REPORTABLE

2025 INSC 229

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 5001 OF 2024

(Arising out of SLP(Criminal) No(s). 13264 of 2024)

STATE OF KARNATAKA .....APPELLANT(S)

VERSUS

T.N. SUDHAKAR REDDY ....RESPONDENT(S)

J U D G M E N T

Mehta, J.

1. Heard.

2. The present appeal by special leave is preferred by the appellant-State, challenging the judgment and final order dated 4th March, 2024 passed by the High Court of Karnataka at Bengaluru[1], whereby the High Court allowed the Criminal Petition No. 13460 of 2023, filed

[1] Hereinafter referred to as 'High Court'.

by respondent-accused[2] under Section 482 of the Code of Criminal Procedure, 1973[3], and quashed the FIR being Crime No. 56 of 2023 registered by the Karnataka Lokayukta Police Station, Bangalore against the respondent for the offences punishable under Section 13(1)(b) and Section 12 read with Section 13(2) of the Prevention of Corruption Act, 1988.[4]

Brief facts:

3. The respondent is a public servant who joined the Karnataka Power Transmission Corporation Limited[5] on 3rd August, 2007 as an Assistant Executive Engineer (Electrical). In 2021, he was promoted to the post of Deputy General Manager (Vigilance)/Executive Engineer (Electrical) at BESCOM, Bengaluru, Vigilance Squad, Bangalore and was discharging his duties in the said capacity.

4. The Police Inspector, Karnataka Lokayukta, Bangalore, submitted a source information report dated 10th November, 2023 to the Superintendent of Police, Karnataka Lokayukta, Bangalore[6] alleging *inter alia* that during his service tenure in various government department units, the respondent had acquired assets amounting to Rs. 3,81,40,246/-, which were

[2] Hereinafter referred to as 'the respondent.'
[3] Hereinafter referred to as 'CrPC'.
[4] Hereinafter referred to as the 'PC Act.'
[5] Hereinafter referred to as the 'KPTCL.'
[6] Hereinafter referred to as the 'Superintendent of Police'.

disproportionate and almost 90.72% more than his known sources of income.

5. Based on the said source information report, the Superintendent of Police issued an order dated 4th December, 2023, directing the Deputy Superintendent of Police, Karnataka Lokayukta, Bangalore[7] to register a case against the respondent for offences punishable under Section 13(1)(b), and Section 12 read with Section 13(2) of the PC Act, and further authorized the said officer to conduct the investigation of the case. The order dated 4th December, 2023 around which the controversy revolves is reproduced herein below for ready reference: -

"KARNATAKA LOKAYUKTHA

No KLA/B'City(SP-2)/Source/02/2023

Office of the Superintendent of Police,
Karnataka Lokayukta,
Bengaluru City-2, Bengaluru,
Dated 04.12.2023

PROCEEDINGS OF THE SUPERINTENDENT
OF POLICE KARNATAKA LOKAYUKTHA
BENGALURU CITY-2

Sub Possession of properties disproportionate to known source of income by **Sri. T N Sudhakar Reddy, DGM,(EE) Ele, BESCOM Vigilance, Bangalore**.

Ref Source Report submitted by Sri Balaji Babu H N, Police Inspector-8, Karnataka Lokayukta, Bengaluru City P S, Dated 10.11.2023

[7] Hereinafter referred to as 'Deputy Superintendent of Police.'

I have gone through the source report submitted by Sri Balaji Babu H N, Police Inspector-8, Karnataka Lokayukta, Bengaluru City P S, relating to his receipt of credible information that Shri T N Sudhakar Reddy, DGM,(EE) Ele, BESCOM Vigilance, Bangalore has acquired properties disproportionate to his known source of income to the extent of Rs 3,81,40,246/- and thereby committed an offence under section 13(l)(b) r/w 13(2) and 12 of Prevention of Corruption Act 1988.

From the material placed before me and with application of my mind I am satisfied that a prima-facie case is made out against Sri T N Sudhakar Reddy, D6M (EE), Ele, BESCOM Vigilance, Bangalore Warranting a statutory investigation for an offence under section 13(l)(b) r/w 13(2) & 12 of Prevention of Corruption Act 1988.

ORDER NO. KLA/INV/BCD/SP-2/02/2023, DATED. 04.12.2023.

Therefore by virtue of the powers vested in me under provisions of Section 17 of the Prevention of Corruption Act 1988, I, Dr. K Vamsikrishna, IPS, Superintendent of Police, Karnataka Lokayukta, Bengaluru City-2, Bengaluru order that Sri. Tippeswamy H J, Deputy Superintendent of Police, Karnataka Lokayukta, Bengaluru City Police Station, Bengaluru to register a case under Section 13(1)(b) r/w 13(2) & 12 of Prevention of Corruption Act 1988 against Sri. T N Sudhakar Reddy, DGM(EE), Ele, BESCOM Vigilance, Bangalore and to investigate the said case. I know Sri. Tippeswamy H J, Deputy Superintendent of Police and he is having the knowledge of investigation of the cases registered under P.C. Act and also he is having previous experience of investigation of disproportionate of asset cases.

Further, I authorize Sri. Tippeswamy H J, Deputy Superintendent of Police, Karnataka Lokayukta, Bengaluru City Police Station, Bengaluru under the provisions of the section

18 of the Prevention of Corruption Act, 1988 to inspect the bankers books in so far as it relates to the accounts of the persons suspected to be holding money on behalf of the said Sri. T N Sudhakar Reddy, DGM,(EE) Ele, BESCOM Vigilance, Bangalore and to take or cause to be taken certified copies of the relevant entries there from and the bankers concerned shall be bound to assist the police officer Sri. Tippeswamy H J, Deputy Superintendent of Police, Karnataka Lokayukta, Bengaluru City Police Station, Bengaluru in the exercise of the powers under the said section of law.

(Dr. K Vamsirishna., IPS)
Superintendent of Police
Karnataka Lokayukta,
Bengaluru City-2,
Bengaluru.

To :
Sri. Tippeswamy H J,
Dy.S.P-4,
Karnataka Lokayukta
Bengaluru City-2, Bengaluru."

6. On the same day, *i.e.*, 4th December 2023, an FIR[8] came to be registered against the respondent at the Karnataka Lokayukta Police Station, Bangalore City, for the offences punishable under Section 13(1)(b) and Section 12 read with Section 13(2) of the PC Act.

7. Aggrieved, the respondent filed a Criminal Petition[9] under Section 482 of the CrPC before the High Court, seeking quashing of the aforesaid FIR. The High Court, *vide* order dated 4th March, 2024, allowed the

[8] FIR in Crime No. 56 of 2003.
[9] Criminal Petition No. 13460 of 2023.

criminal petition and quashed the FIR along with all the consequential criminal proceedings arising therefrom. The said order of the High Court is the subject matter of challenge in this appeal by special leave.

Submissions on behalf of Appellant:

8. Learned counsel for the appellant-State vehemently and fervently argued that the High Court grossly erred in allowing the quashing petition preferred by the respondent. In this regard, he has advanced the following submissions: -

(i) That it is not mandatory to hold a preliminary inquiry when the secret information itself discloses the commission of offences under the PC Act. The scope of the preliminary inquiry is not to ascertain the veracity of the information, but only to check whether the information reveals the commission of a cognizable offence or not. Therefore, the necessity to conduct a preliminary inquiry is dependent upon the factual matrix of each case. Learned counsel in this regard has put reliance upon the decisions of this Court in the cases of ***CBI and Another v. Thommandru Hannah Vijaylakshmi and Another***[10] and ***National Confederation of Officers Association***

[10] (2021) 18 SCC 135.

of Central and Public Sector Enterprises & Ors. v. Union of India and Ors.[11].

(ii) That the Superintendent of Police, upon receiving the source information report from the Police Inspector, Karnataka Lokayukta, Bangalore, thoroughly examined the same and came to a conclusion that the information provided in the said report disclosed a *prima facie* case against the respondent for the offences punishable under Section 13(1)(b) and Section 12 read with Section 13(2) of the PC Act. Thereupon, he directed the Deputy Superintendent of Police to register a case for these offences against the respondent and to conduct investigation. Since there is no legislative prescription as to the format of the preliminary inquiry, the source information report submitted by the Police Inspector, Karnataka Lokayukta, Bangalore, which was critically evaluated by the Superintendent of Police, itself served the purpose of a preliminary inquiry. The source information report not only delineates the assets amassed by the respondent but also lays out the expenditure made by him, which is disproportionate to his known sources of income. He thus urged that the source information report must itself be considered as a preliminary

[11] (2022) 4 SCC 764.

inquiry report. Hence, it would be incorrect to conclude that no preliminary inquiry was undertaken before the registration of the FIR. Learned counsel in this regard has placed reliance upon the decision of this Court in the case of ***State of Telangana v. Managipet Alias Mangipet Sarveshwar Reddy.***[12]

(iii) That once the Superintendent of Police, upon receiving the source information report, was satisfied that the said report disclosed the commission of offences under the PC Act, he was competent under Section 17 of the PC Act to direct the Deputy Superintendent of Police to register an FIR in respect of the offences disclosed in the source information report. Further, it was submitted that the Superintendent of Police was well within his jurisdiction while directing the Deputy Superintendent of Police to conduct the investigation of the case. Learned counsel in this regard has placed reliance upon the decision of this Court in the case of ***Thommandru Hannah Vijayalakshmi*** (*supra*).

(iv) That the order dated 4th December, 2023 issued by the Superintendent of Police to the Deputy Superintendent of Police was passed after due application of mind to the facts of the case and

[12] (2019) 19 SCC 87.

upon being satisfied that tangible material exists which merits registration of the FIR. It is a reasoned order which sets out the name of the accused, the foundational facts pertaining to acquisition of properties disproportionate to his gross income, the information about all the expenditures incurred by him, the nature of the offence, the relevant provisions of the PC Act, and most importantly, the power of the Superintendent of Police to direct the Deputy Superintendent of Police to register an FIR and investigate the case. Thus, the High Court was not justified in concluding that the Superintendent of Police did not apply his mind while issuing the order of registration of FIR and the consequent authorization for investigation into the offences thereunder. Reliance placed by the High Court on the judgment in the case of ***State of Haryana & Ors. v. Bhajan Lal & Ors***[13] is misplaced because the present case does not fall within any of the categories enumerated therein, justifying the decision to allow the quashing petition filed by the respondent.

On these grounds, learned counsel appearing for the appellant-State implored this Court to accept the

[13] 1992 Supp (1) SCC 335.

appeal, set aside the impugned judgment and restore the FIR, registered against the respondent.

Submission on behalf of the Respondent:

9. *Per contra*, learned senior counsel appearing for the respondent vehemently and fervently opposed the submissions advanced on behalf of the appellant-State. He advanced the following pertinent submissions, imploring this Court to dismiss the present appeal:-

> (i) That the High Court was fully justified in quashing the FIR in Crime No. 56 of 2023 considering that the order dated 4th December, 2023, issued by the Superintendent of Police, was passed without conducting any preliminary inquiry. It is a well-established principle of law that before an FIR is registered against a public servant for the offences punishable under the PC Act, a preliminary inquiry must be undertaken by the competent authority, considering the gravity of accusations involved in such cases which have a direct bearing on the accused/public servant's reputation and the reputation of the entire department. Thus, a preliminary inquiry before registration of an FIR is mandatory so as to avoid abuse of the process of law considering that the primary objective of conducting the preliminary

inquiry is to ensure that the criminal investigation is not initiated on a frivolous and untenable complaint. Learned senior counsel in this regard placed reliance upon the decisions of this Court in ***P Sirajuddin v. State of Madras***[14]; ***Lalitha Kumari v. Government of Uttar Pradesh and Ors.***[15]; and ***Charansingh v. State of Maharashtra & Ors.***[16]

(ii) That any order issued under Section 17 of the PC Act, directing investigation in the FIR, must be passed with judicious discretion, based upon due application of mind and supported by substantive reasons. The second proviso to Section 17 of the PC Act, which is an additional safeguard for public servants, stipulates that any offence that is punishable under Section 13(1)(b) of the PC Act shall not be investigated without the order of a police officer who is below the rank of a Superintendent of Police. Thus, the Superintendent of Police was under an obligation to record reasons before directing the Deputy Superintendent of Police to register the FIR and conduct investigation thereupon. However, in the present case, the Superintendent of Police passed

[14] (1970) 1 SCC 595.
[15] (2014) 2 SCC 1.
[16] (2021) 5 SCC 469.

the order for registration of FIR casually and mechanically, without assigning any reasons. That a bare perusal of the order dated 4th December, 2023 reflects that the Superintendent of Police mentioned having assessed the materials *i.e.*, the source information report dated 10th November, 2023, and applied his mind thereto. However, the order fails to provide any clear reflection of a comprehensive and substantive examination of the said source information report, which makes it evident that the approach of the Superintendent of Police was totally mechanical and laconic, vitiating the criminal proceedings from the very inception i.e., the registration of the FIR.

(iii) That the permission accorded by the Superintendent of Police to register the FIR was based entirely upon the source information report and no verification whatsoever was sought in order to adjudge the veracity of the allegations made therein. Upon receiving the source information report, an independent preliminary inquiry should have been conducted, before directing registration of the FIR. However, the Superintendent of Police, influenced by the source information report, straight away directed the Deputy Superintendent of Police to register an FIR and simultaneously

authorised him to commence the investigation of the case. Learned senior counsel for the respondent further contended that the entire procedure followed by the Superintendent of Police is flawed and in teeth of the law laid down by this Court in ***Lalita Kumari*** *(supra),* wherein it was held that preliminary inquiry by the police is *sine qua non* in offences related to corruption even if the police are in possession of information that discloses the commission of an offence. Hence, the very initiation of the criminal process is vitiated as it was biased and flawed from the beginning and thus, the High Court has rightly allowed the quashing petition preferred by the respondent.

On these grounds, the learned senior counsel for the respondent urged that the present appeal against the judgment of the High Court is liable to be dismissed, and the High Court's decision to quash the FIR and all consequential proceedings arising therefrom, should be upheld.

Discussion: -

10. We have given our consideration to the submissions advanced at the bar and have gone through the impugned judgment. With the assistance of learned counsels for the parties, we have perused the material placed on record.

11. There is no dispute that the respondent is a public servant who started serving in KPTCL in 2007. He was duly promoted to the post of Deputy General Manager (Vigilance)/Executive Engineer (Electrical), at BESCOM, Bengaluru, and has been discharging his duties in the said capacity.

12. The primary allegation set out against the respondent is that during his tenure of service in various departmental units, the respondent had acquired assets to the tune of Rs. 3,81,40,246/-, which were disproportionate and almost 90.72% more than his known sources of income. A detailed source information report to this effect was submitted to the Superintendent of Police who took cognizance of this report and issued a composite Order (*supra*) dated 4th December, 2023, directing the Deputy Superintendent of Police to register an FIR against the respondent for the offences punishable under Section 13(1)(b) and Section 12 read with Section 13(2) of the PC Act and to investigate the same.

13. The core questions which arise for our consideration in the present case are as follows: -

> **A.** Whether a preliminary inquiry was mandatory before directing registration of an FIR under the PC Act in the facts of the case at hand or whether the source information

report could be treated to be a substitute for the preliminary inquiry?

B. Whether the Order dated 4th November, 2023, passed by the Superintendent of Police under Section 17 of the PC Act, is sustainable in the eyes of law?

Issue A: Whether a preliminary inquiry was mandatory before directing registration of an FIR under the PC Act in the facts of the case at hand or whether the source information report could be treated to be a substitute for the preliminary inquiry?

14. It is the case of the appellant-State that preliminary inquiry is not mandatory before registration of an FIR. Without prejudice to the above, it is contended that the source information report submitted by the Police Inspector, Karnataka Lokayukta Police Station to the Superintendent of Police, detailing acquisition of assets by the respondent disproportionate to his known sources of income, itself serves as a preliminary inquiry report as it was elaborate enough to disclose a *prima facie* case for the offences punishable under Section 13(1)(b) and Section 12 read with Section 13(2) of the PC Act.

15. On the other hand, learned counsel for the respondent would urge that the Superintendent of

Police acted in gross violation of law while issuing an order to the Deputy Superintendent of Police to register an FIR as preliminary inquiry in 'corruption cases' is a condition precedent for registration of the FIR. Further, preliminary inquiry can only be conducted by a police officer, who is competent to investigate the offence, and thus, a source information report, however detailed, cannot be taken to be a substitute for a preliminary inquiry.

16. In addressing this issue, we must first consider the legal framework established by this Court in a catena of decisions, particularly in ***P. Sirajuddin*** (*supra*), ***Lalita Kumari*** (*supra*), ***Thommandru Hannah Vijayalakshmi*** (*supra*), and ***Managipet*** (*supra*). This Court in ***P. Sirajuddin*** (*supra*) has held that before any public servant is charged with any acts of dishonesty, a preliminary inquiry 'must' be conducted in order to obviate incalculable harm to the reputation of that person. The relevant para from ***P. Sirajuddin*** is extracted herein below:-

> "17. **Before a public servant, whatever be his status, is publicly charged with acts of dishonesty which amount to serious misdemeanour or misconduct of the type alleged in this case and a first information is lodged against him, there 'must' be some suitable preliminary inquiry into the allegations by a responsible officer.** The lodging of such a report against a person, specially one who like the appellant occupied the top position in a department, even if baseless, would do incalculable harm not only

to the officer in particular but to the department he belonged to, in general..."

(emphasis supplied)

17. However, the authoritative pronouncement of law in respect of registration of the FIR emerges from the decision of the Constitution Bench in ***Lalita Kumari*** (*supra*) wherein, the issue before the Court was whether a police officer is obligated to register an FIR upon receiving information regarding the commission of a cognizable offence under Section 154 of the CrPC (corresponding Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023[17]) or whether it is essential to conduct a preliminary inquiry to verify the information before registration of the FIR. This Court held that under Section 154 of the CrPC, a police officer is required to register an FIR when the information received by him discloses the commission of a cognizable offence, without undertaking a preliminary inquiry. However, the Court was also cognizant of the possible misuse of the criminal law resulting in the registration of frivolous FIRs. To address this concern, it outlined specific 'exceptions' to the general rule, which mandates the immediate registration of FIR upon receiving information about a cognizable offence. The Constitution Bench in ***Lalita Kumari*** (*supra*) held: -

[17] For short 'BNSS'.

"119. **Therefore, in view of various counterclaims regarding registration or non-registration, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory.** However, if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed. **But, if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith**. Other considerations are not relevant at the stage of registration of FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible, etc. These are the issues that have to be verified during the investigation of the FIR. **At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence.** If, after investigation, the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR."

(emphasis supplied)

18. The following guidelines were laid down by the Constitution Bench governing the issues:-

"120. In view of the aforesaid discussion, we hold:

120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a cognizable offence but indicates the

necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

120.4. The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

120.5. The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

120.6. **As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:**

(*a*) Matrimonial disputes/family disputes

(*b*) Commercial offences

(*c*) Medical negligence cases

(*d*) **Corruption cases**

(*e*) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without

> satisfactorily explaining the reasons for delay.
>
> The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry."
>
> (emphasis supplied)

19. It was held that a preliminary inquiry is not mandatory if the information received by the police officer/Investigating Agency discloses the commission of a cognizable offence. However, if the preliminary inquiry is conducted, its scope is limited to determine whether the information *prima facie* reveals commission of a cognizable offence and does not extend to verifying its truthfulness. The necessity of a preliminary inquiry depends on the specific facts and circumstances of each case. For instance, corruption cases fall into a category where a preliminary inquiry '*may be made*'.

20. The use of the term '*may be made*' as noted in ***Lalita Kumari*** (*supra*) underscores that conducting such an inquiry is discretionary in nature and not a mandatory obligation.

21. Following the rationale of ***Lalita Kumari*** (*supra*), this Court in ***Managipet*** (*supra*) held that while the decision in ***Lalita Kumari*** (*supra*) noted that a preliminary inquiry was desirable in cases of alleged corruption, this does not vest a right in the accused to demand a preliminary inquiry. Whether the preliminary inquiry is required to be conducted or not will depend

on the peculiar facts and circumstances of each case, and it cannot be said to be a mandatory requirement, in the absence of which, an FIR cannot be registered against the accused in corruption-related matters.

22. The relevant paragraphs from ***Managipet*** (*supra*) are extracted herein below: -

> "33. In the present case, the FIR itself shows that the information collected is in respect of disproportionate assets of the accused officer. The purpose of a preliminary inquiry is to screen wholly frivolous and motivated complaints, in furtherance of acting fairly and objectively. Herein, relevant information was available with the informant in respect of prima facie allegations disclosing a cognizable offence. **Therefore, once the officer recording the FIR is satisfied with such disclosure, he can proceed against the accused even without conducting any inquiry or by any other manner on the basis of the credible information received by him.** It cannot be said that the FIR is liable to be quashed for the reason that the preliminary inquiry was not conducted. The same can only be done if upon a reading of the entirety of an FIR, no offence is disclosed. Reference in this regard, is made to a judgment of this Court in *State of Haryana* v. *Bhajan Lal* [*State of Haryana* v. *Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] wherein, this Court held inter alia that where the allegations made in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused and also where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

> **34.** Therefore, we hold that the preliminary inquiry warranted in *Lalita Kumari* [*Lalita Kumari* v. *State of U.P.*, (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] is not required to be mandatorily conducted in all corruption cases. It has been reiterated by this Court in multiple instances that the type of preliminary inquiry to be conducted will depend on the facts and circumstances of each case. **There are no fixed parameters on which such inquiry can be said to be conducted. Therefore, any formal and informal collection of information disclosing a cognizable offence to the satisfaction of the person recording the FIR is sufficient**."
>
> (emphasis supplied)

23. A three-judge bench of this Court in ***Thommandru Hannah Vijayalakshmi*** (*supra*) extensively discussed the judicial precedents and legal principles governing the requirement of conducting a preliminary inquiry before registration of an FIR. The Court affirmed the view taken by the two-judge Bench in ***Managipet*** (*supra*), holding that a preliminary inquiry may not be necessary if the officer recording the FIR possesses relevant information which discloses the commission of a cognizable offence. The relevant extracts from ***Thommandru Hannah Vijayalakshmi*** (*supra*) are reproduced herein below: -

> "32. **[..]... we hold that since the institution of a Preliminary inquiry in cases of corruption is not made mandatory before the registration of an FIR under the CrPC, PC Act or even the CBI Manual, for this Court to issue a direction to that affect will be tantamount to stepping into the legislative domain.**

> 39. **The precedents of this Court and the provisions of the CBI Manual make it abundantly clear that a preliminary inquiry is not mandatory in all cases which involve allegations of corruption.** The decision of the Constitution Bench in *Lalita Kumari* [*Lalita Kumari* v. *State of U.P.*, (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] holds that if the information received discloses the commission of a cognizable offence at the outset, no preliminary inquiry would be required. It also clarified that the scope of a preliminary inquiry is not to check the veracity of the information received, but only to scrutinise whether it discloses the commission of a cognizable offence. Similarly, Para 9.1 of the CBI Manual notes that a preliminary inquiry is required *only* if the information (whether verified or unverified) does not disclose the commission of a cognizable offence. **Even when a preliminary inquiry is initiated, it has to stop as soon as the officer ascertains that enough material has been collected which discloses the commission of a cognizable offence. A similar conclusion has been reached by a two-Judge Bench in *Managipet* [*State of Telangana* v. *Managipet*, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] as well. Hence, the proposition that a preliminary inquiry is mandatory is plainly contrary to law, for it is not only contrary to the decision of the Constitution Bench in *Lalita Kumari*** [*Lalita Kumari* v. *State of U.P.*, (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] but would also tear apart the framework created by the CBI Manual."
>
> (emphasis supplied)

24. Applying these principles to the case at hand, it is perspicuous that conducting a preliminary inquiry is not *sine qua non* for registering a case against a public servant who is accused of corruption. While preliminary inquiry is desirable in certain categories of cases

including those under the PC Act, it is neither a vested right of the accused, nor a mandatory pre-requisite for registration of a criminal case. The purpose of a preliminary inquiry is not to verify the veracity of the information received, but merely to ascertain whether the said information reveals the commission of a cognizable offence. The scope of such inquiry is naturally narrow and limited to prevent unnecessary harassment while simultaneously ensuring that genuine allegations of a cognizable offence are not stifled arbitrarily. Thus, the determination, whether a preliminary inquiry is necessary or not will vary according to the facts and circumstances of each case.

25. In the present case, the Police Inspector of the Karnataka Lokayukta submitted a comprehensive source information report dated 10th November, 2023 to the Superintendent of Police, which included meticulous documentation and evaluation of the assets acquired by the respondent, which were grossly disproportionate to his known sources of income. The respondent, during his tenure of service in various departmental units, had acquired assets worth Rs.3,81,40,246/-, which were disproportionate and almost 90.72% more than his known sources of income. Thereupon, the Superintendent of Police took cognizance of the source information report and concluded that the allegations made against the

respondent did constitute *prima facie* offences punishable under Section 13(1)(b) and Section 12 read with Section 13(2) of the PC Act.

26. It is clearly discernible that the source information report dated 10th November, 2023, was in the nature of a preliminary inquiry in itself and nothing else. The comprehensive nature of the said report took it beyond a simple complaint, as it provided a meticulous breakdown of the respondent's monetary acquisitions. Further, the report makes cross-referencing of official income records with actual property acquisitions, bank deposits, and other financial assets. In substance, the source information report *prime facie* reflects a systematic pattern of financial irregularities, wherein the discrepancy in acquisition of assets was found to be 90.72% more than the known sources of income of the respondent.

27. Thus, in our view the source information report dated 10th November, 2023, served as a critical piece of information which not only documented the financial discrepancies but also presented a clear, *prima facie* picture of disproportionate assets accumulated by the respondent but also demanded immediate and thorough investigative action. As we have noted above, the scope of preliminary inquiries is not to verify the absolute truthfulness of information, and it is only to ascertain whether a cognizable offence is disclosed or

not therefrom. The source information report in the case at hand clearly satisfies this criterion by comprehensively documenting the financial irregularities committed by the respondent and disclosed a *prima facie* case of commission of a cognizable offence involving acquisition of disproportionate assets, punishable under the PC Act. Thus, we are of the opinion that the High Court erred in concluding that the FIR was liable to be quashed on account of omission to conduct a preliminary inquiry.

Issue B: Whether the order dated 4th November 2023, passed by the Superintendent of Police under Section 17 of the PC Act, is sustainable in the eyes of the law?

28. It is the case of the appellant-State that since the preliminary inquiry is not mandatory, the Superintendent of Police, who took cognizance of the source information report, has rightly exercised his powers to issue an order directing the Deputy Superintendent of Police to register an FIR against the respondent and to commence the investigation.

29. Learned senior counsel for the respondent urged that the Superintendent of Police, grossly erred in issuing the order dated 14th December 2023 under Section 17 of the PC Act merely on the basis of the source information report dated 10th November 2023. *Vide* this order, he directed the Deputy Superintendent

of Police to register a case against the respondent for offences punishable under Section 13(1)(b) and Section 12 read with Section 13(2) of the PC Act and to investigate the case. It was contended that the Superintendent of Police failed to apply his mind while appointing the investigating officer under Section 17 of the PC Act, as in the absence of a formally registered FIR, the permission of the Superintendent of Police could not have been sought as required under second *proviso* to Section 17 of the PC Act.

30. For the purpose of deciding this issue, it is essential to make a reference to Section 17 of the PC Act.

> **"Section 17: Persons authorised to investigate.—**
>
> Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), **no police officer below the rank,—**
>
> (a) in the case of the Delhi Special Police Establishment, of an Inspector of Police;
>
> (b) in the metropolitan areas of Bombay, Calcutta, Madras and Ahmedabad and in any other metropolitan area notified as such under sub-section (1) of section 8 of the Code of Criminal Procedure, 1973 (2 of 1974), of an Assistant Commissioner of Police;
>
> (c) **elsewhere, of a Deputy Superintendent of Police or a police officer of equivalent rank, shall investigate any offence punishable under this Act without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefor without a warrant**:

> Provided that if a police officer not below the rank of an Inspector of Police is authorised by the State Government in this behalf by general or special order, he may also investigate any such offence without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make arrest therefor without a warrant:
>
> **Provided further that an offence referred to in clause (b) of sub-section (1) of section 13 shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police."**
>
> (emphasis supplied)

31. Section 17 of the PC Act prescribes that no police officer below the rank of an Inspector in the case of the Delhi Special Police Establishment, an Assistant Commissioner of Police in the metropolitan areas of Bombay, Calcutta, Madras and Ahmedabad and any other metropolitan area notified as such, and in any other case, the Deputy Superintendent of Police or a police officer of equivalent rank shall investigate an offence punishable under the Act without prior order of the Metropolitan Magistrate or a Magistrate of the 1st Class, as the case may be, or make any arrest without a warrant. According to the first *proviso* to Section 17, if a police officer not below the rank of an Inspector of Police as is authorised in this behalf by a general or special order issued by the Government, he can also investigate such offences without the order of the Metropolitan Magistrate or a Magistrate of the 1st Class, as the case may be, or make arrest thereunder without

a warrant. Further, the second *proviso* provides that where an offence referred to in clause (e) of sub-section (1) of Section 13 is sought to be investigated, such an investigation shall not be conducted without obtaining the order of a police officer not below the rank of a Superintendent of Police.

32. In the impugned judgment, the High Court has placed reliance on the decision of a Coordinate Bench in the case ***Balakrishna H.N. v. State of Karnataka and Ors.***[18] and concluded that the failure to conduct a preliminary inquiry before registering the FIR, and the issuance of the order by the Superintendent of Police under second *proviso* to Section 17 of the PC Act, tantamounted to a clear violation of the legal mandate. The High Court in the case ***Balakrishna*** (*supra*) held that:-

> "11. The Apex Court considers entire spectrum of law and at sub-para 15.1 of paragraph 23 holds that an inquiry at pre-FIR stage is held to be permissible; not only permissible but desirable, more particularly in cases where the allegations are of misconduct of corrupt practice acquiring assets/properties disproportionate to his known sources of income. **This cannot be demanded as a matter or right is what is held, apart from holding that there cannot be a hearing given to the accused prior to drawing up of a source report or registration of a crime. The Apex Court nevertheless holds that the preliminary inquiry is not only desirable but necessary in such cases.** At paragraph 33 the Apex Court holds that the

[18] Writ Petition (Criminal) No. 15886 of 2022 (GM-RES).

> superior officer thus has to verify whether the developed source information prima facie would result in the registration of a case; if yes, they then will have to direct verification of such information. Though the entire verification was governed by the CBI manual which the Apex Court had already held that it should be strictly and scrupulously followed, the Apex Court holds that preliminary inquiry would not be a matter of right or necessary in every case.
>
> 12. **If the reasons rendered by Apex Court are noticed, two factors would emerge – one, that the prosecution is required to draw up source report after conducting some sort of a preliminary inquiry to know the assets of the Government servant and two, after the source information report is placed before the Superior Officer – Superintendent of Police, he has to verify as to whether a crime should be registered or otherwise**. If these principles that would emerge from the judgment of the Apex Court are considered qua the facts obtaining in the case at hand, the registration of the crime would fall foul of the principles laid down by the Apex Court and that of this Court in the afore-quoted judgment."
>
> (emphasis supplied)

33. Therefore, according to the High Court, the Superintendent of Police is not competent to pass an order under Section 17 of the PC Act until a formally registered FIR came into existence. In other words, registration of the FIR is *sine qua non* for issuance of an order to investigate the case. The High Court framed a four-step procedure: first, the police must verify the facts upon receiving the source information report; second, a preliminary inquiry is to be conducted by the police; third, the FIR is registered; fourth, the FIR, along

with the source information report and the preliminary inquiry report, is to be forwarded to the Superintendent of Police. Thus, it was concluded that it is only at the 4th stage that the Superintendent of Police becomes competent to issue an order directing investigation under Section 17 of the PC Act.

34. From the discussion and conclusions drawn by us on the first issue, it is clear that conducting a preliminary inquiry is not an absolute mandate of law in cases concerning offences under the PC Act. Hence, the four-step procedure formulated by the High Court to quash the FIR against the respondent is not compliant with any prescription in law and is also contrary to the law laid down by this Court. What invites our consideration, therefore, is whether the Superintendent of Police is competent to pass a composite order for registration of an FIR as well as directing investigation under Section 17 of the PC Act, authorising the Deputy Superintendent of Police to conduct investigation.

35. It is an established principle that the special law overrides the general law. However, when a general law and a special law address the same subject matter, the rule of harmonious construction is to be applied.

36. In ***State of M.P. and Ors. v. Ram Singh***[19], this Court discussed the legislative intent of the PC Act and held:-

> "10. The Act was intended to make effective provisions for the prevention of bribery and corruption rampant amongst the public servants. It is a social legislation intended to curb illegal activities of the public servants and is designed to be liberally construed so as to advance its object."

37. Chapter 3 of the PC Act deals with provisions concerning offences, and the following chapter, i.e., Chapter 4 of the Act articulates procedural aspects with regard to the investigation of the offences set out in Chapter 3. With respect to other procedural aspects *inter alia* registration of the FIR, the PC Act relies on the CrPC. Since the PC Act only outlines the procedure for investigation of offences, therefore, as a necessary corollary, Sections 154 (corresponding Section 173 of the BNSS) will be applicable for the registration of FIR in relation to offences punishable under the PC Act.

38. The initiation of criminal proceedings requires information that details the commission of an offence, whether cognizable or not. It is trite that if the information reveals the commission of a cognizable offence, the police officials are duty-bound to register an FIR, except in cases where individual reputation and relations are at stake, wherein it is advisable to conduct

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[19] (2000) 5 SCC 88.

a preliminary inquiry. In this regard, reference may be made to **Paras 120.3** and **120.4**. of ***Lalita Kumari*** (*supra*)[20].

39. In the case of ***Kailash Vijayvargiya v. Rajlakshmi Chaudhuri***[21], this Court held as follows: -

> "29. Drawing on several earlier judgments and the language of Section 154 of the Code, it was held that the Police is bound to proceed to conduct investigation, even without receiving information about commission of a cognizable offence if the officer in-charge otherwise suspects the commission of such an offence. **The legislative intent is to ensure that no information of commission of a cognizable offence is ignored and not acted upon, which would otherwise result in unjustified protection of the alleged offender/accused.** Every cognizable offence must be promptly investigated in accordance with the law**. This being the legal position, there is no reason that there should be any discretion or option left with the Police to register or not to register an FIR when information is given about commission of a cognizable offence. This interpretation in a way keeps a check on the power of the Police, which is required to protect the liberty of individuals and society rights inherent in a democracy.** It is the first step which provides access for justice to a victim and upholds the rule of law, facilitates swift investigation and sometimes even prevents commission of crime and checks manipulation in criminal cases."
>
> (emphasis supplied)

40. In the present case, the Superintendent of Police, after forming an opinion that the source information

[20] Refer to Para 18 of this judgment.
[21] (2023) 14 SCC 1.

report dated 10th November, 2023 *prima facie* disclosed the necessary ingredients of the offences punishable under the PC Act, directed the Deputy Superintendent of Police to register an FIR against the respondent and subsequently in the same order, authorised him to investigate the case. We find nothing wrong in this composite order which could justify the quashing thereof. However, the High Court, taking exception to the aforesaid order, found that the Superintendent of Police had acted *de hors* the legal mandate and went on to quash the FIR on the rationale that the act of issuing the order under Section 17 of the PC Act while simultaneously directing the registration of the FIR violated the principles laid down in ***Bhajan Lal*** (*supra*).

41. We are of the opinion that the High Court gravely erred while imposing unwarranted fetters on the investigation agency in corruption cases by carving out a framework of administrative hurdles which may have the potential of incapacitating law enforcement agencies. By mandating elaborate pre-investigation procedures and creating unwarranted procedural check dams, the High Court's approach has the potential to render the effectiveness of law enforcement nugatory. These additional procedural requirements which virtually tantamount to framing a policy could not only disrupt the smooth functioning of investigation agencies, but also risk shielding corrupt public servants

from proper scrutiny, which would be in contravention of the objective of the PC Act.

42. The legislative intent behind the PC Act is to provide a robust mechanism for investigating corruption-related offences, and to avoid the creation of meandering procedural hurdles that shield corrupt officials. While interpreting such procedural laws, it must be borne in mind that the interpretation should facilitate and not frustrate the investigation of potential criminal activities, particularly in cases involving serious allegations of corruption. The correct approach in such cases is to bolster the system created to ensure accountability and prevent arbitrary investigations, and not as a means to create insurmountable procedural barriers at the very inception. The purpose of fair investigation is to ensure that the accused is afforded all the rights guaranteed to him under the law. As a corollary, an investigation which should be expected to be fair, must focus on collecting evidence that leads to the right conclusion and nothing else. A fair investigation cannot be interpreted to cater to the accused only, rather it must be such that the entire investigation process has a backing of the law, and the due procedure established therein. Thus, the ambit of fair investigation tethers the procedural safeguards in order to remain immune from arbitrary actions of individual investigators.

43. The critical issue which requires clarity is what would be the appropriate procedural mechanism when a detailed source information report reaches the Superintendent of Police. The Superintendent of Police is entrusted with the administrative authority to direct his subordinates to register an FIR upon receiving a factual report which *prima facie* discloses the commission of offences punishable under the PC Act. The Superintendent of Police is conferred with the responsibility of evaluating source information report(s) and to determine whether the same *prima facie* warrants further investigation. This administrative command is not contingent upon a pre-existing, formally registered FIR or an exhaustive preliminary inquiry report, as we have held while answering **Issue A.**

44. Under Section 36[22] of CrPC (corresponding Section 30 of the BNSS), police officers superior in rank to the officer in charge of a police station are vested with the same powers that the officer in charge may exercise within their station. Section 154 of CrPC (corresponding Section 173 of the BNSS) empowers the officer in charge to reduce every piece of information, disclosing a cognizable offence, into writing either personally or

[22] **36. Powers of superior officers of police.**—Police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

under his direction. A conjoint reading of Section 36 with Section 154 would make it clear that if the officer in charge of a police station can direct the registration of an FIR under Section 154, as a natural corollary by virtue of Section 36 CrPC, superior officers, which in the case at hand is the Superintendent of Police, are equally competent to issue such directions for registration of the FIR.

45. As a consequence of the above discussion, we are convinced that the High Court erred in holding that the Superintendent of Police must first direct the registration of an FIR and only after it is registered, he would be competent to issue an order for investigation under Section 17 of the PC Act. This interpretation could be permissible only if the subordinates of the Superintendent of Police had a discretion to either comply with or disregard the latter's directive to register the FIR. Under the scheme of the CrPC, the automatic consequence of registration of an FIR is commencement of investigation. The only deviation which Section 17 of the PC Act creates is that the Superintendent of Police must authorize a competent subordinate officer to commence investigation. Since the subordinate police officers are obligated to comply with the orders of the Superintendent of Police, it cannot be argued that he lacked the authority to issue directions under Section 17 of the PC Act simultaneously with the direction to

register the FIR. The former interpretation is against the true intent of the PC Act and is liable to be discarded.

Hence, the composite order dated 4th December 2023 issued by the Superintendent of Police under Section 17 of the PC Act, directing the registration of the FIR and authorizing investigation by the Deputy Superintendent of Police is valid and compliant with law.

46. Furthermore, it is the case of the respondent that the Superintendent of Police passed the order mechanically in typed *proforma* and did not provide clear, comprehensive evidence of examining the source information report, which suggests a perfunctory approach that improperly set the criminal law into motion. The High Court in the impugned judgment also made a reference to ***Bhajan Lal*** (*supra*) to conclude that the Superintendent of Police did not properly apply his mind to the source information report and the statutory requirements before directing the registration of FIR.

47. In the case of ***Bhajan Lal*** (*supra*), this Court adjudicated an issue wherein the Superintendent of Police had issued the order in a mechanical and very casual manner. The Superintendent of Police, while authorising the Station House Officer to investigate a case, had only made an endorsement to the effect '*Please register the case and investigate*'. The Court,

while quashing the investigation as well as the entire proceedings, held that the Station House Officer is not clothed with the valid legal authority to take up the investigation and proceed with the same within the meaning of Section 5-A(1) of the PC Act. The relevant paragraphs from ***Bhajan Lal*** (supra) are extracted below:-

> **"129. <u>In the present case, there is absolutely no reason, given by the SP in directing the SHO to investigate and as such the order of the SP is directly in violation of the dictum laid down by this Court in several decisions which we have referred to above</u>**. Resultantly, we hold that appellant 3, SHO is not clothed with the requisite legal authority within the meaning of the second proviso of Section 5-A(1) of the Act to investigate the offence under clause (*e*) of Section 5(1) of the Act.
>
> [..]
>
> [..]
>
> **131.** From the above discussion, we hold that (1) as the salutary legal requirement of disclosing the reasons for according the permission is not complied with; (2) as the prosecution is not satisfactorily explaining the circumstances which impelled the SP to pass the order directing the SHO to investigate the case; (3) as the said direction manifestly seems to have been granted mechanically and in a very casual manner, regardless of the principles of law enunciated by this Court, probably due to blissful ignorance of the legal mandate and (4) as, above all, the SHO has got neither any order from the Magistrate to investigate the offences under Sections 161 and 165 IPC nor any order from the SP for investigation of the offence under Section 5(1)(*e*) of the Prevention of Corruption Act in the manner known to law, we

> have no other option, save to quash that order of direction, reading "investigate" which direction suffers from legal infirmity and also the investigation, if any, so far carried out. Nevertheless, our order of quashing the direction of the SP and the investigation thereupon will not in any way deter appellant 1, the State of Haryana to pursue the matter and direct an investigation afresh in pursuance of the FIR, the quashing of which we have set aside, if the State so desires, through a competent police officer, clothed with the legal authority in strict compliance with Section 5-A(1) of the Act.
>
> (emphasis supplied)

48. The apparent distinction in ***Bhajan Lal*** (*supra*) and the case at hand, is that the Superintendent of Police in the instant case has demonstrably applied his mind and passed a well-reasoned and a speaking order directing registration of the FIR and authorised the Deputy Superintendent of Police to begin with the investigation. The Superintendent of Police received the report on 10th November, 2023, and issued the subject order on 4th December, 2023, i.e. after a gap of 24 days. The said order not only provided details of the respondent, but it also makes a reference to the quantification of the disproportionate assets, nature of the offence along with the provisions concerned. In addition, it also referred to the provisions that empowered the Superintendent of Police to authorise his junior officer to investigate the case. The Superintendent of Police assigned a palpable reason as

to why the particular Deputy Superintendent of Police was directed to investigate the case. Reference in this regard may be made to the judgment in ***Ram Singh*** *(supra)*, wherein this Court held as follows:-

> **"15. <u>We are not satisfied with the finding of the High Court that merely because the order of the Superintendent of Police was in typed pro forma, that showed the non-application of mind or could be held to have been passed in a mechanical and casual manner. As noticed earlier the order clearly indicates the name of the accused, the number of the FIR, the nature of the offence and power of the Superintendent of Police permitting him to authorise a junior officer to investigate</u>**. The time between the registration of the FIR and authorisation in terms of the second proviso to Section 17 shows further the application of mind and the circumstances which weighed with the Superintendent of Police to direct authorisation to order the investigation.
>
> (emphasis supplied)

49. Moreover, this Court in the case of ***Superintendent of Police, Karnataka Lokayukta v. B. Srinivas***[23], adjudicated on a similar factual scenario wherein the Superintendent of Police issued a verbatim, similar order as in the present case. The Court opined that the order passed by the Superintendent of Police is elaborate and the reasons are clearly discernible therefrom.

[23] (2008) 8 SCC 580.

50. Therefore, in view of the discussion made hereinabove, we are of the opinion that the order dated 4th December, 2023, issued by the Superintendent of Police under Section 17 of the PC Act, is fully compliant with the law. The High Court erred in imposing unwarranted administrative frameworks that could potentially incapacitate the law enforcement agencies. Thus, the Superintendent of Police's authority to issue a composite order directing registration of the FIR and authorizing the officer to conduct an investigation is valid in the eyes of law. The said order was issued without undue haste and with due application of mind. The reasons assigned in the order dated 4th December, 2023 for entrusting the investigation to the Deputy Superintendent of Police are manifest and obvious.

Conclusion

51. In view of the above discussion, we conclude that:-

a. The High Court erred in coming to the conclusion that the order dated 4th December, 2023, passed by the Superintendent of Police, was directly passed under Section 17 of the PC Act, thereby violating the mandatory provisions of the PC Act.

b. The preliminary inquiry is not mandatory in every case under the PC Act. If a superior officer is in seisin of a source information report which is both detailed and well-reasoned and such that any

reasonable person would be of the view that it *prima facie* discloses the commission of a cognizable offence, the preliminary inquiry may be avoided.

c. Section 17 of the PC Act relates specifically to the investigation process, and not the initial act of registering the FIR, for which it relies on the provisions of the CrPC. Hence, it places limitations on only the investigation; it does not impede the fundamental duty of the law enforcement agency to record and register an FIR for cognizable offences.

d. On a harmonious reading of the provisions of the PC Act and the CrPC, it is manifest that the Superintendent of Police is competent to direct the registration of an FIR if he has information about the commission of a cognizable offence, punishable under the PC Act. The former is also competent to simultaneously direct the Deputy Superintendent of Police to register an FIR for the offences under the PC Act, with the understanding that the subsequent investigation will be subject to the restrictions outlined in Section 17 of the PC Act. A composite order to register the FIR and conduct investigation aligns with the statutory framework of the CrPC and the PC Act.

52. For the above reasons, we quash and set aside the judgment and order dated 4th March, 2024 passed by the High Court of Karnataka in Criminal Writ Petition No. 13460 of 2023 and restore the FIR in Crime No. 56 of 2003, pending before the 23rd Additional City Civil and Sessions Judge, Bangalore City.

53. The appeal is allowed accordingly.

54. Pending application(s), if any, shall stand disposed of.

.....J.
(DIPANKAR DATTA)

.....J.
(SANDEEP MEHTA)

NEW DELHI;
FEBRUARY 17, 2025.