in the name of Tejavath Ramulu Naik, organizing secretary of the All India Banjara Seva Samithi, and a false covering letter in the name of Sri M.A. Khan, MP (RS) by forging his signature on his letter head; the forged letter was forwarded to the Union Government; on careful observation it was visible to the naked eye that the alleged signature of Sri M.A. Khan, on the alleged covering letter, had a striking similarity with the original signature of Sri T. Sunil Reddy; the enquiry revealed a prima facie case of forgery, using false documents as genuine knowing it to be false, and conspiracy to do an illegal act; and true facts would come out during the course of regular investigation.

3. Sri T. Sunil Reddy was arrested on 26.08.2011, and remanded to police custody. His confession was recorded on 27.08.2011 and 03.09.2011. Sri T. Sunil Reddy filed a petition under Section 306 Cr.P.C. on 07.09.2011, (numbered as CrI.M.P. No.3729 of 2011), which the prosecution did not oppose. A memo was filed in the Court on 24.09.2011 to array the petitioner as the 4th accused. The Learned XI Addl. Chief Metropolitan Magistrate passed an order on 10.10.2011 granting pardon to Sri T. Sunil Reddy. The present Writ Petition was filed on

27.09.2011. During the pendency of this Writ Petition, a charge sheet was filed in the Chief Metropolitan Magistrate Court on 14.11.2011 for offences under Sections 468, 471, 120-B and 201 IPC.

4. Elaborate submissions, both oral and written, were made by Sri Prabhakar Sripada, Learned Counsel for the petitioner, the Learned Additional-Advocate General appearing on behalf of the State Government and Sri C. Padmanabha Reddy, Learned Senior Counsel appearing on behalf of 4th respondent (Sri V. Dinesh Reddy, Director General of Police). It is convenient to refer to the contentions urged by Counsel on either side under different heads in terms of the reliefs sought for in this Writ Petition.

I. Transfer of Cr. No.53 of 2011 on the file of P.S. CID, Hyderabad to the Central Bureau of Investigation or direct the investigation to be carried out under the supervision of an officer senior to respondent No.4.

5. Learned Additional Advocate General would submit that the relief sought, for entrusting investigation of Crime No.53 of 2011 to the CBI, should not be granted as investigation has already been completed, and a charge sheet filed; even otherwise entrustment of investigation to the CBI cannot be directed for the mere asking or as a matter of routine, but will have to be considered after duly taking into account several factors; as the petitioner has filed a petition under Section 482 Cr.P.C. to quash the said charges, he can only seek either of the two reliefs; and, since the petitioner has chosen to prosecute both of them, the present relief is liable to be rejected. Sri C. Padmanabha Reddy, Learned Senior Counsel appearing on behalf of the 4th respondent, would also submit that, as the petitioner has already sought quashing of Crime No.53 of 2011, two remedies cannot be exercised for the same relief.

6. A perusal of the Government note file would show that the petitioner had requested the first respondent that the case in Cr. No.53 of 2011, being investigated by the CBCID, may either be transferred to the CBI or be investigated under the direct supervision of an officer senior to the 4th respondent, with a dedicated team to bring out the truth and avoid fabrication; on 13.09.2011 the Prl. Secretary, (GAD) furnished a list of senior IAS/IPS officers (belonging to the 1975

and 1976 batches) working in the State at flag “x”; on 14.09.2011 the first respondent endorsed that the CBCID had given a preliminary report which may be processed, and a detailed circulation note be prepared; and again on 22.11.2011 the Principal Secretary, while enclosing a detailed circulation note, informed that the 7th respondent had submitted a preliminary report wherein he stated that a prima facie case was established against the petitioner which required further enquiry. The file was placed for orders of the 1st respondent regarding the petitioner’s representation, and the request of the CID. On 25.09.2011, the 1st respondent endorsed that this was a very complex matter, and it needed a detailed study. The Principal Secretary (GAD) was asked to go through all the connected files comprehensively, and get a circulation note put up indicating various options, and the further course of action as per Rules; the allegations and counter allegations should be tabulated; and the action to be taken now on various issues as per the rules should also be indicated.

7. While matters stood thus, the present Writ Petition was filed on 27.09.2011 and, thereafter, Sri T. Sunil Reddy (A-1 in Cr. No.53 of 2011) was tendered pardon by the VI Additional Chief Metropolitan Magistrate, Hyderabad on 10.10.2011, and a charge sheet was filed in C.C. No.555 of 2011 (renumbered as C.C. No.846 of 2011) on 14.11.2011 for offences under Sections 468, 471, 120-B and 201 IPC. The petitioner invoked the jurisdiction of this Court under Section 482 Cr.P.C, and filed Criminal Petition No.12791 of 2011 seeking to have the charge sheet quashed. He filed W.P. No.31927 of 2011 questioning the order of the VI Additional Chief Metropolitan Magistrate dated 10.10.2011.

8. The High Court has the power, under Article 226 of the Constitution of India, to direct investigation by the Central Bureau of Investigation (CBI). (**Nirmal Singh Kahlon v. State of Punjab** (2009) 1 SCC 441). Despite the wide powers conferred on it, by Article 226 of the Constitution, the High Court must, while passing any order, bear in mind certain self-imposed limitations on the exercise of this constitutional power. The very plenitude of the power, under the said Article, requires great caution in its exercise. Although no inflexible guidelines can be laid down to decide whether or not the power, of issuing a direction to the CBI, to conduct investigation in a case should be exercised or not, such an order is not to

be passed as a matter of routine. This extra-ordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instill confidence in the investigation or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice, and enforcing the fundamental rights. (**State of West Bengal v. The Committee for Protection of Democratic Rights, West Bengal** 2010(1) Supreme Today 707). Although the High Court has the power to order a CBI inquiry, that power should only be exercised if the High Court, after considering the material on record, comes to the conclusion that such material discloses, *prima facie*, a case calling for investigation by the CBI or by any other similar agency. A CBI inquiry cannot be ordered as a matter of routine or merely because the party makes some allegation. (**Sakiri Vasu v. State of Uttar Pradesh** (2008) 2 SCC 409; **Secy., Minor Irrigation and Rural Engg. Services, U.P. v. Sahngoo Ram Arya** 2002) 5 SCC 521).

9. While it is true that the Government itself was examining the petitioner's request that Cr. No.53 of 2011 before the CID P.S. should be referred for investigation to the CBI, or be carried on under the overall supervision of an officer senior to the 4th respondent, the fact remains that a charge sheet has since been filed during the pendency of this Writ Petition. While this Court would, undoubtedly, have the power to direct investigation by the CBI, the power to so direct must be exercised sparingly, cautiously and in exceptional situations. Since the matter is no longer under investigation, a charge sheet has already been filed, and the matter is before the Court of the Chief Metropolitan Magistrate, Hyderabad the petitioner's apprehension, that the 4th respondent would continue to exercise control over, and direct the course of investigation, to wreck vengeance on him, would no longer survive. As such no useful purpose would now be served in directing investigation afresh by the CBI, more so as the 4th respondent can no longer be said to exercise any form of control over further proceedings which are pending before the Court of the Chief Metropolitan Magistrate, Hyderabad in C.C. No.846 of 2011. I see no reason, therefore, to direct investigation by the CBI. Relief (1) must therefore be, and is accordingly, rejected.

II. Should the CBI be directed to enquire into the property transactions of respondent No.4 and his wife and examine Sri Y. Ravi Prasad and Sri A. Krishna Reddy who the petitioner claims were holding 542 properties as benamies of the respondent No.4 and his wife.

10. Sri Prabhakar Sripada, Learned Counsel for the petitioner, would submit that, in so far as reliefs II and IV are concerned, the 1st respondent, under Rule 16(5) of the Conduct Rules, has now asked the 4th respondent, vide memo dated 06.02.2012, to furnish details of the properties purchased or sold by his wife; the 4th respondent had deliberately failed to disclose his property returns with an oblique motive; he has not even disclosed his inherited/ancestral properties, let alone properties which he may have acquired during his 34 years of service; it is only with a view to avoid a possible order from this Court that the 1st respondent had issued memo dated 06.02.2012; this revealed a breakdown of the institutional integrity of both the office of the Chief Secretary as well as the Director-General of Police; the State Government was in possession of details of several property transactions of the wife of the 4th respondent, as also details of the 542 properties being held by two individuals with whom the wife of the 4th respondent had property dealings; and the sale deeds of the wife of the 4th respondent show that she had attempted to conceal her identity describing herself as the wife of "V.D. Reddy", and in not disclosing her residential address in the sale deeds.

11. Learned counsel would further submit that a comparison of the 31 documents contained in the remand report, with the details in the website of the department of stamps and registration, showed that several documents relate to the wife of the fourth respondent, and certain others to his sister-in-law; the wife of the 4th respondent had purchased 10 properties (in the year 2005-06) by means of registered sale deeds for Rs.36.50 lakhs, and had sold some of these properties by registered sale deeds (in the year 2007) for more than Rs.2.25 crores making unusually high profits; a majority of these transactions were between the wife of the 4th respondent on the one hand, and Sri G. Mohan Rao and Sri Y. Ravi Prasad on the other; both Sri G. Mohan Rao and Sri Y. Ravi Prasad were holding a general power of attorney on behalf of the wife of the 4th respondent; these documents revealed that the wife of the 4th respondent had sold her properties to

the very persons who were acting as her agents by virtue of the GPA; the records of the CID would show 31 documents with registration numbers pertaining to the fourth respondent's family members, and another 542 documents without mentioning registration numbers; these 542 transactions related to land which stood in the names of two individuals viz., Sri Y. Ravi Prasad and Sri A. Krishna Reddy; the wife of the fourth respondent had purchased properties from Sri Y. Ravi Prasad for a nominal amount and, in turn, had sold it to Sri A. Krishna Reddy at a higher amount; similarly there were transactions between the sister-in-law of the fourth respondent and Sri Y. Ravi Prasad; only an enquiry by an independent agency would establish the illegal activities of the fourth respondent and his family members; an enquiry was necessary to ascertain whether the said two individuals were acting as fronts of corrupt public servants, and were holding these properties as benamies; the fourth respondent was desperately trying to avoid an enquiry into such transactions, diverting the attention of the State Government, and other agencies, to a concocted criminal case registered with the sole purpose of implicating the petitioner; the fourth respondent had not intimated the property transactions of his wife at any point of time; the aforesaid facts would necessitate a probe since the properties had been acquired benami; during the period when the properties were acquired, the fourth respondent was holding important posts including that of the Commissioner of Police, Hyderabad, and other significant posts.

12. Learned Additional Advocate General would contend that, while an enquiry is sought against the wife of the 4th respondent, Sri Y. Ravi Prasad and Sri A. Krishna Reddy, none of them have been arrayed as respondents in the Writ Petition, nor has any steps been taken to implead them as parties to the lis; the relief sought for is liable to be rejected for non-joinder of necessary and proper parties; and, even on merits, the relief sought for cannot be granted, for the same reason on which the first of the prayers is liable to be rejected.

13. Sri C. Padmanabha Reddy, Learned Senior Counsel, would submit that the power to cause enquiry through the CBI should be exercised sparingly; this Court would not direct the CBI to enquiry into the property transactions of the 4th respondent and his wife, or for examination of Sri Y. Ravi Prasad and Sri A.

Krishna Reddy; in November, 2010, eight months before the retirement of erstwhile DGP and with a view to malign the fourth respondent, the petitioner had devised an innovative idea of knowing details of the properties standing in his name and that of his wife; the petitioner had filed concocted petitions in the name of Sri M.A. Khan, M.P, forging his signature, and misusing his powers as the Director General-ACB to malign him; the petitioner had sought details of the properties in the 4th respondent and his wife's name going into the website of the Registration department which he alone, as the Director General-ACB, had access to; the petitioner never submitted any representation for an enquiry into the fourth respondent's wife's property transactions at any time or even after filing the Writ Petition; the service record of the 4th respondent discloses that he is an upright officer known for his impeccable integrity; he held important posts in the service, and had earned the post of DGP in his own right; there has not been a single allegation of moral turpitude against him so far; he had submitted a report regarding the Rs.5,000 crore EMMAR scam; and the High Court had appreciated him in person, and had passed commendations on his report; even though the petitioner made a reference to the spouse of the 4th respondent, and to the other two individuals, in the amended relief sought for in the writ petition, they were not made parties, and no relief was sought against them; the Writ Petition is liable to be rejected in limini for non-joinder of necessary and proper parties; the petitioner is seeking to tarnish the image of the 4th respondent in the eyes of the public levelling false, frivolous, careless, vexatious allegations without any regard for the truth.

14. At the request of this Court, Learned Additional Advocate General has placed five lists of sale and purchase of land by the 4th respondent's wife and her sister Smt. S. Nalini. List I contains details of 10 registered documents, 8 of them relate to documents registered in the year 2005 whereby the 4th respondent's wife purchased different extents of land in Maheswaram and Saroornagar mandals. Three of these documents relate to purchases of different extents of land by the 4th respondent's wife from Sri Y. Ravi Prasad S/o Venkat Narayana. The other two documents are of the year 1998 whereby the 4th respondent's wife purchased land in Qutbullapur Mandal. List 2 contains details of 12 documents whereby the 4th respondent's wife sold different extents of land in the years 2005-06, except for

one document which relates to the year 2003. The tabular statement shows that one of these documents of sale was effected by the 4th respondent's wife represented by her GPA Sri G. Ram Mohan Rao in favour of the vendee Sri A. Krishna Reddy S/o of Late Venkat Reddy. Six of the other documents relate to different extents of land sold by the 4th respondent's wife to the very same Sri G. Ram Mohan Rao who had acted as her GPA in selling an extent of land in favour of Sri A. Krishna Reddy. Another document is an agreement of sale cum GPA made by the 4th respondent in favour of Sri Y. Ravi Prasad. List-3 is the list of two properties sold in the year 2006 by the vendors represented by their agreement of sale cum GPA holders Sri A. Krishna Reddy and the 4th respondent's wife (who in turn was represented by her agreement of sale cum GPA holder Sri G. Rama Mohan Rao). The other documents relate to the land sold by 4th respondent's wife and his sister-in-law represented by their GPA Sri G. Rama Mohan Rao. List - 4 contains details of three documents of the years 2005 and 2006 relating to purchase of land by the 4th respondent's sister in law in one of which Sri Y. Ravi Prasad is shown as the GPA holder of the vendor. List -5 contains details of four documents of the years 2005 and 2006 relating to sale of land by the 4th respondent's sister-in-law, two of which are in favour of Sri G. Rama Mohan Rao and the other two in favour of Sri Y. Ravi Prasad and Sri A. Krishna Reddy respectively. Prima facie, it does appear that Sri G. Rama Mohan Rao, Sri Y. Ravi Prasad and Sri A. Krishna Reddy were closely associated with the 4th respondent's wife and his sister-in-law in the purchase and sale of different extents of land during the aforesaid period. Curiously, while most of these land transactions relate to the years 2005 and 2006, the annual property returns of the 4th respondent for these years do not form part of the record placed before this Court. The only inference which can be drawn therefrom is that either the fourth respondent has not filed his annual property statements for these years or, if he has, the respondents, for reasons not known, have chosen not to place them before this Court. While the other land transactions, referred to in the aforesaid lists, relate to the years 1998 and 2003, the annual property statements of the 4th respondent for the said years is "**same as last year**". It is not as if the 4th respondent has not disclosed any of his wife's assets in any of his annual property statements. For the year 1991 he referred to a house being constructed by him on

his wife's site; for the year 1997, the 4th respondent referred to the proceeds received by his wife on the sale of her property; and in the year 2000 he declared that he and his wife had purchased and constructed a house on a site. The very fact that, for the aforesaid three years, the 4th respondent declared some, if not all, of his wife's assets would show that he also understood Rule 16 as requiring him to declare the assets of his wife.

15. While the Petitioner would allege that the aforesaid three persons are benamies of the 4th respondent and his wife; the 4th respondent would submit that his wife comes from an affluent family; she is an income tax assessee; she has an independent source of income; and the investments made by her were from her stridhana funds/independent income. It would not be appropriate for this Court to take upon itself the task of making a detailed probe, more so when the 4th respondent's wife, Sri A. Krishna Reddy, Sri G. Rama Mohan Rao and Sri Y. Ravi Prasad are not even parties to the Writ Petition, and have not been afforded an opportunity of being heard.

16. It cannot, however, be lost sight of that the allegations levelled by the petitioner are serious, and the list of 31 sale/purchase transactions placed by the Learned Addl. Advocate General before this Court do reveal, prima facie, that the fourth respondent's wife had bought and sold land from the very persons who had either represented her as her GPA or had along with the her entered into sale transactions with others. This Court may not be understood as having expressed any conclusive opinion on this issue. Suffice to observe that, as the 4th respondent heads the entire police force in the State of A.P. as its Director-General, he must, like ceaser's wife, ever remain above suspicion. In the written submissions filed on his behalf it is stated that the 4th respondent desired to set an example of himself to stand up to the scrutiny of, and to be tested by, the 1st respondent; and he believed it to be his bounden duty to scrupulously follow the rule of law, and submit himself to the adjudicatory process before the 1st respondent as a true law abiding citizen of this country. I consider it appropriate, therefore to direct the 1st respondent to cause an enquiry into this issue. The manner in which the enquiry should be caused, and the period within which it should be completed, are detailed hereinafter under Relief No.III.

II. Should the Union and the State Government be directed to order an enquiry for initiating disciplinary action against the 4th respondent on the basis of the petitioner's letters for violating Rule 3(1) of the All India Services (Conduct) Rules, 1968.

17. Sri Prabhakar Sripada, Learned Counsel for the petitioner, would submit that the 1st respondent did not redress the petitioner's grievances as referred to in his letters dated 08.03.2011, 27.04.2011, 21.06.2011, 02.09.2011 and 09.09.2011 wherein he had complained that the 4th respondent was conducting himself in a manner unbecoming of a member of the service; he was indulging in selective leaks to the press, and was sponsoring public interest litigation against the petitioner; one such Writ Petition was dismissed by this Court holding that the Writ Petition was, manifestly, a sponsored one; the petitioner's reputation has been sullied by the above referred action of the 4th respondent; the right to reputation is now recognized as a part of Article 21 of the Constitution of India and, since the said right of the petitioner is being trampled upon with impunity by the 4th respondent, the 1st respondent should be directed to initiate action against the 4th respondent for violating Rule 3(1) of the Conduct Rules.

18. On the other hand Sri C. Padmanabha Reddy, Learned Senior Counsel, would submit that none of the said letters disclose any parameters for grant of the relief sought for; the 4th respondent has not violated any Rule, much less Rule 3(1); certain other aspects which throw light on the criminality of the petitioner and his conduct are not being adverted to in order to uphold the dignity and majesty of this Court; the action of the petitioner in making false and frivolous allegations against a colleague officer, bringing his spouse into the litigation, is not only in bad taste but is also an act of indiscipline; the 4th respondent has neither violated any rule or law, nor has he exceeded his jurisdiction in his entire tenure, and after assuming the office of the 3rd respondent; and the records placed before this Court would reveal the petitioner's intention in initiating this litigation, and his lack of bonafides.

19. In addition to the allegations regarding purchase and sale of large tracts of land by the 4th respondent's wife; and the 4th respondent's failure to declare these

transactions in his annual property returns; the petitioner also alleges that Sri Y. Ravi Prasad, and Sri G. Rama Mohan Rao were the benamies of the 4th respondent; he had implicated Renugunta Sujatha and her husband in crime No.84 of 1996, under Sections 447, 427 read with Section 34 I.P.C, alleging that they had trespassed into his property; crime No.84 of 1996 was transferred to CBCID at the behest of the 4th respondent and, after several years, the CBCID closed the case; in the year 2005, the 4th respondent had unauthorizedly and arbitrarily removed Sri P. Chandramouli from his post as ACP, Punjagutta, and had influenced the then DGP to place the officer under suspension; Sri P. Chandramouli filed W.P. No.4247 of 2005, arraying the 4th respondent herein as a respondent *eo nomine*; he contended that the order was passed by the 4th respondent to wreck vengeance on him because of their differences while they were working at Warangal in the year 1991; the 4th respondent did not even file a counter affidavit thereto; and the writ petition was allowed quashing the suspension order, and imposing a fine of Rs.10,000/- on both the then Director-General and the 4th respondent.

20. On the other hand, the fourth respondent would allege (in the letter addressed by him to the 1st respondent) that, while holding the post of Additional Director General (PandL), the petitioner was entrusted with the purchase of various material required for the police department worth hundreds of crores; the purchase scam came to light after the petitioner was transferred from that post; these scams would come under the purview of the Vigilance and Enforcement Department which the fourth respondent headed at that time; the Regional Vigilance and Enforcement Officer had sent a report to the fourth respondent which revealed *prima facie* evidence of a scam of which the petitioner was the king-pin; the fourth respondent was duty bound to detect the scam, and had written letter dated 30.01.2011 to the Government to take up a full-fledged enquiry; though he was competent to cause an enquiry into these purchase scams, he had not done so after taking over as the DGP; this clearly indicated that he was not vindictive; one of the items of the scam i.e. shoes worth Rs.1.00 lakh were lying in the DGP's office stores without being used; the petitioner had formed an audit committee, without the knowledge of the fourth respondent, to write off the value of such shoes; the audit committee discovered horrendous corruption upto the highest

levels; this scam related to events during the petitioner's tenure and revealed his involvement therein; the shoes were one of the hundreds of items purchased by the DGP's office stores; the fourth respondent did not, however, order an enquiry; the petitioner had harassed a cartel of suppliers who had been doing business with the DGP's office for the last 20 years; during his tenure, as incharge of the DGP's office stores during one year, the petitioner had denied them business, and had brought Sri Jithender Singh with whom he had shared the benefits of the scam when he was in "**greyhounds**"; he had indulged in a huge scam, with Jitender Singh, in the DGP's office purchases; the petitioner was hand in glove with a DSP by name Sri D. Jayanarayana, and had indulged in a similar purchase scam in "**greyhounds**"; the enquiry into the allegation of corruption against Sri D. Jaya Narayana, DSP, Police Transport Organization, revealed the involvement of the petitioner; there were allegations that the DSP had amassed assets worth more than Rs.2 Crores in the purchase of vehicles, accessories, machinery for workshops of PTO and bullet proofing of vehicles; by using the name of the petitioner, the DSP played an important role in receiving kickbacks, hospitalities, etc. from the vehicle companies while purchasing a fleet of vehicles by the PTO; for the purchase of 10 vehicles the firms usually give one vehicle in the guise of spare parts, which would later be converted into a new vehicle by assigning the old destroyed vehicle chassis number; both Sri D. Jayanarayana and the petitioner had purchased equal acreage of land in the names of their family members at Kadthal Village, Amangal Mandal; both these officers, along with Sri Mallaiah, DSP in the DGP's office stores, were involved in a huge scam which related to purchases in the DGP's office; as DG VandE, the 4th respondent had sent a report to the Government, and had asked for permission to enquire into the DGP office purchase scam without naming the petitioner; and the Government had given a long rope by not ordering an enquiry till date. The 4th respondent also alleged that (1) after he joined ACB, the petitioner had destroyed all files pertaining to 176/RE-NLR/83 in which he was an accused for having misappropriated recovered gold (disappearance of the office file is tantamount to theft); (2) timber scandal when he was DIG Warangal, and whose report is pending in intelligence; (3) Telgi Stamps scam in which he was involved; (4) DGP office purchases scam; (5) Report of the former DGP against him whose copy the 4th respondent had enclosed to the 1st

respondent, and which the petitioner had managed to get it lodged; (6) Illegal promotions of DSPs when he was in the DGP's office; (7) Medal scam; and (8) sale of bullet proof jackets to extremists.

21. The petitioner would refer to his letter addressed to the first respondent on 03.10.2011 to contend that the Government had got the allegations, levelled against him by the 4th respondent, enquired into by its memo dated 13.01.2011; the then DGP had furnished his report on 03.05.2011; the matter was examined by the Government, and the file was closed; however the 4th respondent had used the issue to get public interest litigations and complaints filed in the High Court, ACB Court and CBI Courts which were all dismissed; and newspaper items appeared on 30.09.2011 and 01.10.2011 with reference to the very same allegations.

22. In the written submissions filed on the petitioner's behalf it is stated that, if the allegations contained in the letter of the 4th respondent are true, the petitioner should be proceeded against not only departmentally, but he must also be held liable for criminal action; and at the same time, if the said allegations are found to be false, the 4th respondent should be proceeded against departmentally. Likewise, in the written submissions filed on behalf of the 4th respondent, it is stated that the 4th respondent is willing to submit himself to an enquiry by the 1st respondent. Both the petitioner and the 4th respondent express pride in their unimpeachable integrity and honesty. They claim to have always been completely above board in their illustrious service career spanning several decades. There is no reason why they should then fight shy of having an impartial enquiry conducted into all the allegations levelled by one against the other, as that would not only help them clear their name, but would put paid to any lingering suspicion on their integrity, besides establishing that the other had resorted to levelling false and baseless allegations only to achieve his selfish ends.

23. It is no doubt true that the 4th respondent has not filed a Writ Petition seeking an enquiry into the allegations of corruption leveled by him against the petitioner. It is well to remember that Article 226 of the Constitution empowers the High Court to issue orders for any other purpose, apart from Writs for the enforcement of any

of the rights conferred by Part III. This Court, in Writ proceedings under Article 226 of the Constitution, has the power to mould the relief taking into account the totality of the circumstances, and the exigencies of the situation. It is the duty of this Court to ensure that ends of justice are not allowed to be frustrated, and the discretion to mould the relief should be so exercised as to ensure substantial justice. (**D. Satyanarayana v. N.T. Rama Rao** AIR 1988 (AP) 144). The jurisdiction which this Court exercises, under Article 226 of the Constitution of India, is only in furtherance of larger public interest. Both the petitioner and the 4th respondent are senior IPS officers in the rank of Director General. The allegations/counter allegations made by one against the other has not only tarnished their image, but also that of the Police force in the State, thereby putting the integrity of the institution at stake. When institutional integrity is in question, the touchstone should be “public interest” which has to be taken into consideration *as an institution is more important than an individual*. (**Centre for PIL v. Union of India** (2011) 4 SCC 1; **N. Kannadasan v. S. Ajoy Khose** JT 2009 (7) SC 601). The power under Article 226 is to be exercised only in furtherance of interests of justice and in public interest. The interests of justice and public interest coalesce. They are very often one and the same. The High court would weigh the public interest vis--vis private interests while exercising its powers. (**Ramnihal N. Bhutta v. State of Maharashtra** (1997) 1 SCC 134; **Manohar Lal v. Ugrasen** (2010) 11 SCC 557). Larger public interest must always be kept in mind by the Court, and only when it comes to the conclusion that overwhelming public interest requires its interference, would the Court intervene. (**Master Marine Services Pvt. Ltd. v. Metcalfe and Hodgkinson Pvt Ltd** (2005) 6 SCC 138; **Air India Ltd. v. Cochin International Airport Ltd** (2000) 2 SCC 617). Substantial justice can only be ensured if an enquiry is caused even into the allegations levelled against the petitioner as that would serve the larger public interest of ensuring that such serious allegations of corruption are enquired into with promptitude and, if established, dealt with in accordance with law.

24. India which was ranked 72nd in the year 2007 in the Corruption Perception Index (CPI), on the basis of a survey conducted by Transparency International, slipped to rank No.84 in the year 2009 from out of 180 surveyed nations i.e., it was considered far more corrupt in the year 2009 than what was perceived earlier in

the year 2007. India's integrity score, a major component of the survey, stood at 3.4 on a scale of 10 which indicated that our country had a long way to go in reducing, let alone eradicating, corruption. A country with a higher score, in a scale of 10, is considered less corrupt. India's rank was calculated collecting data from 13 sources all of which measured the overall extent of corruption by gauging the frequency and size of bribes in the public and the political sectors. (**K. Srinivasulu v. Government of A.P.** 2010(3) ALD 452 (DB)). In the corruption perception index (CPI) for the year 2010, India was ranked even lower at 87 from out of the 178 surveyed nations. India's integrity score for the year 2010 fell further to 3.3 in the scale of 10. For the year 2011, the corruption perception index (CPI) ranks India even lower at 95 from among the 183 surveyed nations with its integrity score falling down further to 3.1 in the scale of 10. Reasons for this infamy are evident and, unless urgent remedial measures are taken to arrest this rapid decline, we might well find ourselves in the august company of the most corrupt nations of this Globe. Avarice and insatiable greed is slowly but surely eroding the governance structure in this country. Corruption, unless severely dealt with, will destroy the very fabric of our society. Corruption by public servants has now reached endemic proportions and monstrous dimensions. Its tentacles have started grappling even institutions created for the protection of the republic. Unless those tentacles are intercepted and impeded from gripping the normal and orderly functioning of public offices, through strong legislative, executive as well as judicial exercises, corrupt public servants may well paralyse the functioning of such institutions. Proliferation of corrupt public servants could garner momentum to cripple the social order if such men are allowed to continue to manage and operate public institutions. (**K.C. Sareen v. CBI** AIR 2001 SC 3320; **K. Srinivasulu**⁵).

25. The Government note file, placed for the perusal of this Court, shows that on 13.09.2011 the Principal Secretary (GAD) had endorsed that he was furnishing the list of IAS/IPS officers (belonging to the 1975 and 1976 batches) working in the State at Flag "X". The said note file also discloses that on 01.10.2011 the Principal Secretary had endorsed on the note file that he was enclosing the statement (marked as "X") showing the allegations and counter allegations levelled by the petitioner and the 4th respondent against each other. Neither the statement of allegations and counter allegations leveled by the petitioner and the 4th

respondent against each other, nor the list of Senior IAS officers mentioned above has been placed before this Court.

26. Two senior officers, belonging to the same batch of the Indian Police Service, have levelled serious allegations of impropriety and corruption against each other. They also claim that baseless allegations are being levelled against them by the other only to further his own career prospects. While the 4th respondent is now the DGP, the petitioner was also amongst those eligible for appointment to the said post. If the allegations levelled by these two officers against each other have any basis, then disciplinary action may well be the consequence. If, on the other hand, these allegations are without basis, then the person leveling these allegations must be proceeded against for his attempts to besmirch the reputation of a colleague officer, besides casting aspersions on his integrity. While this Court would not be justified in expressing any opinion, as at present, on whether or not the said allegations have any basis, it is necessary that the 1st respondent is asked to have a preliminary enquiry caused into all these allegations as the truth or falsity thereof can only be determined after a fair and impartial preliminary enquiry is held into these allegations. As both the petitioner and 4th respondent claim to have a clean record, and express pride in their unimpeachable integrity, they have nothing to fear if the allegations levelled against them are inquired into. On the other hand an enquiry being held into these allegations, and a clean chit being given to them in the enquiry report, would substantiate and support their self-professed claim of their conduct/integrity being above approach.

27. The statement at flag "x", (referred to in the endorsement of the Principal Secretary dated 1.10.2011 in the Government's note file), and the allegations/counter allegations noted hereinabove, including the allegations relating to the property transactions of the 4th respondent's wife and the Vigilance Enforcement Report on the purchases made during the petitioner's tenure as Addl. D.G (PandL), shall be enquired into. With a view to ensure that the preliminary enquiry to be caused into the allegations levelled against each other, both by the petitioner and the 4th respondent, is fair and impartial, such an enquiry shall be conducted by an officer, of unimpeachable integrity and honesty, senior in rank to both of them. Such an officer may be chosen by the 1st respondent either from the

Indian Police Service or the Indian Administrative Service. The 1st respondent shall also ensure that the said officer has no personal relations either with the petitioner or the 4th respondent. As any delay in enquiry into these allegations would further damage the institutional integrity of the Police force in the State, the matter shall be enquired into with promptitude. The enquiry officer shall be appointed within two weeks from the date of receipt of a copy of this order, and the enquiry shall be completed within four months thereafter. Needless to state that not only the petitioner and the 4th respondent, but others allegedly involved, shall be afforded an opportunity of being heard in the said enquiry. The Government shall, within two months from the date of receipt of a copy of the enquiry report, take action in accordance with law and communicate its decision both to the petitioner and the 4th respondent. The aforesaid directions are necessary in the larger public interest of ensuring that serious allegations of corruption are promptly enquired into and, if established, sternly dealt with.

II. Should the Union and State Government be directed to call upon respondent No.4 to furnish full and complete statement of all movable and immovable properties acquired or sold by him or any member of his family in accordance with Rule 16(5) of the All India Service (Conduct) Rules, 1968 and initiate disciplinary action under Rule 3(1) and Rules 16(1) 16(3) and 16(4) of the All India Services Conduct Rules, 1968.

28. Sri Prabhakar Sripada, Learned Counsel for the petitioner, would submit that the 4th respondent had not intimated, the purchase and sale of 31 immovable properties by his wife, to the Government of India, Ministry of Home Affairs; in A.S. No.3826 of 2004 the 4th respondent had filed an affidavit that he, and his brother, had inherited 110 akanams of site, with a huge terraced building of 70 akanams in Ward No.16 in Ramalingapuram Village of Nellore Municipality from his mother's elder sister; and these details were also suppressed by the 4th respondent in his property returns.

29. Learned Additional Advocate-General would submit that a perusal of the representations appended to the writ petition would show that they only relate to a smear campaign allegedly indulged in by the parties; as there is no direct bearing

on the relief sought for in the Writ Petition, it is hit by the principle that plural reliefs cannot be claimed if they are not consequential to the relief prayed for; as such this prayer is also liable to be rejected; the Government, vide memo dated 06.02.2012, has already directed the 4th respondent to furnish a full statement of movable and immovable properties held in his name, and also in the name of his wife; and the relief, as sought for under this head, no longer survives as the government has now directed the 4th respondent to furnish the statement as contemplated under Rule 16(5) of the Rules.

30. Sri C. Padmanabha Reddy, Learned Senior Counsel, would submit that there is no allegation in the writ petition that the 4th respondent has assets disproportionate to his known sources of income; in the absence of such an assertion, there is no justification for the petitioner to level wild allegations that the 4th respondent has not submitted his annual property statements, even though the annual property returns filed by the 4th respondent are in accordance with the Rules, and the circular issued by the Ministry of Home Affairs; this Court would not adjudicate these questions, at this stage of the proceedings, as proceedings have been initiated under Rule 16(5) of the Service Rules; and all the allegations and counter- allegations raised during the course of hearing are not germane, more so as the Government has already exercised its powers under Rule 16(5). Learned Senior Counsel would draw attention of this Court to the counter affidavit filed by the fourth respondent wherein he stated that his father belongs to an affluent and reputed family in Nellore District; he had huge land holdings; his family is rich, affluent and has several properties both movable and immovable; he was also bequeathed the properties of his foster parents; he had married an individual from an equally affluent family; his wife is an income tax assessee for the past several years; she has properties of her own, purchased by her from out of her own stridhana/ personal funds, and he had nothing to do with the same.

31. Both the Learned Additional Advocate General appearing on behalf of the State Government, and Sri C. Padmanabha Reddy, Learned Senior Counsel, would submit that Rule 16(1), (3) and (4) of the Conduct Rules apply only to properties acquired by members of the service either in their own name or in the names of members of their family; and the properties acquired by the family of the

member of the All India Services, either from out of their own funds or inherited by them, are not required to be included in the property returns in terms of Rule 16. Sri C. Padmanabha Reddy, Learned Senior Counsel, would further submit that, at the time of joining service, all property details of members of the service are intimated to the Department of Personnel and Administration, Government of India; as and when there is a change, the property details of the member of the service are alone indicated in the list of properties furnished annually; the transactions, relating only to the said year, are reflected in the said list; if there is no transaction in the relevant year, the list of properties are shown as '**Nil**'; and the scope of Rule 16(3) and (4) of the Conduct Rules was clarified by the Central Government in its letter No.5/4/74-AIS (III) dated 21.02.1974.

32. Rule 2(c) of the All India Service (Conduct) Rules, 1968 defines a "member of the service" to mean a member of the All India Services as defined in Section 2 of the All India Services Act, 1951. Section 2 of the All India Services Act defines the expression "All India Services" to mean the services known as the Indian Administrative Service and the Indian Police Service. The All India Service (Conduct) Rules, 1968 is applicable both to the petitioner and to the 4th respondent as they are members of the Indian Police Service. Rule 16 of the All India Services (Conduct) Rules, 1968, which relates to movable, immovable and valuable property, reads as under:

16. Movable, immovable and valuable property: (1) Every person shall, where such person is a member of the service at the commencement of these rules, before such date after such commencement as may be specified by the Government in this behalf, or, where such person becomes a member of the service after such commencement, on his first appointment to the service, submit a return of his assets and liabilities in such form as may be prescribed by the Government giving the full particulars regarding:-

a. the immovable property owned by him or inherited or acquired by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person;

- b. shares, debentures, postal Cumulative Time Deposits and cash including bank deposits inherited by him or similarly owned, acquired or held by him;
- c. other movable property inherited by him or similarly owned, acquired or held by him; and
- d. debts and other liabilities incurred by him directly or indirectly.

(2). Every member of an All India Services shall intimate the Government in respect of each transaction whose value exceeds rupees fifteen thousand within a month of the completion of such transaction.

(3). No member of the service shall, except with the previous knowledge of the Government -

- a). acquire any immovable property by lease, mortgage, purchase, gift or otherwise, either in his own or in the name of any member of his family; or
- b). dispose of by lease, mortgage, sale, gift or otherwise any immovable property owned by him or held by him either in his own name or in the name of any member of his family;

Provided that the previous sanction of the Government shall be obtained if any such transaction is with a person having official dealings with the member of the service.

(4). A member of the Service shall report to the Government within one month from the date of every transaction entered into by him either in his own name or in the name of a member of his family in respect of movable property if value of such property exceeds thousand rupees:

Provided that the previous sanction of the Government shall be obtained if any such transaction is with a person having official dealings with the member of the service.

(5). The Government or any authority empowered by it in this behalf may, at any time, by general or special order, require a member of the service to furnish within

a period specified in the order, a full and complete statement of such movable or immovable property held or acquired by him or on his behalf or by any member or his family as may be specified in the order and such statement shall if so required by the Government or by the authority so empowered, include details of the means by which, or the source from which, such property was acquired.

33. The letter of the Government of India, No.5/4/74 - AIS (III), dated 21.02.1974, read thus:-

“Sub-rules (3) and (4) of Rule 16 of the All India Services (Conduct) Rules, 1968, apply only to properties acquired, etc., by the members of the service either in their own names or in the names of members of their families. In other words, the properties either acquired by the members of the families of the officers from out of their own funds or inherited by them would not attract the provisions of the rules. As such the movable/immovable properties owned, etc., by the members of the families of the officers, which are either inherited by them or acquired by them from out of their own funds, are not required to be included in the property returns envisaged in sub-rule (2) of Rule 16”.

34. The Prl. Secretary, Government of Andhra Pradesh (General Administration (SC.X) Department) issued memo dated 5.1.2007 informing all IAS/IPS officers in the State that every member of the service was required to submit an annual return giving full particulars regarding the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person. While drawing their attention to the Government of India's instructions, in memo dated 16.01.2006, the IAS/IPS officers were informed that the return of immovable property in Form I should be submitted by members of the service, on their first appointment to the service, within a month of their appointment, and subsequently in the month of January every year. The said memo also notes that, in many cases, returns were not being filed on time; the Government of India has been frequently reminding that they should be expedited; and it was observed that several officers had submitted their annual property returns merely indicating “***no change or no addition or as in the previous year***”. By the said memo, members

of the All India Services were informed that such wording should be avoided, and all details should be filled in every annual return as envisaged under Rule 16(2) of the All India Services (Conduct) Rules, 1968. All IAS/IPS officers were requested to submit returns of their immovable property, in respect of every calendar year, by the 31st of January each year. They were informed that failure on the part of the members of the service, to comply with the requirement of the aforesaid rule, constituted good and sufficient reason for institution of disciplinary proceedings against them. While the memo dated 05.01.2007 relates to submission of annual returns of immovable properties for the year ending 2006; similar memos were issued on 07.01.2008, 06.01.2009, 12.01.2010 and 22.12.2010 for the years 2007, 2008, 2009 and 2010 respectively.

35. The Prl. Secretary, Government of A.P., (General Administration (SC.X) Department), vide Memo dated 31.03.2011, informed all IAS and IPS officers in the State that they should submit their annual return of immovable and movable property by 11.04.2011 for being forwarded to the Government of India. By its circular dated 04.04.2011, the Central Government conveyed its decision that officers, who did not submit property returns in time, would be denied Vigilance clearance, and would not be considered for promotion and empanelment for senior level posts in the Government of India, and the annual property returns of the members of the All India Services and Group-A Central Service Officers, as on 01.01.2011, would be placed in the public domain.

36. Again, by memo dated 18.04.2011, the concerned officers were informed by the Principal Secretary, Govt. of A.P. (GAD) that those officers, who did not submit their property returns in time, would be denied vigilance clearance and would not be considered for promotion and empanelment for senior level posts in the Government of India. They were requested to submit returns of immovable property by 19.04.2011. Again, by Office Memo dated 25.11.2011, the Central Government requested all Chief Secretaries of all State Governments/Union Territories to forward the list of officers, who had not submitted their annual returns, to the Department of Personnel and Training, Government of India, by 28.02.2012. The Chief Secretaries were requested to ensure that, in the property returns, full details were furnished in the proforma prescribed in the rules; full

details of immovable property were given; expressions like “**no change**” or “**same as last year**” should not be accepted; if an officer does not own any property, he/she should state so in the return rather than leaving it blank; and it should be duly signed by the officer with date.

37. The record placed before this Court reveals that, for the years 1978 to 1983, the 4th respondent had disclosed details of his ancestral house, landed property, and income derived therefrom. However, for the years 1984 and 1985, he merely stated that there were no acquisitions and no disposals. For the year 1986 he stated that the ancestral property was as mentioned in the previous statements. He referred to the income derived therefrom, to the income which he derived from shares, and the money he received from his father as due from his agricultural income. For the year 1987 he merely declared as “**same as last year**”. The records do not disclose any annual property statements having been submitted for the years 1988, 1989 and 1990. For the year 1991, the 4th respondent stated that it was the “**same as last year**”, but he referred to a house being constructed on his wife’s site. Again for the years 1992, 1993 and 1994 the endorsement in the annual property statements is “**same as last year**”. The record does not contain the annual property statements of the 4th respondent for the years 1995 and 1996. For the year 1997, the 4th respondent stated “**same as last year**”, but referred to the proceeds received by his wife on the sale of her property. For the year 1998 the endorsement was “**same as last year**”. The record does not contain any of his annual property statements for the year 1999 and 2001. For the year 2000, the endorsement is “**same as last year - and that he and his wife purchased and constructed a house on a site**” (details of which were given therein). For the year 2002 and 2003 the endorsement was “**same as last year**”. The records do not contain the annual property statements of the 4th respondent for the years 2004, 2005, 2006 and 2007. For the year 2008 the endorsement was “**nil - no further additions and same as previous one. Hence NIL**”. For the years 2009, 2010 and 2011 the immovable and movable properties are shown as “**NIL**”. It is thus evident that almost all the annual property returns filed by the 4th respondent, spanning more than three decades, are not only bereft of details, but also fall foul of the several memos issued by the State Government informing IAS and IPS officers that the wording “**no change**” or “**no additions**” or “

as in the previous year” should be avoided, and all details should be filled in every annual property return as envisaged under Rule 16(2) of the All India Service (Conduct Rules), 1968.

38. Integrity of institutions, especially those which directly affect the public at large, can be ensured and deviations, in the high degree of probity required of those manning such institutions, monitored more effectively if public servants/officers, more particularly those holding high offices/senior positions in the Government, are required to periodically furnish details of not only their assets, but also that of their spouse and dependants. If the periodic disclosure statements of the assets of the public servant reveal an abnormal increase, the concerned officer/employee can be called upon to explain. While disclosure of assets may not, by itself, deter those with an insatiable greed to acquire wealth from looting the public exchequer; it may restrain others who may not be so brazen, more so if a deterrent punishment is the prescribed consequence of their being caught, besides putting paid to their career itself. A deterrent law coupled with an efficient enforcement machinery, (which should include an effective system of periodic disclosure of assets and liabilities of public servants, and such annual property statements being periodically scrutinized), would reassure the general public of a more honest, efficient and accountable governance structure. Laws relating to disclosure of assets are an important tool for law enforcement. When bonafide suspicion of a public servant's financial integrity is raised, asset disclosure statements would aid in an investigation into the officer's assets being disproportionate to his known sources of income. Prosecuting and convicting corrupt officials is rendered easier when the law requires them to periodically disclose their assets.

39. A 2006 World Bank study is said to have found that, of the 148 countries covered, 43 or 30 percent of the Nations require no disclosure. Of the remaining 106, one-third require public disclosure and two-thirds disclosure to a government agency. Disclosure of assets can either be confidential or public. While public disclosure requires the statement of assets to be put in the public domain, confidential disclosures are those made periodically to the prescribed authority. It is essential that laws/rules/ instructions, regarding disclosure of assets, cover

those holding constitutional offices and senior civil servants, as they possess significant decision-making authority, and may find themselves in situations where their personal financial interests could be affected by the decisions they take. They are also likely to have wide discretionary powers giving them the opportunity to profit from corrupt acts.

40. Before examining the submission made both by the Learned Additional Advocate General, and Sri C. Padmanabha Reddy, Learned Senior Counsel, that members of All India Services are not required to declare the assets of their spouse provided such acquisitions were made by the spouse from out of his/her own funds, it is useful to refer to the relevant Rules/executive instructions applicable to members of the State Civil Service; members of the Rajya Sabha and the Lok Sabha; Union Ministers; the Chief Minister and Ministers in the State of Andhra Pradesh; and Judges of the High Court of Andhra Pradesh; regarding confidential disclosure of assets to a specified authority.

41. The Andhra Pradesh Civil Services (Conduct) Rules, 1964 is applicable to every person who is a member of a civil service of the State or holds any civil post under the State or in connection with the affairs of the State. These Rules, however, do not apply to the member of the All India Services or to the Judges of the High Court of Andhra Pradesh. Rule 2(v) defines “**Member of the family**”, in relation to a government employee, to include the spouse, son, daughter, step-son or step-daughter of such employee, whether residing with such employee or not, and any other person related to, and residing with such employee and wholly dependent on such employee. Rule 9 relates to acquiring or disposing of movable and immovable properties and, under sub-rule (1) thereof, no government employee shall, except after previous intimation to the government, acquire or dispose of, or permit any member of his family to acquire or dispose of, any immovable property by exchange, purchase, sale, gift or otherwise, either by himself or through others. The format prescribed for such intimation requires the government employee to furnish details regarding the mode of acquisition and disposal of property; full details of the location of the property; sale/purchase price of the property; and, in case of acquisition, the source or sources from which financed/proposed to be financed etc.

42. In exercise of the powers conferred, by Section 75-A of the Representation of the People Act, 1951, the “**Members of Rajya Sabha (Declaration of Assets and Liabilities) Rules, 2004**”; and the “**Members of Lok Sabha (Declaration of Assets and Liabilities) Rules, 2004**” were made. Rule 2(g) of the Rajya Sabha Rules defines a “Member” to mean an elected member of the Council of the States (Rajya Sabha). Rule 2(f) of the Lok Sabha Rules defines a “Member” to mean an elected member of the House of the People (Lok Sabha); and Rule 2(g) defines “Register” to mean the Register of declaration of assets and liabilities of elected members under sub-rule (1) of Rule 4. Rule 3, of both the aforesaid Rules, requires every member, within 90 days from the date on which he makes and subscribes to an oath of affirmation for taking his seat, to furnish in Form-I information regarding the movable and immovable properties of which he, his spouse and his dependent children are jointly or severally owners or beneficiaries of. Rule 4 relates to the Register of declaration of assets and liabilities. Sub-rule (1) thereof requires the Secretary-General to maintain a register to be called the Register of declaration of assets and liabilities of members in Form-II. Sub-rule (3) requires the information, in relation to each member, his spouse and dependent children, to be recorded on a separate page in the Register. Form-I is the information regarding assets and liabilities and, under part-B thereof, information regarding immovable and movable properties held by a member’s spouse is required to be furnished. Under Part-C, information regarding the immovable and movable properties held by a member’s dependent children is required to be furnished. Likewise Part-B of Form-II relates to a member’s spouse and is required to contain details of the spouse’s immovable property with value; and details of movable property with value. The requirement with regards a member’s dependent children in Part-C of Form II is similar to those in Part-B of Form-II.

43. The Special Secretary to the Government of Andhra Pradesh (General Administration (POLL.D) Department), by U.O.Note No.351/Poll.D/A1/2010 dated 03.05.2011, informed that the State Government had decided to adopt the “**Revised Code of Conduct**” communicated by the Ministry of Home Affairs, Government of India, New Delhi in their letter dated 28.03.2011. The “**Revised Code of Conduct**”, aforementioned, is applicable to all Ministers (both Union and State) and requires every Minister, within two months from the date of assumption

of office, to disclose to the Prime Minister/Chief Minister, as the case may be, details of the assets and liabilities, and of business interests, of himself and of members of his family. The details to be disclosed include particulars of all immovable properties and the total approximate value of (i) shares and debentures; (ii) cash; and (iii) jewellery. After taking office, and as long as he remains in office, the Minister is required to furnish annually, by the 31st of August, to the Prime Minister/Chief Minister, as the case may be, a declaration regarding details of the assets and liabilities of himself and of members of his family for the previous financial year. Clause 6 of the “**Revised Code of Conduct**” stipulates that the authority for ensuring observance of the code of conduct shall be the Prime Minister in the case of Union Ministers, the Prime Minister and the Union Home Minister in the case of Chief Ministers, and the Chief Ministers concerned in the case of State Ministers except where it is otherwise specified. The explanation to clause 6 stipulates that, in the code, a Minister’s family shall include his wife (or husband as the case may be) not legally separated from him (or her), minor children, and any other person related by blood or marriage to, and wholly dependent on the Minister.

44. Pursuant to the resolution of the Full Court of the Judges of the High Court of Andhra Pradesh, in their meeting held on 05.03.2009, every Judge of the High Court of Andhra Pradesh is now required to declare his/her assets and those of his/her spouse and his/her dependents in the prescribed format in a sealed cover. Every Judge of the High Court of Andhra Pradesh, appointed after 01.04.2009, is required to declare the assets belonging to his/her spouse and his/her dependents in the prescribed format in a sealed cover within two months from the date of assuming his/her office. Whenever the value of any asset,(referred to in the prescribed format), exceeding Rs.2.00 lakhs devolves upon the Judge, his/her spouse, and his/her dependent children, subsequent to the declaration made in the year, an additional declaration is required to be submitted in a sealed cover on or before the 31st July of the next year. The declaration, as well as the subsequent declaration if any, made by the Judge is under the custody of the Chief Justice of the High Court of Andhra Pradesh. The format of the declaration of assets requires the Judge of the High Court of Andhra Pradesh to furnish details of all immovable properties whether individually or jointly; and specify the location, extent, built-up

area, if any; details of motor vehicles and their make/year; details of air conditioners/television sets/refrigerators with the make/year; ornaments and precious stones with their description and weight; gold and silver articles with description and weight; bank deposits, shares, debentures/mutual funds, cash etc with their description and value; and details of any other article the value of which, at the time of acquisition, was more than Rs.50,000/-.

45. When members of the State Civil Services; Members of Rajya Sabha and Lok Sabha; Union Ministers; the Chief Minister and Ministers of the State of Andhra Pradesh; and Judges of the High Court of Andhra Pradesh; are required to disclose the assets of their spouse, is it permissible to construe Rule 16 of the All India Services (Conduct) Rules as enabling members of All India Services alone not to declare details of the assets of their spouse?

46. This issue can also be examined from another angle. The All India Services (Leave Travel Concession) Rules, 1975 define a member of the Service to be a member as defined in Section 2 of the All India Services Act, 1951. Rule 3 relates to regulation of Leave Travel Concession and reads as under:

3. Regulation of Leave Travel Concession- (1) The Leave Travel Concession of a member of the Service, serving in connection with the affairs of the Union, shall be regulated in the same manner and subject to the same conditions as are applicable to the officers of Central Civil Services, Group 'A'.

(2). The Leave Travel Concession of a member of the Service serving in connection with the affairs of a State shall be regulated in the same manner, and subject to the same conditions, as are applicable to the officers of the State Civil Services, Class I:

Provided that the concession afforded to a member of the Service under this sub-rule shall not at any time be inferior to that to which he would be entitled under sub-rule (1), had he been appointed to serve in connection with the affairs of the Union.

47. Rule 3(1) extends the benefit of Leave Travel Concession under the Central Civil Services (Leave Travel Concession) Rules, 1988 to members of the All India Services. Rule 4(d) of the Central Civil Services (Leave Travel Concession) Rules, 1988 defines “**family**” to mean the government servant’s wife or husband, as the case may be, and two surviving unmarried children or step children wholly dependent on the government servant, irrespective of whether they are residing with the government servant or not. Rule 8 refers to different types of leave travel concession, and includes leave travel concession to any place in India once in a block of four calendar years. Rule 9 (11) enables a government servant, and each member of his family, to visit different places of their choice during a block of four years; and under Rule 9(12), depending on their pay, the entitlement to such leave travel concession can be by Air, AC train etc. On being asked to furnish information regarding the leave travel concession facility availed by the fourth respondent and his spouse, Learned Additional Advocate General has placed before this Court details of the leave travel concession availed by the fourth respondent with his wife and daughter to visit “Gauhati” and “Kaziranga National Park” in January, 2006; and “Leh” in Jammu and Kashmir State along with his wife in May, 2009 on permission being accorded to them by the Government of Andhra Pradesh in this regard.

48. Rule 2(g) of the All India Services (Medical Attendance) Rules, 1954 defines a “**member of the Service**” to mean a member of an All India Service as defined in Section 2 of the All India Services Act, 1951. Section 2(c) thereof defines “**family**” to mean (i) the wife or husband, of a member of the Service; and (ii) the parents, children and step-children of such member wholly dependent upon that member. Under Rule 3(1) a member of the service is entitled, free of charge, to medical attendance by the authorized medical attendant. Under Rule 4(1) the members of the family of a member of the Service shall be entitled, at Government cost, to medical attendance and treatment on the scale and conditions allowed to the member of the Service himself under these rules. Learned Additional Advocate General has placed before this Court a copy of G.O.Ms. No.2624 (General Administration (SC.X) Department) dated 11.05.2007 whereby sanction was accorded for payment of medical expenses incurred by the 4th respondent, pursuant to a medical claim submitted by him for the expenditure incurred for his

medical treatment, and that of his wife, at the District Police Hospital, Hyderabad, as out-patients, during the period 26.08.2006 to 27.11.2006.

49. When the spouse is extended, and avails, the benefit of LTC and Medical Reimbursement which a member of the All India Services is entitled to, can he/she avoid the obligation of having to disclose his/her assets on the ground that the assets were acquired from an independent source of income. The benefit of LTC and medical reimbursement, which a spouse is entitled to avail, is only because he/she is the spouse of a member of the All India Services. If the privileges to which a member of the All India Services is entitled to, is also extended to his/her spouse, it does not stand to reason that a spouse can avoid a corresponding obligation of having to disclose his/her assets along with that of the member of All India Services. Spousal disclosure of assets is necessary as a husband and wife's financial affairs are so closely intertwined that separation is artificial. If the spouse's finances are excluded evasion of the law is made much easier, for assets can be acquired and property registered in the spouse's name. Invasion of a spouse's right to privacy, where she has an independent source of income, would be a far lesser evil than permitting non-disclosure of the spouse's assets. Larger public interest would be better served by periodic disclosure of assets by persons holding constitutional offices or senior positions in the civil service, including that of his/her spouse and dependants. The resultant benefits, which would flow therefrom, including instilling greater public confidence in the governance structure, would far outweigh the privacy right of an individual's spouse.

50. Rule 16(1)(a), of the All India Services (Conduct) Rules, 1968, does not disable a member of the service from declaring the moveable and immovable properties owned, acquired, inherited or held by his/her spouse from out of the spouse's own funds. All that the said rule requires is for the member of the service to specify that his/her assets, if any, are being held in the name of his/her spouse. Construing Rule 16(1)(a) as requiring a member of the service not to declare the moveable and immovable properties of his/her spouse would defeat the very object of prescribing the said rule for it is only if the member of the service so declares that the government would be aware that certain moveable or

immoveable properties, standing in the name of his/her spouse, is, in fact, owned by the member of the service. Construing Rule 16 in the manner suggested, both by the Learned Additional Advocate General and Sri C. Padmanabha Reddy Learned Senior Counsel, may result in a member of the service avoiding furnishing particulars of the moveable and immoveable properties illegally acquired by him in the name of his/her spouse and, if he is later held to account, then justify his action on the ground that these moveable and immoveable properties were acquired by his/her spouse from out of her/his own funds. As noted hereinabove, the law relating to the declaration of assets is a tool which aids in bringing the corrupt to book in cases where their assets are disproportionate to their known sources of income. The asset declaration statements, specified in Rule 16(1)(a), is an useful aid in an enquiry in this regard. Construing the Rule as enabling the member of the service to decide whether or not to declare the assets of his/her spouse, on the specious plea that the assets acquired by the spouse from out of her/his independent income need not be declared, would defeat the very object of prescribing the Rule itself. Rule 16(1)(a) must be read down as requiring a member of the service to declare his/her spouse's assets, irrespective of whether these assets were acquired from the funds made available by the member of the service or from the spouse's independent source of income. While declaring the assets of his/her spouse, the member of the service must specify such of those assets which, though they are shown in the name of the spouse, actually belong to him/her. (i.e., the member of the service). Rule 16(5) is not limited to the spouse, but also applies to every other member of the family whether or not dependent on the member of the service. The said sub-rule also enables the government to call for details of the means by which, or the source from which, the member of the service acquired these properties.

51. The contention, that interpreting Rule 16(1) as requiring the member of the service to also declare the moveable and immoveable properties of his/her spouse, would render Rule 16(5) redundant, does not merit acceptance. While a member of the service should, under Rule 16(1)(a), declare all the moveable and immoveable properties of his spouse, the member of the service must also specify that such of those moveable and immoveable properties which stand in the name of his spouse, or members of his family or any other person, is his property. Unlike

Rule 16(1), Rule 16(5) enables the government not only to call for a full and complete statement of such moveable and immoveable properties, but also details of the means by which, or the source from which, such properties were acquired. Sub-rules (3) and (4) of Rule 16 also do not preclude the member of the service from declaring the moveable and immoveable properties acquired, inherited or held by his/her spouse. This requirement of spousal declaration must be read as obligatory as the spouse is being extended benefits from the public exchequer which he/she would not, otherwise, have been extended, but for being the spouse of the member of the service.

52. *Contemporanea expositio* is a well settled principle or doctrine which applies only to the construction of ambiguous language in old statutes, (**Baktawar Singh Bal Kishan v. Union of India** (1988) 2 SCC 293), but not to interpreting Acts which are comparatively modern. (**Senior Electric Inspector v. Laxmi Narayan Chopra** AIR 1962 SC 159; **J.K. Cotton Spg. and Wvg. Mills Ltd. v. Union of India**). Even if persons who dealt with the statute understood its provisions in another sense, such mistaken construction of the statute does not bind the court so as to prevent it from giving it its true construction. (**National and Grindlays Bank Ltd. v. Municipal Corpn. of Greater Bombay** 1987 Supp SCC 350; **Punjab Traders v. State of Punjab** (1991) 1 SCC 86). Reliance placed on the letter of the Government of India, No.5/4/74 - AIS (III), dated 21.02.1974, is therefore misplaced. It would suffice merely to note that the gigantic proportions to which corruption has reached in the present times would have boggled even the imagination of the executive four decades ago. An interpretation of the Rule, based on the executive construction thereof in the year 1974, would be wholly impermissible as corruption has, in the present times, reached endemic proportions. Rule 16 of the All India Services (Conduct) Rules, 1968 must be construed as not limiting declaration of assets only to the immovable and movable properties owned, inherited or acquired by a member of the Service, standing in his name or that of any other, but to also include the moveable and immoveable properties of his/her spouse acquired from her/his independent source of income. This construction of Rule 16 would also further the larger public interest of ensuring a corrupt free governance structure.

53. During the pendency of this Writ Petition the Chief Secretary, Government of A.P, vide memo No.239/SC.D/A1/11-7 dated 06.02.2011, invited the attention of the 4th respondent to Rule 16(5) of the All India Service (Conduct) Rules, 1968; and requested him to furnish, within a week, a full and complete statement of moveable and immoveable properties held or acquired by him or his wife. He was also requested to furnish details of the means by which, or the source from which, such properties were acquired. In the Written submissions filed on behalf of the 4th respondent, it is stated that the 4th respondent, as a law abiding citizen, has volunteered to place before the authority concerned all the relevant information at his command in accordance with the relevant provisions of law. As the 4th respondent has agreed to declare his assets and that of his spouse, in compliance with the directions of the 1st respondent, he shall do so within two weeks. Needless to State that, by way of the said disclosure statement, the 4th respondent shall also explain the land transactions (both purchase and sale) of his wife during the years 2005 to 2007, and the other years as have been detailed hereinabove. On receipt of full and complete particulars of the assets of the fourth respondent and his wife (as aforementioned), the 1st respondent shall forward the said particulars to the enquiry officer appointed by him who shall, along with the allegations made by the petitioner and the 4th respondent against each other, cause an enquiry into the land transactions (purchase and sale) of the 4th respondent's wife (as has been referred to in detail in this order); and submit his report to the 1st respondent.

54. Two other supplementary issues, which arise for consideration in this Writ Petition, must also be dealt with. The first relates to the smear campaign which both the petitioner and the 4th respondent allege that the other had indulged in; and the second is the contention that the 4th and the 7th respondent had deliberately suppressed material facts from this Court.

SMEAR CAMPAIGN:

55. Both the petitioner and the 4th respondent would allege that the other had resorted to a smear campaign against him. These allegations are being referred to in this order only to show that the media is being used, and the judicial process

subverted, by public officials in their no-holds barred pursuit of high offices including, in the present case, the office of Director-General of Police, State of Andhra Pradesh.

56. The petitioner would allege that the 4th respondent had resorted to a smear campaign against him as early as in the year 2004, and had selectively leaked information to the press making it appear that he did not deserve award of the Antarik Suraksha Seva Medal which he was fully eligible to receive; the Government examined the issue, found the award of the Medal to be in order, and closed the file; in W.P. No.13524 of 2011, wherein the petitioner was arrayed as the 6th respondent, the 4th respondent had falsely alleged that a case was registered against the petitioner in his first posting, and in the recent purchase scam and, as there was a prima facie case against him, the Vigilance and Enforcement Department had written to the Chief Secretary for initiating a regular enquiry; no FIR was ever registered against the petitioner in this regard; in order to spoil the petitioner's chances of becoming the DGP, the 4th respondent had sponsored two public interest litigations, i.e., W.P. No.27015 of 2010 and W.P. No.27731 of 2010 filed by Sri Thadi Bheema Rao; both the writ petitions were dismissed on 01.11.2010 and 09.11.2010 respectively; the 4th respondent had got two criminal complaints lodged against the petitioner; on 03.02.2011 a petition was filed by Sri A.Pavan Kumar in the Special Court for ACB and SPE, Hyderabad seeking directions to the CBI to register a case against the petitioner on the same allegations as were made in the Writ Petition by the 4th respondent; the said petition was returned as not maintainable; on 04.02.2011, the very same petition was filed before the CBI Court requesting that the petition be referred to the CBI for investigation; the CBI Court rejected the said request by its order dated 07.02.2011; the complaint was published prominently in all newspapers to defame the petitioner; the petitioner had informed the 1st respondent, vide letter No.7/DGACB/2011 dated 08.03.2011, that both Sri T. Bheema Rao and Sri A.Pavan Kumar had been set up by the same person with the sole aim of bringing disrepute to the petitioner, malign his character, unseat him from the post of Director General, ACB and deny him the opportunity of being considered for selection to the post of DGP; though he had requested that an enquiry be conducted, no enquiry has been ordered so far; the 4th respondent planted news

stories, of alleged irregularities in the purchase of riot gear equipment, in Telugu and English dailies in October, 2010; thereafter the then DGP had addressed letters to the editors of news papers informing them that the entire tendering process was transparent, and there was no truth in the false and baseless news articles; the 4th respondent also got one more news report published against the petitioner in the "Times of India" with the heading "Question mark on Umesh?"; these baseless reports formed the basis of the Public Interest Litigation cases filed against him; the 4th respondent was responsible for running a smear campaign against the petitioner, setting up others with the ulterior motive to defame and denigrate him solely out of professional jealousy; Sri A. Pavan Kumar filed W.P.M.P.No.17344 of 2011 seeking to implead himself in W.P.No.13524 of 2011; in his affidavit, filed in support of W.P.M.P.No.17344 of 2011, Sri A. Pavan Kumar prayed that the petitioner's name be excluded from the list of six officers proposed to be sent to the UPSC for consideration for the post of DGP; this, by itself, established the nexus between Sri. A. Pavan Kumar and the 4th respondent; the very same allegations were levelled against the petitioner in different proceedings by the 4th respondent, Sri T. Bheema Rao and Sri A. Pavan Kumar; not only were the documents filed in these cases identical, the documents used in one case were used in the other; W.P. No.15069 of 2011 filed by Sri A. Pavan Kumar, praying that the petitioner should not be included in the panel for appointment to the post of DGP, was dismissed by this Court observing that the litigation was sponsored; the 4th respondent had sponsored this writ petition, and had dragged the petitioner to court six times; the 4th respondent had not only misused and subverted the judicial process, but had used the press and electronic media to denigrate the petitioner; the petitioner had brought the entire matter to the notice of the Government by his letter dated 08.03.2011; the 4th respondent had singled the petitioner out for adverse comments on the purchase scam only because the petitioner was senior to him, and the 4th respondent feared that he would be appointed as the DGP; the 4th respondent got planted news regarding the so called irregularities in the purchase of riot gear equipment; and had got motivated and malicious news articles published in various newspapers; the then DGP had addressed letters to the editors of the newspapers informing them that the entire tendering process was transparent, and there was no truth in the false and

baseless news articles; these and other instances showed that the 4th respondent had abused his authority to malign the petitioner; all these facts were brought to the notice of the 1st respondent by the petitioner in his letters dated 08.03.2011, 27.05.2011, 21.06.2011 and 09.09.2011 with a request for conducting a thorough enquiry, and take appropriate action against the 4th respondent for having engineered a smear campaign to defame and denigrate his image solely out of professional jealousy.

57. On the other hand, the 4th respondent would state that the petitioner's effort to project a grudge was incorrect, and was being resorted to only to avoid the consequences of the offence which he had indulged in; the allegation that he had dragged the petitioner into litigation six times; he had misused/subverted the judicial process; and had used the litigation for adverse publicity against the petitioner in the press was wholly incorrect, and without proof and evidence; he never had any intention, nor was he accustomed, to indulge in a smear campaign against anyone; on the other hand it was the petitioner who had sought to tarnish the image of the fourth respondent in the press using the present Writ Petition; much before this Writ Petition was taken up by this Court, the petitioner had passed on copies of his affidavit to all newspapers sending SMS; he had highlighted matters relating to "***properties in the name of his wife***" only to portray the fourth respondent as corrupt.

58. If the allegations and counter allegations levelled by the petitioner and the fourth respondent against each other have any basis it would show that, in their fight to occupy the top post of the Director-General of Police in the State of A.P, both the media and the portals of this court have been used (misused) to eliminate the other from the race, without any regard to the consequences which such allegations may have on the image and credibility of not only the police force but also the institution of the judiciary. That the judicial process was sought to be subverted, in this mindless and selfish pursuit of personal glory, is a matter of serious concern, and may well necessitate a strict threshold scrutiny of the Writ Petitions being instituted before this Court.

SUPPRESSION OF MATERIAL FACTS:

59. Sri Prabhakar Sripada, Learned counsel for the petitioner, would submit that the fourth respondent was an interested party under whose direction and supervision the investigation into Crime No.53 of 2011 took place; the fourth respondent was seeking to misguide this Court; it was the fourth respondent who had, vide memo dated 24.08.2011, issued instructions for registration of Crime No.53 of 2011 on the file of the CID Police Station, Hyderabad; this fact was suppressed in the counter affidavits filed by the fourth and the seventh respondents; the petitioner's request, under the Right to Information Act, 2005, that a copy of the memo dated 24.08.2011 be furnished to him was stonewalled by the office of the fourth and the seventh respondents, stating that this information was under exemption provisions; the fact of registration of the FIR, pursuant to the directions of the fourth respondent dated 24.08.2011, has been suppressed by all the respondents; even though the first respondent had sought for an enquiry report from the seventh respondent, the fourth respondent had hurriedly directed registration of the FIR, without even sending the enquiry report to the government; and, in view of the suppression of the said letter, the institutional integrity i.e., of the office of Chief Secretary as well as the Office of the Director General of Police, was at stake.

60. In his writ affidavit the petitioner asserted that, instead of referring the matter to the Govt., the 4th respondent, with an ulterior motive and vested interest, had directed the Addl. DG-CID, vide letter in ref. No.57/DGP/Camp/2011, to register a case and investigate (para 42); and he apprehended that the fourth respondent may direct his subordinates to resort to some misadventure against him in order to spoil his image, and prevent him from becoming the Director-General of Police (Ho PF) (para 44). In reply thereto the fourth respondent, in his counter affidavit, stated that his role as the Director-General of Police had nothing to do with the ongoing investigation, and the judicial process initiated thereon, as the matter was within the realm of the independent agency - CB-CID, under the control of the 7th respondent; even though the Director General of Police is the administrative head of all departments in the Police Force in the State of Andhra Pradesh, in so far as the Investigating Agency is concerned the Addl. DG, CID is the whole and sole; the DGP cannot, in any way, influence or prevail over the 7th respondent (para 25); the allegations in paras 41 to 48 of the affidavit related to the Crime registered

in FIR No.53 of 2011 and, as the matter was *sub judice*, it would not be appropriate for him to traverse the merits of the same in detail; in any event he had no control over the said investigation agency even though he was the Head of the Police Force in the State of Andhra Pradesh; and the allegations made in the said paragraphs that he was misusing his office to pursue his professional and personal jealousy against the petitioner was absolutely baseless. (para 29). In his counter affidavit, the seventh respondent stated that the allegations in para 42 of the affidavit were wholly incorrect; pursuant to the information received, the first respondent had directed the third respondent to inquire and submit a report for further action; in obedience to the said direction, the matter was entrusted to the premier Investigating Agency of the State having regard to the sensitivity of the material available on record; on a perusal of the material available on record, it was noticed that the very signature on the disputed documents had been forged; Sri M.A. Khan, MP, in fact, had written a letter requesting investigation into the matter; having regard to the assertion made by a responsible member of the society and, having regard to the material available on record, it was decided that it is a fit case for registration and investigation of the alleged offence. (para 15); in the hierarchy the seventh respondent, though works under the DGP, but when it comes to investigation, the procedure to be adopted, and the decision to be taken thereon, it is in the wholesome domain of the seventh respondent (para 18).

61. In his affidavit dated 22.11.2011, filed in support of WPMP No.38443 of 2011 in W.P. No.27062 of 2011, the petitioner stated that, in order to cover up his own questionable actions, the fourth respondent appears to have directed the seventh respondent to register an F.I.R, vide Chief Office Memo C.No.57/DGP/Camp /2011 dated 24.08.2011; even though the first respondent had asked for an enquiry report from the seventh respondent, the fourth respondent, in his over-anxiety to cover up any possible enquiry into the whole issue, had hurriedly directed registration of the F.I.R. without sending the enquiry report to the Government, as desired by the Government in its Memo dated 02.08.2011 (para 10). A short counter affidavit is filed thereto, by the fourth respondent, wherein none of these allegations are rebutted.

62. In the additional affidavit dated 04.02.2012 filed on behalf of the first respondent, it is stated that the averment of the petitioner, in para 10 of his affidavit dated 22.11.2011, that to cover up the questionable actions the fourth respondent had issued a memo to register an FIR, could not be traversed as, even according to the petitioner, the first respondent had no role to play; the said report submitted by the Additional Director-General, CID dated 22.08.2011 was received in the office of the first respondent on 27.08.2011; and no instructions were given by the Government to the fourth respondent or the seventh respondent.

63. The records, placed for this Court's perusal, disclose that the 4th respondent, vide his letter dated 28.05.2011, had informed the 1st respondent that he was in receipt of a petition, by the All India Banjara Seva Sasmiti to the Vigilance Commission, alleging corruption against him; he had got the matter enquired about the address from which the petition was purported to have been sent; this address did not exist; the letter was a pseudonymous petition; the petition did not contain per se any corruption allegation against him; hence as per CVC guidelines no credence need be given to such petitions; in the name of ACB some persons had approached the sub-registrar's offices in and around Hyderabad, and in his native place, to obtain sale deeds in his name or in the name of his family members; he had brought this to the notice of the Chief Secretary long time back; if it was the ACB it was unpardonable as the ACB was to check corruption, and not go after honest officers with impeccable integrity and good reputation; only senior officers knew that a letter written by an MP would be acted upon immediately by sending it to the State Government blindly, and they would achieve the purpose of maligning him in the process; he was attaching two letters of which one was forged and the other genuine; the entire matter needed to be probed; though the needle of suspicion pointed to a colleague of his, he did not want to jump to conclusions but requested that a CID probe be ordered, as there was a case of forgery, criminal conspiracy, and cheating, on the following aspects:

(1) who has forged the letter of MP Shri M.A. Khan;

(2) Who has obtained all these documents running into hundreds of pages from the concerned Sub-Registrar office.

64. The 4th respondent concluded that the enquiry would lead to the author of the petition, and further action could be taken against him as deemed fit. The memo of the first respondent dated 02.08.2011, calling for an enquiry into two aspects, is a verbatim reproduction of the two aspects which the 4th respondent desired to be probed.

65. The Addl. Director General of Police, CID, A.P., Hyderabad (7th respondent), vide letter in C. No.32/SC/CID/2011 dated 22.08.2011, informed the Director-General of Police (3rd respondent arrayed as 4th respondent eo-nominee) that the Government, vide memo dated 02.08.2011, had ordered an enquiry; the enquiry was entrusted to an officer of the CID; as per instructions, the officer had conducted an enquiry, and had submitted a detailed report stating that his enquiry revealed that one Sri T. Sunil Reddy was the king-pin in the whole transaction; the enquiry report, *prima facie*, revealed the offence of forgery, using false documents as genuine, and conspiracy; and, in the light of the outcome of the enquiry report, which *prima facie* disclosed the role of the senior police officer Sri Umesh Kumar, IPS, the matter required further detailed enquiry in order to unearth the real facts of the case, and to know the real perpetrators who had forged the signatures of Sri M.A. Khan, M.P. (Rajya Sabha). The 7th respondent requested the 4th respondent to issue further orders and action in the matter. The 4th respondent was also requested to forward the enquiry report along with the enclosures to the Government. The enquiry report was enclosed to the said letter dated 22.08.2011.

66. In reply thereto the 4th respondent addressed a letter to the 7th respondent on 24.08.2011, which reads as under:-

Office of the Director General of Police, A.P. Hyderabad

Date: 24.8.2011

C.No.57/DGP/CAMP/2011

MEMO

Sub: CID - Investigation on forgery signature of the Parliament and obtaining certain documents from the Sub-Registrar Offices - Ordered - Regarding

Ref:Report of Addl. DGP CID, Hyderabad dated 22.8.2011 vide reference 32/SC/CID/2011 The attention of the Addl. Dir. Genl. Of Police, CID, AP, Hyderabad is invited in the reference cited above. He is requested to get a case registered at CID PS and investigation taken up by CID and furnish a report to the Chief Office immediately.

Director General of Police,

A.P., Hyderabad

To

The Addl. Director General of Police,

CID, Hyderabad.67. The very next day, Sri M. Malla Reddy, DSP-CID, GOW, Hyderabad, vide his complaint letter/petition dated 25.08.2011, requested the Addl. DGP-CID (7th respondent) to order for necessary criminal action against Sri T. Sunil Reddy and others who had conspired together to commit the offence of forgery, using false documents as genuine, etc., as per law. The said complaint letter of Sri M. Malla Reddy, DSP dated 25.08.2011 was the basis of FIR No.53 of 2011 dated 25.08.2011 for offences under Section 468, 471 and 120-B IPC.

68. As noted hereinabove, the Government memo dated 2.8.2011 required the 7th respondent to conduct an enquiry and submit a report. The averment in the counter affidavit of the 7th respondent, that the 1st respondent had directed the 3rd respondent to inquire and submit a report for further action, is a false statement on oath as the direction of the 1st respondent, in its memo dated 02.08.2011, was to the 7th respondent, and not to the 3rd respondent. As to why the 7th respondent, if he was indeed as independent as he claims to be and is not under the control of the 4th respondent, should send the report to the 4th respondent instead of to the 1st respondent directly; and why he should request for further orders from the 4th respondent in the matter; is not known. Suffice to note that the letters addressed by the 4th respondent to the 1st respondent on 28.05.2011, the letter dated 22.08.2011 addressed by the 7th respondent to the 4th respondent, and the subsequent letter addressed by the 4th respondent to the 7th respondent on

24.08.2011, have been suppressed, and were not brought to the notice of this Court in any of the affidavits filed by either of these two officers, despite specific assertions by the petitioner in his writ affidavit, and in his later affidavit dated 22.11.2011. It needs also to be noted that the 4th respondent has also suppressed the fact that the enquiry report was forwarded by him to the State Government only on 27.08.2011, five days after the enquiry report was furnished to him by the 7th respondent on 22.08.2011 and, in the interregnum, he had issued directions to the 7th respondent in his letter No.C.No.57/DGP/CAMP/2011 dated 24.08.2011 to get a case registered in CID PS and investigate; and, thereafter, a complaint was filed in the CID P.S on 25.08.2011. While the letter of the 7th respondent dated 22.08.2011 refers to the petitioner being involved in the sordid events noted hereinabove, curiously the complaint in Crime No.53 of 2011, filed three days thereafter on 25.08.2011, does not mention his name. This Court was led to believe that it is only much later, when Sri T. Sunil Reddy made a confession during his police custody, that the involvement of the petitioner came to light. The petitioner's assertion in the affidavit dated 22.11.2011 that the 4th respondent conducted an enquiry on the circumstances appearing against himself, contrary to well settled principles of law, is borne out by the record, including the letters aforementioned.69. Anything done with an oblique motive interferes with the administration of justice. Such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deter others from indulging in similar acts which shake the faith of the people in the system of administration of justice. (**Chandra Shashi v. Anil Kumar Verma** (1995) 1 SCC 421). Anyone who attempts to impede or undermine or obstruct the free flow of the unsoiled stream of justice, by resorting to false evidence, commits criminal contempt of the court and renders himself liable to be dealt with in accordance with the provisions of the Contempt of Courts Act. It would be a public disaster if the fountain of justice is allowed to be poisoned by anyone resorting to filing of false affidavits or giving of false statements or fabricating false evidence in a court of law. The stream of justice has to be kept clear and pure and anyone soiling its purity must be dealt with sternly so that the message percolates loud and clear that no one can be permitted to undermine the dignity of the court and interfere with the due course of judicial proceedings or the administration of justice. (**Dhananjay Sharma v. State**

of Haryana AIR 195 SC 1795; **Chandra Shashi**). A false statement made in the court, or in the affidavits filed before it, intentionally to mislead the court, amounts to criminal contempt, as it tends to impede the administration of justice. It adversely affects the interest of the public in the administration of justice. Every party is under a legal obligation to make truthful statements before the court as causing obstruction in the due course of justice “undermines and obstructs the very flow of the unsoiled stream of justice, which has to be kept clear and pure, and no one can be permitted to take liberties with it by soiling its purity”. (**State of Madhya Pradesh v. Narmada Bachao Andolan** 2011) 7 SCC 639; **Naraindas v. State of M.P** (1974) 4 SCC 788, **Advocate General, State of Bihar v. M.P. Khair Industries** (1980) 3 SCC 311; and **Afzal v. State of Haryana** (1996) 7 SCC 397).⁷⁰. Any conduct which has the tendency to interfere with the administration of justice, or the due course of judicial proceedings, amounts to the commission of criminal contempt. (**Dhananjay Sharma**). The word 'interfere', in this context, means any action which checks or hampers the functioning or hinders or tends to prevent the performance of duty i.e., obstacles or impediments which hinder, impede or in any manner interrupt or prevent the administration of justice. If recourse to falsehood is taken with an oblique motive, the same would definitely hinder, hamper or impede the even flow of justice, and would prevent the courts from performing their legal duties as they are supposed to do. (**Chandra Shashi; Words and Phrases (Permanent Edn.), Vol. 22**).⁷¹. If false statements made in Court or in the affidavits filed before the Court amounts to criminal contempt, can suppression of material facts stand on a different footing, as the endeavour both in the case of filing of false affidavits and suppression of material facts is only to mislead and misguide the Court, and thereby interfere with the administration of justice? The answer can only be in the negative. In Black's Law Dictionary (Sixth Edition) **Suppressio veri** is defined as suppression or concealment of the truth. It is a rule of equity, as well as of law, that a *suppression veri* is equivalent to a *suggestion falsi*; and where either the suppression of the truth or the suggestion of what is false can be proved, the party injured may have relief. Recourse to *suppression veri* and *suggestio falsi* amounts to overreaching the Court. (**Union of India v. Malti Sharma** 2006) 9 SCC 262). A person who suppresses material facts from the court is guilty of *suppression veri* and *suggestio falsi* i.e. suppression or

failure to disclose what a party is bound to disclose, which may amount to fraud. (**Narmada Bachao Andolan**). The very basis of the writ jurisdiction rests in the disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of Writ Courts, and the exercise of its jurisdiction, would become impossible. This is because “the court knows law but not facts”. Suppression or concealment of material facts is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdictions. (**K.D. Sharma v. Steel Authority of India Limited** (2008) 12 SCC 481; **R v. Kensington Income Tax Commrs** (1917) 1 KB 486).

72. While the petitioner must, no doubt, disclose all material facts fairly and truly, the respondents, more particularly those holding custody of the records of the case, have a similar, if not a greater, responsibility to the Court. If either the petitioner or the respondents suppress material facts, or state material facts in a distorted manner, in order to mislead the Court, the Court is duty bound to protect itself and prevent abuse of its process.

73. *Prima facie*, the false affidavit filed by Sri S.V. Ramana Murthy, IPS, Additional Director General of Police C.I.D, A.P. (7th respondent), and suppression of material facts by both Sri V. Dinesh Reddy, IPS (4th respondent) and Sri S.V. Ramana Murthy, IPS (7th respondent) constitute criminal Contempt of Court. The Registrar-General of the High Court shall forthwith initiate *suo-motu* criminal contempt proceedings, under the Contempt of Courts Act, against both the 4th and the 7th respondent herein.

74. The Writ Petition is disposed of accordingly. However, in the circumstances, without costs.

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