

2025 LiveLaw (SC) 412

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
SUDHANSHU DHULIA; J., K. VINOD CHANDRAN; J.**

APRIL 8, 2025

CRIMINAL APPEAL NO. _____ OF 2025 @ SPECIAL LEAVE PETITION

(CRIMINAL) No.16212 OF 2024

STATE OF KARNATAKA versus SRI CHANNAKESHAHA.H.D. & ANR.

Prevention of Corruption Act, 1988 - A preliminary inquiry is not mandatory under the Act for initiating a corruption case against a public servant. The absence of a preliminary inquiry does not justify quashing a case against a public servant solely on that ground. (Relied: State of Karnataka v. T.N Sudhakar Reddy, [2025 LiveLaw \(SC\) 241](#); Para 12 & 16)

Prevention of Corruption Act, 1988 – A public servant accused in a corruption case has no inherent right to a hearing prior to the registration of an FIR. (Relied: [CBI v. Thommandru Hannah Vijayalakshmi](#), (2021) 18 SCC 135; Para 14)

[Arising out of impugned final judgment and order dated 25-04-2024 in WP No. 28052/2023 passed by the High Court of Karnataka at Bengaluru]

For Petitioner(s) Mr. Devadatt Kamat, Sr. Adv. Mr. Nishanth Patil, AOR Mr. Ayush P Shah, Adv. Mr. Arijit Dey, Adv. Mr. Mehul Kumar Garg, Adv.

For Respondent(s) Mr. Smarhar Singh, AOR

J U D G M E N T

SUDHANSHU DHULIA, J.

1. Leave granted.
2. The State of Karnataka has presently challenged the order dated 25.04.2024 passed by the Karnataka High Court where the learned Single Judge has quashed the entire proceedings initiated by the State against respondent no.1 (Sri Channakeshava. H.D.) for offences under Section 13(1)(b) read with Section 13(2) of the Prevention of Corruption Act, 1988 (for short 'PC Act'), in a case of Disproportionate Assets (or DA case as it is called).
3. In the year 1998, respondent no.1 was appointed as an Assistant Engineer in Karnataka Power Transmission Corporation Limited. Later, he was promoted to the post of Executive Engineer in Bangalore Electricity Supply Corporation (for short 'BESCOM').
4. According to the prosecution, the respondent no.1, while working as a public servant, had enriched himself illicitly and consequently, an FIR (No.54/2023) at P.S Karnataka Lokayukta, Bangalore Town (Bangalore) was registered on 04.12.2023 under Section 13(1)(b) read with 13(2) of the PC Act. Thereafter, the investigation commenced.
5. The respondent no.1 filed a Writ Petition before the High Court seeking quashing of above-mentioned FIR. The FIR was primarily challenged on the ground that there has been a violation of the second proviso to Section 17 of the PC Act which mandates that investigation cannot be done without the order of a police officer not below the rank of a Superintendent of Police (for short 'SP') in relation to the offence mentioned in clause (b) of sub-section 1 of Section 13. Section 17 of the PC Act reads as follows:

"17. Persons authorised to investigate.— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)38, 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)39, 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)

6. The learned Single Judge of the Karnataka High Court was of the opinion that although before lodging of the FIR, orders did come from the Superintendent of Police ('SP') but the SP had not conducted any preliminary enquiry before passing his orders and therefore, there was no application of mind by the SP. In the opinion of the learned Judge of the High Court, this would affect the entire proceedings and thus, High Court vide impugned order dated 25.04.2024 quashed the FIR.

7. This order of the High Court has been challenged by the State of Karnataka before this Court primarily on the ground that a preliminary enquiry visualized under the said proviso is desirable but not mandatory. Further, it has been argued on behalf of the State of Karnataka that, in the present case, SP had passed an order dated 04.12.2023 under Section 17 of the PC Act and this order was passed on consideration of relevant materials inasmuch as it was passed on the basis of a source report dated 05.10.2023.

8. There is no provision for a preliminary enquiry under Section 13 or Section 17 of the PC Act. The second proviso to Section 17 of the PC Act does not speak of a preliminary enquiry. It was only in ***Lalita Kumari v. Government of Uttar Pradesh & Ors. (2014) 2 SCC 1*** that this Court had held that before proceeding against a public servant in matters of corruption, it is desirable to have a preliminary enquiry. Much before ***Lalita Kumari (Supra)***, this Court in ***P. Sirajuddin v. State of Madras (1970) 1 SCC 595*** had observed that "*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 enquiry into the allegations by a responsible officer.*" Relying on this judgement, ***Lalita Kumari (Supra)*** had put the corruption matters under the category of cases in which preliminary enquiry *may be* made before registration of FIR. The relevant portion of ***Lalita Kumari (Supra)*** reads as follows:

"117. In the context of offences relating to corruption, this Court in P. Sirajuddin [P. Sirajuddin v. State of Madras, (1970) 1 SCC 595 : 1970 SCC (Cri) 240] expressed the need for a preliminary inquiry before proceeding against public servants.

.....

Conclusion/Directions

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

.....

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.”*
(Emphasis supplied)

The learned counsel for the State of Karnataka would, however, argue that once a detailed source report is there before the SP, explaining the reasons for initiation of proceedings and when details are given, a formal preliminary enquiry may not be necessary as all the relevant material is already there before the SP.

9. The source report was prepared by respondent no.2-Deputy Superintendent of Police (DSP) and the same was submitted to the SP. The source report dated 05.10.2023 reads as follows:

“To

The Superintendent of Police-01

Karnataka Lokayukta

Bangalore City Division

Bangalore

Sir

Sub: Submission of Source Report in respect of Sri Channakeshava H.D. Executive Engineer, Karnataka

Electricity Supply Corporation Limited, presently working at BESCO, Jayanagar Division, Banashankari I stage, Bangalore for acquisition of wealth disproportionate to his known source of income-Reg:

With reference to the subject cited above, it is learnt as per the basic information secured that Sri Channakeshava H.D. Executive Engineer, Karnataka Electricity Supply Corporation Limited, presently working at BESCO, Jayanagar Division, Banashankari I stage, Bangalore has acquired properties disproportionate to his income.

.....

Sri Channakeshava joined the services of Karnataka Electricity Supply Corporation Limited, Munirabad on 1111-1998 as Assistant Engineer and then promoted as Executive Engineer in BESCO, Koramangala division and thereafter worked in Hebbal Division and at present he is working as Executive Engineer (V) in Jayanagar Division.

SOURCE OF CORRUPTION

There is information that during his Government tenure of service he has acquired illegal properties excessively in the names of third parties (benami) and also in the names of his family members.’

Then after giving details of the assets of the officer, source report concludes as follows:

“As stated above, it is prime facie found that Sri Channakeshava H.D. has acquired properties disproportionate to his known source of income from the check period i.e., from the date of joining in Government service, from 11-11-1998 till 30-09-2023 to the tune of Rs. 6,64,67,000/- which works out to 92.54%. It is also learnt that the above S.G.O. might be possessing some more irregular/disproportionate properties elsewhere in Bangalore City and other places either in his name or in the names of third parties (benami). If search is made in his own house at Bangalore and other houses at Srirampura Main road, Amruthahalli, Jakkur, Father-in-law's house at Nagawara, the place of work of the S.G.O., and the residence of his sister, there are possibilities of finding some more properties both movable and immovable, gold, silver articles, cash and bank deposits in excess disproportionate to his known source of income. Hence it is requested to take suitable legal action against the above-mentioned Government Servant by a registering a case under section 13(l)(b) read with section 13(2) of the PC Act 1988.”

10. According to this source report, it was *prima facie* found that respondent no.1 had acquired assets disproportionate to his known sources of income during the check period i.e. 11.11.1998 to 30.09.2023, to the tune of Rs.6,64,67,000. Based on this source report, which is nothing but a kind of preliminary enquiry, an order was passed by the SP directing the registration of an FIR against respondent no.1.

11. Mr. Devadatt Kamat, senior advocate appearing for the appellant would rely upon the judgment of this Court in **State of Karnataka v. T.N Sudhakar Reddy 2025 SCC OnLine SC 382** to contend that an enquiry before registration of FIR under PC Act is not mandatory. After considering the law as laid down in **Lalita Kumari (Supra)**, this Court in **T.N Sudhakar Reddy (Supra)** observed as follows:

“19. ... 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.”*

(Emphasis supplied)

Further, in the said case, this Court held that:

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

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 wellreasoned 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.

(Emphasis Supplied)

12. To sum up, this Court has held that in matters of corruption a preliminary enquiry although desirable, but is not mandatory. In a case where a superior officer, based on a detailed source report disclosing the commission of a cognizable offence, passes an order for registration of FIR, the requirement of preliminary enquiry can be relaxed.

13. All the same, Mr. Ranjit Kumar, learned senior advocate for respondent no.1, would argue that respondent no.1 was never given a chance to explain his position before the registration of FIR. He would, further, argue that FIR has been used as an instrument to harass the public servant and this is a case where no prior notice or hearing was given to the officer (respondent no.1), which could have taken place if a preliminary enquiry had been held.

14. Mr. Devadatt Kamat, senior counsel, has relied upon a recent Three-Judge Bench decision of this Court in **CBI v. Thommandru Hannah Vijayalakshmi, (2021) 18 SCC 135** where it was specifically stated that an accused public servant does not have any right to explain the alleged disproportionate assets before filing of an FIR. We are also of the opinion that this is the correct legal position as there is no inherent right of a public servant to be heard at this stage.

15. In view of the above, it is clear that preliminary enquiry was not mandated in the present case, considering that detailed information was already there before the SP in the form of the source report referred above. We have also gone through the order passed by the SP, directing registration of FIR against respondent no.1, which reflects that the SP had passed that order on the basis of material placed before him in the form of the source report.

16. Considering all the facts and circumstances of the case, we are of the considered opinion that the High Court ought not to have quashed the FIR in the present case. Accordingly, we allow this appeal and impugned order dated 25.04.2024 is hereby set aside.

17. Interim order(s), if any, stand(s) vacated.

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