

(2009) 07 KAR CK 0037
In the Karnataka High Court
Case No : Criminal Revision Petition No. 66/07

C. Vishvanatha and Revangouda Patil	APPELLANT
Vs	
The State of Karnataka	RESPONDENT

Date of Decision : 31-07-2009

Acts Referred:

Karnataka Lokayukta Act, 1984 — Section 14, 7, 9
Penal Code, 1860 (IPC) — Section 420, 465, 468, 471

Citation : (2009) 07 KAR CK 0037

Hon'ble Judges : V. Jagannathan, J

Bench : Single Bench

Advocate : Sriyuths Sanjay A. Patil, S.R. Desai, D.T. Bevinakatti and Venkatesh M. Hulikal, for the Appellant; Vijayakumar, Spl. Spp, for the Respondent

Final Decision : Allowed

Judgement

Mr. Justice V. Jagannathan

1. Whether a Police Officer working on deputation to the Lokayuktha office is empowered to register or investigate the offences failing exclusively within the domain of Indian Penal Code is a question of great importance that has arisen in this criminal revision petition filed u/s 397 R/w. 401 of the Code of Criminal Procedure.

2. The facts in brief are that the Assistant Engineer, Technial Wing of Karnataka Lokayuktha, Bangalore, submitted a report to the Police Inspector Bureau of Investigation, Lokayukta, Gulbarga, stating that 12 number bogus bills amounting to Rs. 2,79,398/- were prepared by the Engineers working in SBC, Sub-division No. 11, Krishnapur, in favour of one Honkarappa, Contractor and fictitious measurements were recorded in N.B. No. 18991/266 and the measurements were recorded in the name of one Sri. B. Shankarappa, Assistant Engineer and measured by Sri. Gopal Naik, Assistant. Executive Engineer (who is reported to be dead) and all the 12 bills were admitted for payment by Sri. C. Viswanath, Executive Engineer and payment was recommended. The report also

mentioned that the 12 bills were found to be bogus by the Accounts Superintendent and therefore the investigation revealed that all the 12 bills were prepared with malafide intention to cause financial loss to the Government Based on the said report which was sent to the police Inspector of Lokayuktha, Gulbarga, a case was registered in Cr. No. 345/95 for the offences punishable under Sections 465, 468, 471, 420 R/w. 511 of Indian Penal Code and charge sheet was submitted against these accused persons and the 7th accused Gopal Naik was found to be dead and hence the case stood abated against him.

3. Of the six accused persons, the Petitioners herein who are accused Nos. 1 and 2 respectively filed an application u/s 239 of Code of Criminal Procedure praying for discharge and contended in their application that the Lokayuktha police have no powers to investigate into the offences alleged against the Petitioners and the entire investigation is invalid being contrary to the statutory provisions. Further, the alleged offences though said to have taken a place during December 1992, the charge sheet was submitted after eight years in the year 2000. The charge sheet does not disclose important ingredients of the alleged offences. On these and other grounds mentioned in the application, the Petitioners sought discharge.

4. On behalf of the State, objection was filed before the trial Court and the learned trial Judge after considering the contentions putforward, ultimately, dismissed the application filed by the Petitioners as well as by the State and issued directions to the Government to produce certain documents and the matter was posted for framing charge. The order of the learned trial Judge is assailed in this petition.

5. I have heard Sri. S.R. Desai, assisted by Sri. Sanjay A. Patil, Learned Counsel for the Petitioners and Sri. Vijayakumar, Spl. SPP.

6. Learned Counsel for the Petitioners, at the outset, submitted that the Police Inspector attached to the Lokayuktha office has no power to register and investigate into offences which fall exclusively within the sphere of Indian Penal Code. In the instant case, all the offences alleged against the Petitioners and Ors. are in respect of the offences failing under the Indian Penal Code alone and no other enactments. Therefore, registration of the case by the Inspector of Police of Lokayuktha is invalid and all the investigation thereon also cannot be sustained in law.

7. Elaborating the above submission, Learned Counsel for the Petitioners argued that a Police Officer posted to work in the Lokayuktha office on deputation has no powers to investigate into offences which fall within Indian Penal Code and various notifications issued by the Government clearly limit the powers and functions of the Police Officers working on deputation in Lokayuktha office and they are empowered only to investigate the offences which fall within the purview of the Prevention of Corruption Act, 1988 (for short " the PC Act) and this power is extended to them by virtue of the Notification issued by the Government having regard to the provisions contained in Section 17 of the P.C.

Act. Therefore, when the area of operation is clearly defined by the Government Notification dated 22.12.92, a Police Officer on deputation to the Lokayuktha office cannot investigate into offences falling exclusively under the Indian Penal Code. In this regard, Learned Counsel for the Petitioners also placed reliance on the Notification dated 29.10.2007 issued by the Government of

Karnataka, which clearly mentions the cases in regard to which the Police Officers working in Lokayuktha office are permitted to register the case and they are only in respect of the offences falling

under the P.C. Act. Therefore, the entire investigation in this case leading to the filing of the charge sheet is rendered invalid.

8. In support of the above contentions, Learned Counsel for the Petitioners placed reliance on the decision of this Court in the case of Dr. S.M. Kalligudd and Ors. v. State of Karnataka 1998 (1) KLJ 252 by contending that the police officers posted to work in Lokayuktha office can register and investigate a case which falls within the P.C. Act and if the FIR discloses commission of offences only under the Indian Penal Code, then it will not be competent on the part of the police officers working in the Lokayuktha office to proceed with the investigation.

9. On the other hand, learned Special SPP for the Lokayuktha, Sri. Vijay Kumar A Patil contended that the police Officer working on deputation in the Lokayuktha office is empowered to register and investigate into the offences under the Indian Penal Code also and in this connection, it was submitted that a Police officer deputed to the Lokayuktha office does not cease to be a Police officer and therefore, there can be no impediments or legal obstacles for the Police Inspector at the Lokayuktha office in registering the case for investigating the offences relating to the Indian Penal Code. Referring to the decision of this Court rendered in the case of Mahadevappa Vs. Karnataka Lokayuktha and Another, , it is argued that a Police Inspector of the Lokayuktha office is competent to investigate into the offences falling under the Indian Penal Code.

10. Yet another contention put forward by the Special Prosecutor for the Lokayuktha is that the Karnataka Lokayuktha Act, 1984 permits Police Officers working in the Lokayuktha to register and investigate the cases involving offences under the Indian Penal Code. In this connection, my attention was drawn to the preamble and it was contended that the said preamble makes it clear that Karnataka Lokayuktha Act has been brought into force in order to make provision for the appointment and functions of certain authorities, for making inquiries into administrative action relating to matters as specified in List II or List III or 7th Schedule to the Constitution.

11. Further reference was made to List III of the Seventh Schedule to the Constitution to point out that the very first item in List III pertains to Criminal Law including all matters included in the Indian Penal Code and Item-8 which deals with actionable wrongs was also referred to contend that by virtue of these

provisions contained in the Lokayukta Act and List III of 7th Schedule to the Constitution, Police Officers working in the Lokayukta can register and investigate into the Indian Penal Code offences. Further submission made in this regard is that a bare perusal of Section 14 of the Karnataka Lokayukta. Act make it clear that the Lokayukta or the Upa-Lokayukta may pass an order for prosecuting a public servant if the said Lokayukta or Upa-Lokayukta is satisfied that the public servant has committed any criminal offence. Therefore, in the light of the aforesaid provisions contained in the Lokayukta Act, the question of police officer working on deputation in the Lokayukta. office not being competent to investigate Indian Penal Code offences does not arise. In order to fortify the above submission Special Public Prosecutor for the Lokayukta Sri. Vijayakumar also referred to a decision of Gujarat High Court reported in Rajendra Manubhai Patel Vs. State of Gujarat and Another, . Hence, the trial court was justified in dismissing the application filed by the Petitioners for discharge. As such, no interference is called for against the impugned order in this revision.

12. In the light of the contentions advanced as above and the rulings cited, the only point for consideration is whether a Police Officer on deputation to Lokayukta office is competent to register and investigate the case relating to offences falling exclusively within the sphere of the Indian Penal Code.

13. The facts which are not. in dispute are that the Police Inspector attached to lokayukta Police, Gulbarga registered a case against the Petitioners and Ors. for the offences punishable under Sections 465, 468, 471, 420, 511 R/w. Section 34 of the Indian Penal Code. Having regard to the scheme of the Lokayukta Act. and the powers and functions conferred on the Police Officers working on deputation to the Lokayukta Office, can it be said that the Police Officers of the Lokayukta have the necessary powers conferred on them to investigate into offences falling exclusively within the Indian Penal Code.

14. In so far as Karnataka Lokayukta Act 1984 is concerned, Section 7 of the Act deals with matters which may be investigated by the Lokayukta and Upa-Lokayukta and the said section reads as under;

Section 7. Blatters which may be investigated by the Lokayukta and an Upa-lokayukta.- (1) Subject to the provisions of this Act, the Lokayukta may investigate any action which is taken by or with the general or specific approval of-

(1) The Chief Minister;

(ii) A Minister or a Secretary;

(iii) A member of the State

Legislature; or

(iv) Any other public servant being a public servant of a class notified by the State Government in consultation with the Lokayukta in this behalf,

In any case where a complaint involving a grievance or an allegation is made in respect of such action

(2) Subject to the provisions of this Act, an Upa-lokayukta may investigate any action which is taken by or with the general or specific approval of, any public servant not being the Chief Minister, Minister, Member of the legislature, Secretary or other public servant referred to in Sub-section (1), in any case where a complaint involving a grievance or an allegation is made in respect of such action or such action can be or could have been, in the opinion of the Upa-lokayukta, the subject of a grievance or an allegation.

(2-A) Notwithstanding anything contained in Sub-sections (1) and (2), the Lokayukta or an Upa-lokayukta may investigate any action taken by or with the general or specific approval of a public servant, if it is referred to him by the State Government.

(3) Where two or more Upa-lokayuktas are appointed under this Act, the Lokayukta may, by general or special order, assign to each of them matters which may be investigated by them under this Act:

Provided that no investigation made by an Upa-lokayukta under this Act, and no action taken or tilings done by him in respect of such investigation shall be open to question on the ground only that such investigation relates to a matter which is not assigned to him by such order.

(4) Notwithstanding anything contained in Sub-sections (1) to (3), when an Upa-lokayukta is unable to discharge his functions owing to absence, illness or any other cause, his function may be discharged by the other Upa-lokayukta, if any, and if there is no other Upa-lokayukta by the Lokayukta

15. As far as the procedure to be followed on complaint being made in the Lokayukta Act is concerned, Section 9 throws light on this and the said section provides as under; Section 9 Provisions relating to complaints and investigations:

(1) Subject to the provisions of this Act, any person may make a complaint under this Act to the Lokayukta or an Upa-lokayukta.

(2) Every complaint shall be made in the form of a statement supported by an affidavit and in such form and in such manner as may be prescribed.

(3) Where the Lokayukta or any Upa-lokayukta proposes, after making such preliminary inquiry as he deemed fit, to conduct any investigation under this Act, he.

(a) shall forward a copy of the complaint to the public servant and the Competent Authority concerned;

(b) shall afford to such public servant an opportunity to offer his comments on such complaint;

(c) may make such order as to the safe custody of documents relevant to the

investigation, as he deems fit.

(4) Save as aforesaid, the procedure for conducting any such investigation shall be such, and may be held either in public or in camera, as the Lokayukta or the Upa-lokayukta, as the case may be, considers appropriate in the circumstances of the case.

(5) The Lokayukta or the Upa-lokayukta may, in his discretion, refuse to investigate or cease to investigate any complaint involving a grievance or an allegation, if, in his opinion.-

(a) the complaint is frivolous or vexatious or is not made in good faith;

(b) there are no sufficient grounds for investigating or, as the case may be, for continuing the investigation; or

(c) other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail of such remedies.

(6) In any case where the Lokayukta or an Upa-lokayukta decides not to entertain a complaint or to discontinue any investigation in respect of a complaint he shall record his reasons therefor and communicate the same to the complainant and the public servant concerned.

(7) The conduct of an investigation under this Act against a public servant in respect of any action shall not affect such action, or any power or duty of any other public servant to take further action with respect to any matter subject to the investigation.

16. The next section which is relevant for our purpose is Section 14 dealing with initiation of prosecution by the Lokayukta or Up-lokayukta and the said section is as under;

Section 14. Initiation of prosecution:

If after investigation into any complaint the Lokayukta or an Upa-lokayukta is satisfied that the public servant has committed any criminal offence and should be prosecuted in a Court of law for such offence, then, he may pass an order to that effect and initiate prosecution of the public servant concerned and if prior sanction of any authority is required for such prosecution, then, notwithstanding anything contained in any law, such sanction shall be deemed to have been granted by the appropriate authority on the date of such order.

17. Last of the sections which will have to be referred to is Section 15 dealing with staff of Lokayukta and the provisions contained in the said section are the following;

Section 15. Staff of Lokayukta, etc.-

(1) There shall be such officers and employees as may be prescribed to assist the Lokayukta and the Upa-lokayukta or the Upa-lokayuktas in the discharge of their

functions under this Act.

(2) The categories, recruitment and conditions of service of the officers and employees referred in Sub-section (1) including such special conditions as may be necessary for enabling them to act

without fear in the discharge of their functions, shall be such as may be prescribed in consultation with the Lokayukta.

(3) Without prejudice to the provisions of Sub-section (1), the Lokayukta or an Upa-lokayukta may for the purpose of conducting investigations under this Act. utilise the services of, -

(a) any officer or investigating agency of the State Government; or

(aa) any officer or investigating agency of the Central Government with the prior concurrence of that Government;

(b) any other agency.

(4) The officers and other employees referred to in Sub-section (1) shall be under the administrative and disciplinary control of the Lokayukta:

Provided that when Lokayukta is unable to discharge his functions owing to absence, illness or any other cause, the Upa-lokayukta or if there are more than one Upa-lokayukta, the senior among them may discharge the functions of the Lokayukta under this Sub-section.

18. Thus a careful reading of the above provisions of the Lokayukta Act, 1984 makes it clear that the authorities under the said Act and an officer or the investigating agency of the State Government will have to follow the procedure laid down as above for conducting the investigation under the Lokayukta Act.

19. The case on hand is not the one which relates to any complaint that is made in accordance with the provisions contained u/s 9 of the Lokayukta Act and therefore, the question of the provisions referred to above as contained in the Lokayukta Act being made application does not arise. In the instant case, the Police Inspector of the Lokayukta office registered the case on the basis of the complaint lodged by K.N. Srinivas, Asst. Engineer, Technical Wing of the Lokayukta and based on the said report which was forwarded to the Police Inspector of Lokayukta a case came to be registered in Cr. No. 6/95 in respect of the offences under Sections 465, 468, 471, 420 R/w. 511 of the Indian Penal Code.

20. Whether the Police Officer functioning in the Lokayukta office is therefore, competent to register and investigate the offences falling exclusively under the Indian Penal Code is the question to be answered and this in turn will require us to find out as to what are the powers and functions of the Police Officers deputed to work in the Lokayukta. Office. Government of Karnataka has by special notification authorized all the Inspectors of Police of the office of Karnataka

Lokayukta to be the persons who are authorised to investigate in respect of the cases taling under the Prevention of Corruption Act, 1988. Since Section 17 of the P.C. Act, 1988 empowers the State Government to authorise a Police Officer not below the rank of Inspector of Police to investigate offences punishable under the PC Act, the Government issued a notification dated 22.12.1992 and the said notification reads as under;

HOME SECRETARIAT

Notification No. HD 244 PEG 92

Bangalore, dated 22nd December 1992.

In exercise of the powers conferred by the first proviso to Section 17 of the Prevention of Corruption Act, 1988 (Central Act 49 of 1988) and in super session of Notification No.HD 244 PEG 92 (P) dated 2-11-1992, the Government of Karnataka hereby authorised all the Inspectors of Police, Office of the Karnataka Lokayukta for the purpose of the said proviso subject to the general and overall control and supervision by the Director General, Bureau of Investigation, Lokayukta, Bangalore. The Director General shall function under the control of the Lokayukta as required u/s 15(4) of the Karnataka Lokayukta Act, 1984.

By Order and in the name of the Governor of Karnataka.

CHAJJALAH, Under Secretary to Government, 1395-S.O.39 Home Department (police (Services)).

21. It is therefore clear from the above notification that even in respect of offences falling under the PC Act, a Police Officer attached to the Lokayukta office could not have the power to investigate into any such offences falling under the PC Act without the aforesaid authorisation issued by the State Government. This position becomes further clear from yet another notification issued u/s 5 of the Right to Information (Central) Act, 2005 and as per the said notification dated 29.10.2007 issued by Government of Karnataka, Office of the Lokayukta, the functions and duties of the officers working in the Lokayukta are also mentioned in detail in the said notification. Under the heading "POWERS and DUTIES of ITS OFFICERS and EMPLOYEES", the following information is provided in respect of Police Officers of different rank.

SI.

No.

Officer

Description of the duties.

l8

Additional Director General Of Police/Inspector General of Police.

- 1) Supervision of the cases registered under the provisions of Prevention of Corruption Act, 1988 investigated by the Lokayukta Police of the State.
- 2) Sending reports to the Competent Authority to keep the accused under suspension and to seek prosecution sanction order in respect of persons involved in the PC Act cases.
- 3) To assist the Hon''ble Lokayukta and Hon''ble Upalokayukta in the cases registered under the Karnataka Lokayukta Act, 1984.

19

Deputy Inspector General of Police

- 1) Supervision of the cases registered under the provisions of Prevention of Corruption Act, 1988 investigated by the Lokayukta Police of the State.
- 2) To assist the Hon''ble Lokayukta and Hon''ble Upalokayukta in the cases registered under the Karnataka Lokayukta Act, 1984.

20

Superintendent of Police

- 1) To register and investigate the cases under P.C. Act 1988 and also to supervise the cases registered under the provisions of Prevention of Corruption Act, 1988 investigated by the Lokayukta Police Officers working under their jurisdiction.
- 2) To assist the Hon''ble Lokayukta. and Hon''ble Upalokayukta in the cases registered under the Karnataka Lokayukta Act, 1984.

21

Deputy

Superintendent Of Police

- 1) To Register and investigate the cases under P.C. Act 1988 and also to supervise the cases registered under the provisions of Prevention of Corruption Act, 1988 investigated by the Lokayukta Police Officers working under their jurisdiction.
- 2) To assist the Hon''ble Lokayukta and Hon''ble Upalokayukta in the cases registered under the Karnataka Lokayukta Act, 1984.

22

Police Inspector

- 1) To register and investigate cases under the provisions of P.C. Act 1988 and so far as raid cases are concerned, after obtaining permission from the Superintendent of Police concerned, to register and investigate the raid cases

under P.C. Act 1988.

2) To assist the Hon^{ble}Lokayukta and Hon^{ble}Upalokayukta in the cases registered under the Karnataka Lokayukta Act, 1984.

22. It thus is very evident from the functions and duties assigned to each one of the above mentioned Police Officers, that a Police Inspector attached to the Lokayukta Office is empowered to register and investigate cases under the provisions of PC Act 1988 and secondly he is also empowered to assist the Lokayukta or Upa-lokayukta in the cases registered under the Karnataka Lokayukta Act, 1984.

23. In other words, except in respect of the PC Act 1988 and Karnataka Lokayukta Act, 1984, in regard to other Acts are concerned, a Police Inspector by virtue of the above notification is not empowered to register or investigate cases falling under other Acts and consequently he is also not empowered to register or Investigate cases which fall exclusively under the purview of the Indian Penal Code. When the notification itself clearly provides for the Police Inspector attached to Lokayukta office to register and investigate cases falling under the PC Act, 1988, it is obvious that such a Police Officer attached to Lokayukta office cannot register and investigate offences, which fall under the Indian Penal Code. This view of mine is also supported by a decision of this Court reported in 1998 (1) KLJ 252.

24. In the case of Dr. S.M. Kalligudd and Ors. v. State of Karnataka and Ors., the question arose as to whether the Office of Deputy Inspector General of Police, Bangalore Metropolitan Task Force, which has been declared specially as police station with territorial jurisdiction over Bangalore Metropolitan Area, for registering and investigating cases of offences under Karnataka Municipal Corporations Act, 1976, Karnataka Municipalities Act, 1964, Bangalore Development Authority Act, 1976, Bangalore Water Supply and Sewerage Act, 1964, Karnataka Slum Areas (Improvement and Clearance) Act, 1973 and read with specified offences under Penal Code and Karnataka Police Act, is competent to register and investigate offences falling exclusively under Penal Code or Karnataka Police Act. Said question was answered by the Court in the negative.

25. In the course of judgment in the aforesaid case His Lordship G.C. Bharuka, J. had observed thus;

Under Code of Criminal Procedure, the police stations are created to enable the Officer-in-charge thereof, to register the information relating to the commission of cognizable offences and to investigate the same in order to file its report before the Magistrate competent with the cognizance so that the persons found accused of the offence are appropriately punished. Therefore, police stations can be created where cases can be registered without any barrier relating to territory or the place of occurrence as also the nature of offence alleged to have been committed. Such police stations will be of general nature. But the State Government in its wisdom and for any good reason can create a police station for

a defined reason, i.e., for registering a case committed within a particular geographical limit and/or in relation to commission of offences of particular nature or offences committed by or against a particular class or persons or property and so on and so forth. The police station so created will be the police station having special jurisdiction.

In the present case under the notification dated 27.05.1996 (Annexure-H), the office of the Deputy Inspector General of Police, Bangalore Metropolitan Task Force, Bangalore, has been declared to be a Police Station with a territorial jurisdiction over Bangalore Metropolitan Area and in respect of the offences committed under the Special Acts like Karnataka Municipal Corporations Act, 1976, the Bangalore Development Authority Act, 1976, The Karnataka Municipalities Act, 1964, the Bangalore Water Supply and Sewerage Act, 1964, the Karnataka Slum Areas (Improvement and Clearance) Act, 1973 and read with various offences mentioned in the Indian Penal Code and the Karnataka Police Act. Therefore, on a plain reading of the notification it is quite clear that the Officer-in-charge of the said police station can register a case and proceed with the investigation of case if the facts contained in the F.I.R disclose the offences under the said Special Acts read with or without those under the Indian Penal Code and the Karnataka Police Act. Consequently, it has to be held that if the F.I.R. discloses commission of offences only under the Indian Penal Code or under the Karnataka Police Act, then it will not be competent on the part of the Officer-in-charge of the police station constituted under Annexure-H to proceed with the investigation thereof.

26. Applying the above principle to the case on hand, when Government by its notification dated 22.12.1992 had authorised the Inspector of Police of Lokayukta office for the purpose of Section 17 of the PC Act and when the powers and functions of various Police Officers are clearly defined in the notification dated 29.10.2007, it is obvious that the police officers attached to the Lokayukta office can only operate within the sphere allotted to them in registering and investigating the cases in respect of the offences which fall under the PC Act, 1988 and they cannot investigate into the cases involving offences that fall exclusively under the Indian Penal Code. If the police officers do register and investigate the cases falling under the Indian Penal Code exclusively, it means that they exercise the authority that is not conferred on them. In other words, the act. of registering and investigating the cases relating to offences which fall exclusively under the Indian Penal Code, by the Police Officers of the Lokayukta office, will be without jurisdiction.

27. As far as the decisions referred to by the learned Special Prosecutor for the Lokayukta are concerned, in so far as the decision in Mahadevappa's case ILR 1992 947 is concerned, this Court had taken the view in the said case, that police officers working in the Lokayukta Office are also competent to register and investigate into the offences falling under the PC Act. The said decision was rendered in the context of the operation of both the Prevention of Corruption Act

and Karnataka Lokayukta Act. and this Court after referring to the provisions contained in the Lokayukta Act, 1984 as well as the provisions contained in the PC Act and the provisions of Code of Criminal Procedure took the view that a Police Officer functioning in the Lokayukta Office has the power to investigate into offences that fall under the PC Act and the Lokayukta Act does not in any way prohibits the said exercise of power, by the Police Officer working in the Lokayukta office, in respect of the offences that fall under the PC Act.

28. However, the situation in the case on hand is totally different one, in as much as, the question that has been posed for consideration is whether, in the absence of the Police Inspector working in the Lokayukta office being empowered by necessary authorisation or by Government notification, could have registered and investigated into a case in respect of the offences falling exclusively under the Indian Penal Code. In view of the foregoing discussion and in particular in the light of the law laid down by this Court in Dr. S.M. Kalligudd's case, I am of the view that the Inspector of Police attached to Lokayukta office has no authority nor is he empowered to register and investigate the cases relating to offences falling exclusively under the Penal Code and as such, the exercise of such authority by the Inspector of Police will have to be held as nothing but an act exercised without jurisdiction.

29. In so far as the other contentions put forwards by the learned Special Public Prosecutor for the Lokayukta is concerned, the reference made by him to the preamble to the Lokayukta Act and to List III of Seventh Schedule to the Constitution of India as well as the reference made to the definition of the words action, allegation, corruption, as defined in the Lokayukta Act are concerned, it is only in relation to a complaint that falls within the purview of Section 9 of the Lokayukta Act, that these definitions will have to be taken into account. The case before us is in a different context, in the sense it is nothing to do with the complaint or investigation in regard to which the Lokayukta Act has made provisions in Sections 9 and 8 respectively of the Lokayukta Act, 1984. As such, the contentions put forwarded in this regard as well as the ruling referred to viz. Rajendra Manubhai Patel Vs. State of Gujarat and Another, cannot be of any assistance to support the arguments of the learned Special Public Prosecutor for the Lokayukta.

30. For the foregoing reasons, this revision petition has to succeed and learned judge of the trial court was in error in dismissing the application filed by the Petitioners for discharge. When the very act of registration and investigation of the case by the Police Inspector of Lokayukta itself is without any authority, all the subsequent proceedings also cannot stand to test of law. Learned judge of trial court unfortunately has proceeded on a tangent by referring to various sections of the Lokayukta Act and has held that the Police Officer working in Lokayukta office is empowered to register and investigate into the cases involving the offences falling exclusively under the Indian Penal Code. Learned judge totally lost sight of the very scheme of the Lokayukta Act and therefore,

the entire reasoning given by the learned Judge is unacceptable because, the case that is registered against the Petitioners is not under the Lokayukta Act nor under the P.C. Act. As such, the reasoning given by the learned trial judge cannot be termed as in consonance with the powers and duties conferred on the Police Inspector working in the Lokayukta Office particularly in the light of the two notifications referred to by me above. Therefore, the view taken by the learned trial judge cannot be upheld, as it is contrary to the provisions of law.

31. In the result, the petition is allowed and the impugned order of the learned trial judge is set aside and the Petitioners are discharged of the offences with which they have been charged. At this stage Learned Counsel for the Petitioners submitted that when this Court has arrived by the conclusion that the entire proceedings initiated by the Police Inspector of Lokayukta is without jurisdiction, it is obvious that the proceedings also cannot go on against the remaining accused persons. For this, the submission made by the Learned Counsel for the Lokayukta is that the other accused persons have not come up before this Court for any relief and therefore, the benefit of the view now taken, cannot be extended to those accused persons.

32. Having thus heard in regard to the above aspect, I am of the view that even though the other accused persons are not before this Court, when this Court has taken the view that the initiation of the entire proceedings is without jurisdiction and being invalid in law on account of the Police Inspector of the Lokayukta office being not competent to register and investigate the case in relation to the offences falling exclusively under the Indian Penal Code, continuation of proceedings even against the other accused persons will be of no use and will not serve any purpose. Therefore, notwithstanding the other accused persons being not parties to the present petition, yet, in view of the conclusion reached as above, and to meet the ends of justice even the said accused persons also have to be given the very same relief as is given to the present Petitioners. Therefore, the entire proceedings will have to be quashed in respect of all the accused persons. In the result, I pass the following;

ORDER

Revision Petition is allowed. Impugned order of trial court is set aside. All the accused persons are discharged and the entire proceedings leading to the charge sheet therefore stand quashed.