



2026:KER:47495

O.P. (CRL) NO.111 OF 2026

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 1ST DAY OF JULY 2026 / 10TH ASHADHA, 1948

OP (CRL.) NO. 111 OF 2026

CRIME NO.14A/2013 OF CENTRAL BUREAU OF INVESTIGATION,

KOCHI, ERNAKULAM

AGAINST THE ORDER DATED 28.07.2025 IN CRLMP

115/2025 IN CC NO.2 OF 2016 OF SPECIAL COURT SPE/CBI-

II, ERNAKULAM

PETITIONER/COMPLAINANT:

CENTRAL BUREAU OF INVESTIGATION
REPRESENTED BY SPECIAL PUBLIC PROSECUTOR,
CENTRAL BUREAU OF INVESTIGATION, (ACB),
KATHRIKADAVU, COCHIN, PIN - 682017

BY ADV SHRI.SREELAL N.WARRIER, SPL.PUBLIC
PROSECUTOR, CENTRAL BUREAU OF INVESTIGATION
(CBI)

RESPONDENTS//THIRD PARTY & ACCUSED NOS.1, 2, 4 TO 15:

- 1 THE ASSISTANT DIRECTOR
DIRECTORATE OF ENFORCEMENT, COCHIN ZONAL
OFFICE,
KANOOS CASTLE, MULLASSERY CANAL ROAD WEST,
COCHIN, PIN - 682011
- 2 SHRI C.MADHAVAN
60/26, ST FRANCIS XAVIORS CHURCH ROAD,
ERNAKULAM, KERALA, PIN - 682017
- 3 SHRI P. P. SUNIL KUMAR
PUTHIYAPURAYIL HOUSE, PANAPUZHA POST,
MM BAZAR (VIZ), KANNUR DISTRICT, KERALA
AND NOW RESIDING AT QUARTERS 126, NEW CUSTOMS
QUARTERS, SOUTH END, WILLINGDON ISLAND, KOCHI,
PIN - 682003



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- 4 SHRI FAIZ THONDANDAVIDA
'FAIZAZ', NEAR ARABIC COLLEGE, PARAL POST,
THALASSERY, KANNUR DISTRICT AND NOW RESIDING AT
THONDANDAVIDA EAST, PALLOOR, MAHE, CHOKLI POST,
KANNUR, PIN - 670672
- 5 SHRI. ABDUL RAHMAN HARI
AMBALATH HOUSE, PAVARATTY POST,
TRICHUR DISTRICT, KERALA, PIN - 680507
- 6 ARIFA HARTIS,
AMBALATH VEETIL, PAVARATTY POST, TRICHUR
DISTRICT, KERALA, PIN - 680507
- 7 ASIFA,
VEERAPPOYIL HOUSE, KOTTAPPALLY POST,
VILLYAPPALLY VIA, CALICUT DISTRICT, PIN -
673543
- 8 DR. ANIL KUMAR,
KRISHNA BHAVAN, KAITHAVALAPPIL HOUSE,
THATHAMPALLY POST, ALAPPUZHA DISTRICT, KERALA
-, PIN - 688013
- 9 K. R. REJITH,
KOCHIPARAMBATH HOUSE, VAZHOOR, AZMABI COLLEGE,
EDAVILANGU, KODUNGALLOOR,
TRICHUR DISTRICT -, PIN - 680671
- 0 MOHAMED MARSHU BIN MAJED,
SUNEJ MANZIL, THATCHARAMBATH, THAZHEKUNIYIL,
POST PERINGADE, KANNUR DISTRICT, KERALA,
PIN - 673312
- 11 AHMED SUHAIL,
MAILANCHIKL HOUSE, PAYANGADI, KANNUR DISTRICT,
KERALA AND NOW RESIDING AT K.P.M. ENCLAVE,
NEW NO. 31, 3RD STREET, KODAMBAKKAM, CHENNAI,
TAMIL NADU, PIN - 600024
- 12 ABDULLA KOYITHAN KANDY,
KOYITTIKANDY HOUSE, KADAVATHUR P.O.,
TRIPRANGOTTUR, KANNUR, KERALA., PIN - 670676
- 13 THEETHIKOT FAIZAL,
'FAIZAS', NEAR ARABIC COLLEGE, POST PARAL,
THALASSERY, KANNUR, KERALA., PIN - 670671



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14 Y. M. SUBAIR,
FLAT NO. 2C, BRIDGE TOWN APARTMENT, NADAKAVU,
KOZHIKODE, KERALA AND NOW RESIDING AT FLAT NO.
09A, 'ROYAL EMPERORS', MALABAR BUILDERS
APARTMENT,
NEAR SAIL TAX OFFICE, KOTTARAM ROAD,
CALICUT., PIN - 673001

15 ASHRAF KALLUNKAL,
VILLA NO. 59, MC ENCLAVE, KUYALI POST,
KOZHIKODE AND NOW RESIDING AT VILLA NO. 59,
MC ENCLAVE, KUYALI POST, KOZHIKODE. (A15),
PIN - 673001

BY ADVS.
SHRI.JOSE JONES JOSEPH
SHRI.M.AJAY
SRI.A.SUDHI VASUDEVAN (SR.)
SMT.DIYA NAGARAJ
SHRI.V.P.PRASAD

ADV.JAISHANKER V.NAIR, SC, ENFORCEMENT
DIRECTORATEE

THIS OP (CRIMINAL) HAVING BEEN FINALLY HEARD ON
18.06.2026, THE COURT ON 01.07.2026 DELIVERED THE
FOLLOWING:



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JUDGMENT

Dated this the 1st day of July, 2026

This original petition (criminal) has been filed under Article 227 of the Constitution of India, seeking the following reliefs:

- 1) *Set aside the Exhibit P4, impugned order dated, 28.07.2025 in Crl.M.P.No.115/2025 in C.C.No.2/2016 of the Special Judge (SPE/CBI)-II, Ernakulam and*
- 2) *Consequently, order to transmit the case file therein back to the Special Judge (SPE/CBI)-II to continue with the trial in C.C.No.2/2016 of the PC Act offences;*
- 3) *Pass such other order as this Hon'ble Court may deem fit in the circumstances of the case."*

2. Heard the learned Special Public Prosecutor for the Central Bureau of Investigation (CBI), appearing for the petitioner, and the learned Standing Counsel appearing for the Directorate of Enforcement of Cochin Zonal Office/1st respondent. Though notice was



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served upon the party respondents, except respondent Nos.8 and 15, none of them entered appearance. Also heard the respective learned counsel appearing for respondent Nos.8 and 15.

3. It is submitted by learned Special Public Prosecutor for CBI as well as the learned Standing Counsel for the Directorate of Enforcement that, even though the impugned order, dated 28.07.2025, in CrI.M.P.No.115/2025 in C.C.No.2/2016, was passed by committing C.C.No.2/2016 pending before the Special Court (CBI)-II, Ernakulam, which is the notified Court designated to try the offences under the Prevention of Corruption Act, 1988 (hereinafter referred to as 'PC Act' for short) as well as the offences under the Prevention of Money Laundering Act, 2002 (hereinafter referred to as 'PML Act' for short), to be tried along with S.C.No.520/2022, pending before the Special Court under the PML Act cases, Kozhikode, the order impugned is an erroneous exercise of jurisdiction and in fact, both cases to



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be tried by the Special Court (CBI)-II, Ernakulam and accordingly, both of them prayed for interference in the order to transfer both cases to the Special Court (CBI)-II, Ernakulam.

4. Serious objection has been raised at the instance of the 15th respondent on a pertinent legal question, on the premise of Sections 44(1)(a) and (c) and 71 of the PML Act. According to the learned counsel for the 15th respondent, even though the Special Additional Sessions Court (Maradu Cases), Kozhikode, is the only notified Court under the PML Act, the said Court has jurisdiction to try the scheduled offence, which has been now transferred and under consideration along with PML Act case. Therefore, the order impugned is liable to be confirmed. He also pointed out the convenience of the 15th respondent in this regard.

5. The learned counsel for the 15th respondent has placed reliance on decisions of various High Courts, to buttress his contention, particularly the decision of the High



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Court of Delhi in **Upendra Rai v. Central Bureau of Investigation and Another**, reported in **2021 KHC OnLine 5547**, wherein the High Court of Delhi referred a decision of this Court in **Inspector of Police, CBI v. Assistant Director of Enforcement**, reported in **2019(5) KHC 707** to hold that if a case involving the scheduled offence under the PC Act is committed to a Special Court constituted under the PML Act, such court will have jurisdiction to try the case so committed. Apart from that, the learned counsel also relied on the decision of the Bombay High Court in **Sandeep Parab and Others v. State of Goa**, reported in **2010 KHC 7540** and the decision of the Jharkhand High Court in **Binod Kumar Sinha v. State of Jharkhand**, reported in **2013 KHC 3052**.

6. Whereas the learned Special Public Prosecutor for CBI placed a decision of the Orissa High Court in Cuttack, dated 31.03.2023, in **Pankajini Sahu and Another V. Joint Director, Enforcement Directorate, GOI and Another** (Crl.M.C.No.1207/2022), holding a contra view as submitted by the learned counsel for the 15th respondent.



7. In the instant case, the learned Special Public Prosecutor for CBI would submit that a Special Court under the PML Act has no jurisdiction to try a scheduled offence and PML Act, in no way, permits such a procedure. The said submission is also conceded by the learned counsel appearing for the 1st respondent, Directorate of Enforcement as well. The learned counsel for the 8th respondent also shared the view of the counsel for the petitioner and the first respondent.

8. In this connection, it is relevant to refer Section 44(1)(a) and (c) of the PML Act and the same is extracted hereunder:

“44. Offences triable by Special Courts. - (1)
Notwithstanding anything contained in the Code of Criminal Procedure, 1973 -

(a) an offence punishable under section 4 and any scheduled offence connected to the offence under that section shall be triable by the Special Court constituted for the area in which the offence has been committed:

Provided that the Special Court, trying a scheduled offence before the commencement of this Act, shall continue to try such scheduled offence; or;



(b) xxxxx

(c) *If the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.”*

9. The question to be considered is whether a Special Court under the PML Act lacks jurisdiction to try a case involving the scheduled offence, which is, in fact, pending before another Special Court constituted to try the scheduled offence. As far as the learned counsel for the 15th respondent is concerned, Section 44(1) (a) and (c) r/w. Section 71 of the PML Act in no way prohibit trial of both cases by the PMLA Court but these provisions permit such a course of action. However, the learned counsel appearing for the 8th respondent submitted that the argument advanced by



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the learned Special Public Prosecutor for CBI and the learned Standing Counsel for the Directorate of Enforcement is correct.

10. Section 44(1)(a) of the PML Act would indicate that an offence punishable under Section 4 and any scheduled offence connected to the offence under that Section shall be triable by the Special Court constituted for the area in which the offence has been committed. Section 44(1)(c) would indicate that, if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.

11. Section 71 of the PML Act provides that the



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provisions of the Act shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force.

12. Be it so, it is held that a Special Court constituted under the PML Act, on committal of a case under Section 44(1)(c) of PML Act, is legally competent and having jurisdiction to try the scheduled offence/offences even though the same is not a notified court to try the scheduled offence/offences. In view of the above, the order impugned is only to be sustained and this petition is liable to be dismissed.

Accordingly, this Original Petition (Criminal) is dismissed.

Registry is directed to forward a copy of this judgment to the Special Court, Kozhikode, forthwith to proceed with the trial.

**Sd/-
A. BADHARUDEEN
JUDGE**

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APPENDIX OF OP (CRL.) NO. 111 OF 2026

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE FINAL REPORT DATED
10-02-2016 IN C.C. NO. 2/2016.
- Exhibit P2 A TRUE COPY OF THE PETITION, CRL M.P
NO. 115/2025 DATED 12-09-2024.
- Exhibit P3 A TRUE COPY OF THE OBJECTION DATED 10-
07-2025 FILED BY THE PP IN CRL M.P NO.
115/2025.
- Exhibit P4 A TRUE COPY OF THE SAID ORDER DATED
28-7-2025 IN CRL.MP NO. 115 /2025 IN
C.C. NO. 2/2016 OF THE SPECIAL JUDGE
(SPE/CBI)-II, ERNAKULAM