

**(2021) 09 KL CK 0090**  
**In the High Court Of Kerala**  
**Case No : OP(CRL.) NO. 403 Of 2015**

Vidya Sangeeth

APPELLANT

Vs

M.S.Jaya

RESPONDENT

**Date of Decision :** 13-09-2021

**Acts Referred:**

Code of Criminal Procedure 1973 — Section 156(3)  
Prevention of Corruption Act, 1988 — Section 13(1)(d), 13(2), 19(1)  
Kerala Stamp Act, 1959 — Section 28(A), 28A(1), 28A(4)  
Indian Penal Code, 1860 — Section 120B

**Citation :** (2021) 09 KL CK 0090

**Hon'ble Judges :** R.Narayana Pisharadi, J

**Bench :** Single Bench

**Advocate :** V.C.Sarath, A Rajesh

**Final Decision :** Dismissed

## Judgement

R.Narayana Pisharadi, J

1. The petitioner filed Ext.P1 complaint against respondents 1 to 4 in the Court of the Enquiry Commissioner and Special Judge, Thrissur alleging commission of offences punishable under Section 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988 (for short 'the Act') and also under Section 120B of the Indian Penal Code.
2. The complainant was a Member of the District Panchayat, Thrissur. She preferred the complaint in the Special Court in public interest.
3. Respondents 1 to 4 in this original petition, who were arrayed as the accused in the complaint filed by the petitioner, shall be hereinafter referred to as 'the accused'.
4. The first accused was the District Collector, Thrissur. The second accused was the Additional District Magistrate, Thrissur. The third accused was the Village Officer of Thrissur Village. The fourth accused is the wife of the former Chief

Secretary of the State of Kerala.

5. The crux of the allegations against the accused in Ext.P1 complaint can be stated as follows: The fourth accused had filed an appeal before the first accused for reducing the fair value of the land owned by her. The fair value of the property fixed by the Government was Rs.24,70,000/- per Are. The period for filing the appeal had expired on 31.03.2011. Thereafter, as per the direction of the State Government, appeals had been received till the date 15.10.2012. But, the appeal filed by the fourth accused was accepted by the first accused, ignoring the inordinate delay in filing it. In the above matter, the second accused conducted an enquiry. He obtained a report from the third accused which was in favour of the fourth accused. On the basis of that report, the first accused, as per the order dated 01.06.2014, reduced the fair value of the land owned by the fourth accused, to Rs.12,35,000/- per Are. The fair value was thus reduced without comparing that land with lands similarly situated and which had similarity in nature. Further, in the order passed by the first accused, it was specifically stated that, the fair value thus fixed will not be applicable to any other land of the same kind in Thrissur Village. The order passed by the first accused is the outcome of the conspiracy hatched by the accused persons and it resulted in allowing the fourth accused to get undue pecuniary advantage.

6. The Special Court, as per the order dated 09.07.2014, referred the complaint to the Director, Vigilance and Anti-Corruption Bureau (VACB) for conducting a preliminary enquiry. The Deputy Superintendent of Police, VACB, Thrissur conducted preliminary enquiry and submitted a report before the Special Court stating that the allegations against the accused in the complaint were baseless.

7. The petitioner filed objection in the Special Court to the preliminary enquiry report filed by the VACB. After hearing the counsel for the petitioner/complainant, the Special Court found that there were no sufficient reasons to reject the preliminary enquiry report and to order investigation. On the basis of that finding, the Special Court closed the complaint as per Ext.P24 order dated 19.03.2015.

8. This original petition is filed under Article 227 of the Constitution of India by the complainant for quashing Ext.P24 order passed by the Special Court and to issue direction for registration of FIR and to conduct investigation in the matter.

9. The Dy.S.P, VACB, Thrissur, who is the 8th respondent in the original petition, has filed a report.

10. Heard learned counsel for the petitioner and the learned Public Prosecutor.

11. The fourth accused owned land in survey No.1611/1 of Thrissur Village. The fair value of that land fixed by the Government was Rs.24,70,000/- per Are. The fourth accused filed appeal under Section 28A of the Kerala Stamp Act, 1959 before the first accused District Collector, praying that the fair value of the land fixed may be reduced to Rs.12,35,000/- per Are. The aforesaid appeal was filed

after the period prescribed. The first accused condoned the delay in filing the appeal. After hearing the fourth accused and after considering the report of the third accused Village Officer, the first accused passed Ext.P9 order, reducing the fair value of the land to Rs.12,35,000/- per Are.

12. The crux of the allegations in Ext.P1 complaint filed by the petitioner is that Ext.P9 order is the outcome of the criminal conspiracy hatched by the accused and the undue influence made on the public servants by the husband of the fourth accused, who was at that time the Chief Secretary of Kerala, and that the accused have committed criminal misconduct punishable under Section 13(1)(d) read with 13(2) of the Act.

13. The Special Court has considered the matter in Ext.P24 order in the following manner:

"11. This Court Is Concerned Whether The Said Appeal Was Considered And Allowed After Hatching A Criminal Conspiracy, Whether In The Process They Had Committed Misconduct And Caused Anyone To Obtain Pecuniary Advantage, Etc. Necessarily, When Fair Value Is Reduced, It Involves Pecuniary Advantage To The Party Concerned. But That Is Unavoidable Since The Valuation Was Not Made Uniformly By The Authorities And That Had Given Rise To The Grievance Of The 4th Respondent. But In My Opinion, That Is Not Sufficient To Initiate Criminal Prosecution Against The Statutory Authority, Unless Overwhelming Materials Are Brought In. Here, I Have No Doubt That The Respondents 1 And 3 And Junior Superintendent Pransingh Were More Loyal Than The King. The 1st Respondent Has Condoned The Delay Of More Than Three Years Without Giving Any Reason, Whatsoever. But One Cannot Expect Executive Authorities Like Respondents 1 And 2 Would Act As Expected Of A Judicial Authority. Secondly, The 1st Respondent Had Advanced The Hearing Of The Case For Disposing Of The Appeal At The Earliest. More Disturbing Is The Fact, As Pointed Out By The Learned Counsel, That The Gazette Notification Was Published On The Very Same Day Of Despatching The Order From The Collectorate.

12. As Said Earlier, Both The Appeal And Application For Delay Condonation Had Conveyed Without Saying Sufficient Indication That 4th Respondent Is The Wife Of The Chief Secretary. Thus The Respondents Were Acting Post Haste, Exhibiting Their Utmost Loyalty And Devotion To The Boss. But Considering The Fact, On Ultimate Analysis That The Grievance Raised By The 4th Respondent Was Genuine, The Haste Shown By The Respondents Alone Cannot Be Taken As A Ground For Initiating Criminal Prosecution Against Them.

13. The Rider In The Ext.A1 Order That It Will Confine To The Property In Question, Is A Stock Sentence Which Will Appear In Every Order Passed By The District Collector Under Sec.28A(4) Of The Stamp Act. Therefore, That Also Cannot Be Taken As A Ground For Any Adverse Inference Against The Respondents.

14. On These Considerations, I Am Of The View That Sufficient Reasons Are Not

Made Out To Reject The Report Or To Order An Investigation Under The Vigilance Angle. Point Found Accordingly And The Complaint Is Closed."

14. Section 28A(1) of the Kerala Stamp Act provides that, every Revenue Divisional Officer shall, subject to such rules as may be made by the Government in this behalf, fix the fair value of the lands situate within the area of his jurisdiction, for the purpose of determining the duty chargeable at the time of registration of instruments involving lands. Section 28A(4) of the Kerala Stamp Act states that, any person aggrieved by the fixation of fair value under sub-section (1) may, within one year of its publication under sub-section (3), appeal to the Collector. The proviso to Section 28A states that, the Collector may admit an appeal preferred after the said period of one year if he is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

15. Since the proviso to Section 28A(1) of the Kerala Stamp Act enables the District Collector to admit an appeal preferred after the prescribed period on being satisfied that the appellant had sufficient cause for not preferring the appeal within the prescribed period, no dishonest intention can be attributed to the first accused in condoning the delay occurred on the part of the fourth accused in filing the appeal. The fourth accused had shown cause for the delay in filing the appeal. When the first accused found that there was sufficient cause for the delay, nothing in law prevented her from condoning it. As rightly observed by the Special Court, the administrative authorities or quasi-judicial authorities cannot be expected to pass a detailed order in such matters as courts usually do.

16. Regarding the correctness or otherwise of Ext.P9 order passed by the first accused, the Special Court had no authority to sit in appeal over that order and analyse it on factual grounds. The jurisdiction of the Special Court was limited to examine the question whether, prima facie, any criminal misconduct was committed by the public servants concerned.

17. Merely because prompt and speedy action was taken by accused 1 to 3 on the appeal filed by the fourth accused, abuse or misuse of official position or power by them cannot be inferred. It may be true that the fourth accused, being the wife of the Chief Secretary of the State, accused 1 to 3, who were public servants under him, were keen to ensure that the appeal filed by the fourth accused was disposed of immediately without any delay. It is also true that an ordinary citizen could not expect such quick action from the public servants. However, these circumstances are not sufficient to infer any act of criminal misconduct on the part of accused 1 to 3.

18. Dishonest intention cannot be attributed to the first accused merely because in Ext.P9 order it was stated that the benefit of that order shall be confined to the land owned by the fourth accused. That is so, especially when the fair value of the lands included in the same category of lands which abutted the National Highway was Rs.24,70,000/- per Are. Such a stipulation made in Ext.P9 order was only to ensure that the lands abutting the National Highway will not get the

benefit of the order passed in respect of the land owned by the fourth accused which was not abutting the National Highway.

19. Supervisory jurisdiction under Article 227 of the Constitution is conferred on the High Court to ensure that the subordinate courts function within the bounds of their jurisdiction. When a subordinate court assumed jurisdiction it does not have or has failed to exercise jurisdiction which it does have or when the jurisdiction has been exercised by it in a manner not permitted by law, resulting in failure of justice or grave injustice, the High Court may interfere in exercise of its supervisory jurisdiction. Such jurisdiction vested with the High Court under Article 227 of the Constitution cannot be sought to be invoked or exercised 'in the cloak of an appeal in disguise' (See *State v. Navjot Sandhu alias Afshan Guru* : (2003) 6 SCC 641).

20. The reasons given by the Special Court for closing or rejecting Ext.P1 complaint filed by the petitioner have been earlier quoted from the impugned order. The Special Court has taken a reasonable view of the matter. Therefore, I find no sufficient ground to interfere with the impugned order, in exercise of the supervisory jurisdiction vested with this Court under Article 227 of the Constitution of India.

21. One thing more requires to be noticed. Even if another view is possible and if the Special Court had to forward the complaint to the VACB for investigation under Section 156(3) Cr.P.C., in view of the dictum laid down by the Supreme Court in *Anil Kumar v. Aiyappa* : (2013) 10 SCC 705, the binding authority of which has been set at rest by the Division Bench of this Court in *Muhammed v. State of Kerala* (2019 (1) KHC 230), in the absence of any sanction by the competent authority obtained by the petitioner under Section 19(1) of the Act, the Special Court could not have exercised its jurisdiction under Section 156(3) Cr.P.C.

22. The discussion above leads to the conclusion that the original petition has no merits and it is liable to be dismissed.

Consequently, the original petition is dismissed.