

KACD010009192018



**IN THE COURT OF THE PRINCIPAL DISTRICT AND SESSIONS  
JUDGE, CHITRADURGA.**

Present:

**Sri. Ron Vasudev**, B.Com. LL.B.(Spl)  
Prl. District & Sessions Judge,  
Chitradurga.

**Dated this the 18<sup>th</sup> day of March, 2026**

**Sp1.C.(PC) No.01/2018**

Complainant:	State by Lokayuktha Police, Chitradurga.  (By Learned Spl. Public Prosecutor, Chitradurga)
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/versus/

Accused:	<ol style="list-style-type: none"><li>1. Sri. S.T. Mohan Raj S/o S.R. Tejappa, Aged about 63 years, Occ: Retired CMC Commissioner, Chitradurga.</li><li>2. S. Vijay Kumar, S/o Late. Siddappa, Aged about 58 years, Occ: Retired CMC Commissioner, Chitradurga.</li><li>3. K.R. Chidananda S/o Ramareddy, Aged about 58 years, Occ: AEE, Chitradurga.</li><li>4. Sri. Rajabakshi Kittura S/o Babu Sab, Aged about 44 years, Occ: Assistant Executive Engineer, CMC, Chitradurga.</li></ol>
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5. Sri. G. Manoj S/o D. Girish,  
Aged about 58 years,  
Occ: Assistant Executive Engineer,  
CMC, Chitradurga.
6. Sri. N. Narasimharaju  
S/o Doddanarayanappa,  
Aged about 50 years,  
Occ: Assistant Executive Engineer,  
CMC, Chitradurga.
7. Sri. R. Srinivas  
S/o Rangappa,  
**(Dead abated),**
8. H.K. Shruthi  
D/o Krishnamurthy,  
Aged about 25 years,  
Occ: Junior Engineer,  
CMC, Chitradurga.
9. Sri. K. Puttappa S/o Madappa,  
Aged about 49 years,  
Occ: FDA, CMC, Chitradurga.
10. Sri. N.T. Thippeswamy @ N.T.  
Thippeshappa S/o Neeraganti  
Thimmappa, Aged about 62 years,  
Occ: CMC, Chitradurga.
11. Smt. Gousiya Banu  
S/o Mohammed Sadath,  
Aged about 36 years,  
Ex-President, CMC, Chitradurga.
12. Smt. Sunitha Mallikarjuna  
W/o Mallikarjuna,  
Aged about 41 years,  
Ex-President, CMC, Chitradurga.
13. Smt. Sharadamma  
W/o Srikantappa,

	<p>Aged about 77 years, Ex-President, CMC, Chitradurga.</p> <p>14. Smt. Lakshamma W/o Late. H. Murugendrappa, Aged about 69 years, Ex-president, CMC, Chitradurga.</p> <p>(A1 by Sri. YJAK, Adv, A2 by WVK, Adv., A3 by Sri MGR, Adv, A4 &amp; 6 by Sri PMH, Adv, A5,8 by Sri DMB, Adv., A7 Dead &amp; abated, A9 &amp; 10 by Sri FR Adv., A11 to 13 by Sri MU Adv., A14 by Sri CST, Adv.,)</p>
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### **ORDER ON FRAMING OF CHARGE**

In this case the accused have been charge sheeted by Lokayuktha, Chitradurga for the offences punishable U/Ss.11,13(1),(c),13(1)(d) R/W/S.13(2) of Prevention of Corruption Act, 1988, Secs.409 & 417 of IPC & Sec.23 of Karnataka Transparency In Public Procurement Act, 1999 and Rules made there under.

2. The substance of the allegations of Lokayuktha is that during the year 2008-09, 2010-11, 2011-12 & 2012-13 the accused being the President, Commissioner, Technical Wing Staff and Case Worker of City Municipal Council, Chitradurga as described in the chart shown hereafter:

1	2	3	4	5	6
Year	President/ Rank of Accused	Commissioner/ Rank of Accused	Technical Wing/Rank of accused	Case Worker	Amount Misused
2008-09	Smt. Gousiya Bhanu (A11)	S.T. Mohan Raj (A1)	Rajabakshi (A4) G. Manoj (A5) K.R.Chidananda(A3)	N.T. Thippesw amy	Rs.39,98,383/-
<u>2010-11</u>					
i) Tender	Smt. Sunitha Mallikarjuna (A12)	S. Vijay Kumar (A2)	Rajabakshi (A4) Narasimharaju(A6)	Puttappa	Rs,1,49,750/-
.....	.....	.....	.....	.....	.....
ii) Tender	Smt. Laxmamma (A14)	--do--	Rajabakshi (A4) Narasimharaju(A6)	--do--	Rs.5,27,800/-
.....	.....	.....	.....	.....	.....
iii)Tender	Smt. Sharadamma (A13)	--do--	Rajabakshi (A4) R.Srinivas(A7)	N.T. Thippe swamy	Rs.5,26,585/-
2011-12	Sunita Mallikarjuna (A12)	--do--	Rajabakshi (A4) R. Srinivas(A7) H.K. Shruti(A8) Narasimharaju(A6)	Puttappa	Rs.25,68,542/-
2012-13					
(i) Tender	--do--	--do--	Rajabhakshi(A4) Srinivas(A7) H.K. Shruti,(A8) Narasimharaju(A6) Chidananda(A3)	--do--	Rs.13,56,500/-
.....	.....	.....	.....	.....	.....
ii) Tender	--do--	--do--	Srinivas(A7) H.K.Shruti (A8) Narasimharaju(A6) Chidananda(A3)	--do--	Rs.5,10,800/-
.....	.....	.....	.....	.....	.....
iii)Tender	--do--	--do--	Manoj (A5)	--do--	Rs.1,65,200/-
.....	.....	.....	.....	.....	.....
iv)Tender	--do--	--do--	H.K.Shruti (A8)	--do--	Rs.6,75,526/-

though there was no demand note to procure items for the purpose of maintaining water supply line in the city of Chitradurga nor there was any note regarding shortage of items in the stores department, without preparing the rate estimate of the items to be procured and without collecting schedule of rate and market rates, as per their whims and fancies, by inviting tenders, awarded contract resulting in excess payment to the vendors than the prevailing market price. Thus it is alleged that due to the acts and omissions of these accused in discharge of their duties, they caused loss to the CMC, Chitradurga as described in the 6<sup>th</sup> column of the above table.

3. So the sum and substance of the Lokayuktha is that for the accounting years described in the Column No.1 during the period of their President-ships, the accused described in the Column No.2 and Commissioners described in Column No.3 without following the due procedure, floated tenders, accepted them and awarded work contract to the suppliers at prices higher than the schedule rates and market price. It is also alleged that the officials who have been shown in Column No.4 are the Staff of Technical wing and they being Assistant Engineer or Junior Engineer, were expected to make local inspection before signing the note sheets for placing indent of items, but carelessly and negligently they too placed order for items and based on such note sheets and their notes the case workers/accused described in the Column No.5 placed

further note and as a consequence thereof, the Commissioners described in Column No.3 proceeded to call for tender without being placing the said requirements before the standing committee and taking approval of it. The further allegations against the presidents described in the Column No.2 are that during their regime as Presidents of CMC, Chitradurga, they were also obliged to see that before the order is placed, the officials have followed the requisite procedures, but they too failed in their obligation to discharge the work and by procuring the items at prices higher than the prevailing market price, they paid excess amount as described in Column No.6 for the relevant years. Thus it is alleged by the Lokayuktha that nearly Rs.1,04,77,066/- is siphoned by the accused with their collective acts.

4. The fundamental allegations of Lokayuktha is that whenever procurement is to be made local inspection has to be conducted by the Technical wing and based on the materials available in the store, it has to prepare the list of required items and thereafter office has to collect the schedule of rates and market price and then it has to prepare its own line estimate and placing it before standing committee, the accused were required to take approval and thereupon call for tender and in the event tenderers quote prices which are above the line estimate, a negotiation has to be held with such tenderer to bring down the price to the line estimate and with the approval of the standing

committee, it has to award contract to the tenderer to supply the materials. In substance the submission of Lokayuktha is that the accused herein holding their posts in their respective capacities as described above, flagrantly violated the provisions of Karnataka Transparency In Public Procurement Act, 1999 and Rules made there under resulting in financial loss to CMC, Chitradurga. It is also stated that during the said four accounting years in all nine tenders were floated by the Presidents, Commissioner of CMC and in none of those tenders neither technical report was obtained nor line estimate was prepared and without having any discussion in the standing committee, the accused proceeded with procurement of items. It is also precise allegation that even while procuring the items for the sake of formality, the third party agency was asked to verify the quality of items supplied, without any seriousness in getting tested the items so procured. It is further alleged that while inviting the tenders, these accused did not fix the minimum parameters a tenderer has to meet and comply them, leading to allotting of tenders to very same person/s or entity/ies during the said relevant periods. Thus having concluded the investigation, these accused have been charge sheeted for the offences noted herein above.

5. The final report also shows that during the year 2011-12 register was maintained towards issuance of the tender forms and thereafter no such register was

maintained and continued; while calling the tenders whether the tenderer has license or not, is not verified; after opening the tender, no discussion was held with the bidder regarding variation in the prices or for quoting higher price and after completion of work, no report is received and made part of the file to show that the items procured were actually used for the purpose they were purchased. Even these accused have failed to maintain the register regarding items which are unfit for re-use earlier to 17.10.2009 and there is no indication that such waste articles were disposed off and sale proceeds were credited to the State Treasury. These the observations can be seen in Pencil Page No.22 of the final report. Then by showing for each accounting year 2008-09, 2010-11, 2011-12 & 2012-13 the different quantities of items procured by the accused, prices paid by them, market price of the said items, the excess amount paid by them over and above the market price/schedule price and total excess amount paid by them during that relevant year, the IO has furnished item wise payment in pencil Page No.23 to 33 of the final report. Then at Page No.34 of the final report he observes that during all these four accounting years, schedule of the registers were not prepared for all nine tenders and during that four accounting years, no standing committee meetings were held; that no requirement note was received from the store or from the competent official and there was a total lack of transparency in procuring the items and no tender committee was formed by the president and

Commissioner and thereby they have abused and misused their power, it is stated that, have caused loss to CMC, Chitradurga. Then at Page No.44 of the final report, he has also narrated lapses noted by him while calling the said tenders of all the nine tenderers.

6. On receipt of the charge sheet, cognizance of the offences was taken and summons were issued to the accused, they appeared and got enlarged on bail and among them the accused No.4 filed application U/Sec.227 of Cr.P.C. on 23.06.2018 and on 28.07.2018 by filing memo he sought to withdraw the discharge application, but on account of pendency of CrI.P.No.4023/2018 filed by that very accused U/Sec.482 of Cr.P.C., my predecessor in office did not pass any order on the said discharge application. In the meanwhile the accused No.3 also filed CrI.P.No.4592/2018, the accused No.6 & 8 filed CrI.P.No.9771/2022 & accused No.5 filed CrI.P.No.10905/2022 and all those petitions were filed U/Sec.482 of Cr.P.C. to quash the proceedings. They were clubbed by Hon'ble High Court and through its order dated 23.07.2025, it rejected them for the reasons noted therein. Therefore on 28.10.2025 memo filed by the accused No.4 for dismissal of his discharge application was accepted and his said application was dismissed as not pressed. So what remains for consideration of this court is the oral and written submissions of the accused on framing of charge.

7. In this context, now the following points would arise for my consideration:

1. Whether the accused have shown that there are no sufficient grounds to proceed against them?
2. What order?

8. I have heard the arguments of Sri YJAK, Sri. MVK, Sri. MGR, Sri. PMH, Sri MU and Sri CST advocates for the accused No.1 to 6 and 8 to 14. It is reported that the accused No.7 is dead, so case against him stood abated. I have also heard Spl. Public Prosecutor for Lokayuktha, Chitradurga. On thorough reading of the case file and grounds urged by the respective accused as well as decisions on the point, my findings on the above points are as under:-

Point No.1 : In the negative

Point No.2 : As per final order

for the following:-

### **REASONS**

9. **Point No.1** :- Since I have already given brief allegations of the prosecution version, without reproducing the same, I would like take to the grounds urged by the accused as well as the decisions relied by them, but before I do so, it is just and necessary to have a birds eye view of the decisions of the Hon'ble Supreme Court on Sec.227 of Cr.P.C. and also on the sanction to prosecute the accused. In this context firstly I take to the decision reported at AIR

2005 SC 359 (State of Orissa V/s Debendra Nath Padhi). In the said case Hon'ble Court had an occasion to examine whether at the stage of framing of charge the accused can set up his defence and rely on the documents produced by him? Answering that question in the negative, Hon'ble Court held that there is no provision in the code granting right to the accused to file any material or document at the stage of framing of charge. It was further held that material as produced by the prosecution alone has to be considered and not one produced by the accused. It is also held that at that stage roving and fishing inquiry is impermissible. If the contention of the accused is accepted, there would be a mini trial at that stage and that would be defeat the object of the code. It is well settled that at that stage, defence of the accused cannot be put forth. It is further held that at that stage acceptance of contention of the accused would mean permitting him to adduce his defence at that stage and for examination thereof, which is against the criminal jurisprudence. Then it is stated that at that stage submission of the accused has to be confined to the material produced by the police. In another decision reported at 2023 Livelaw (SC) 874 (State of Gujarat V/s Dilipsinh Kishorshinh Rao) following the ratio laid down in Debendranath Padhi's case, while considering the prayer of the accused who was alleged with commission of offence under PC Act, like in this case, Hon'ble Court again reiterated that at the time of framing of charge taking cognizance the accused has no right to produce any

material and call upon the court to examine the same and there is no provision in the code which grants any right to the accused to file any material or document at that stage and the only point the trial court has to consider is the facts of the case and material made available by the prosecution, then at Para.4 of the said judgment, Hon'ble Court repelling the arguments of accused of that case, that there are errors in calculation in ascertaining his possessing of assets disproportionate to his known source of income is wrong as the IO did not give deductions of the loans borrowed from his friends and relatives and those documents were also not considered by the IO etc., the Hon'ble Court rejected all those submissions and held that it is the prosecution material that alone has to be taken care of and submission of the accused is to be confined to the oral hearing and arguments only. Then at para.10 of that judgment it is further observed that at that stage, the court must proceed on an assumption that the material which has been brought on record by the prosecution is 'true and evaluate the said material', in order to determine whether the facts emerging from the material taken on its face value disclose the existence of ingredients necessary of the offence alleged. The said ratios were followed in Ramprakash Chaddha V/s The State of Uttar Pradesh in CrI.A.No.2395/2023 decided on 15.07.2024. In the decision reported at 2013 Cr.R.281 (Kant.) in the case of Yeshodha.S & Another V/s CBI, our Hon'ble High Court

held that charge can be framed on the basis of strong suspicion.

10. Regarding sanction to prosecute an accused is concerned, I refer to the judgment of Hon'ble Supreme Court in CrI.A.No.129/2013 (Inspector of Police & Another V/s Battenapatla Venkata Ratnam & Another) decided on 13.04.2015. In that case at para.10 referring to Sec.197 of Cr.P.C. which protects the public servants as a special category of persons from malicious or vexatious prosecution, then at para.11 Hon'ble Court held that indulgence of officers in cheating, fabrication of records or "**misappropriation**" cannot be said to be in discharge of their official duty. Then in W.P.(CrI.) No.72/2012 (Ravindra Kumar Chandolia V/s CBI) Hon'ble High Court of Delhi held that sanction is only an administrative decision and competent authority is at liberty to consider all the relevant documents which form the crux of the allegations. It is not required to consider each and every document and render its decision like a judicial authority. In the context of these decisions, Now I turn to the submission of each of the accused for their discharge, one after the other.

**11. Submission of Accused No.1:**

i). The accused No.1 has filed his written versions on three occasions. Firstly on 21.08.2018, 29.12.2018 and finally on 15.10.2025. In all these written submissions, he submits that he took charge as Commissioner of CMC,

Chitradurga on 12.12.2008 and was there in the said office till 09.03.2009 i.e., for 85 days and during his short tenure there, he did not call for any tender nor he made any payment having received materials, and in routine course of his work, he put up the file to place it before the general body at Sl.No.10, he submits that when he is not the person who called for tender nor made any payment having received supply of materials, he cannot be made to face the trial. In this regard, I would say that while making such submission there is no further submission by him that, while placing that file before the general body, he went through the same and did not notice any lapse on the part of his subordinates or his predecessor in office. In other words, what I want to say is that he being an administrative head of CMC, Chitradurga before placing file for deliberation in the council, he ought to have examined whether the procedures have been duly followed by his subordinates or by his predecessor in office or not. Merely signing a file and placing the same before the council, shows that he was not aware of his responsibilities and sheer negligence on his part would cost the CMC dearly. Therefore as per Sec.33 of IPC the work "act" denotes "omission" as well.

ii). It is also contended by him that his name was not there in the FIR, yet he has been added as accused in the case. In this regard less said the better. It is well settled that FIR is not an encyclopedia to contain the details of all

the accused with their particulars. It only sets criminal law in to motion and once the investigation starts, many things may be unearthed by the IO. So his submission that his name is not there in the FIR and unnecessarily he has been roped in the case has no significance. .

iii). He further contended that he retired as an Assistant Commissioner on 30.11.2012 and after attaining the age of superannuation, he has been charge sheeted for the offences said to have been committed in the year 2008, therefore no charge sheet could have been filed against him as he retired more than four years prior to the date of filing of charge sheet. However in order to support the said submission, he did not bring any rule or provision which so protects him.

iv). He contended that sanctioning authority has not applied its mind while according sanction against him and it has mechanically passed the order. With respect to this submission, I would say that there are two concepts with respect to sanction. One is prosecution of an accused without sanction which is totally invalid and second one is prosecution of an accused with invalid sanction. So for as latter thing is concerned depending upon the facts and circumstances of the case, it can be held that the accused is entitled for discharge. In the case in hand, when this accused retired on 30.11.2012 filing of this charge sheet in the year 2018 with sanction or without sanction as against

him makes no sense. Protective umbrella of sanction would wither away as by the time the charge sheet was filed against him he was no more in service. Even assuming for a moment that there is lack of application of mind by sanctioning authority to prosecute him etc., he can very well demonstrate the same at the stage of trial.

**12. Submission of the accused No.2,9 & 10:**

i). Turning to the grounds urged by the accused No.2,9 & 10, what I find is that they have found a short cut method of copying the opinion of ADGP, Lokayuktha, Bengaluru dated 29.02.2012. Through that letter, ADGP, Karnataka Lokayuktha has pointed out certain things the IO has to attend before filing the charge sheet in the court. The said letter is at pencil Page No.28 of the charge sheet. Borrowing from the same, these accused submit that a huge sum of Rs.1,04,77,066/- is alleged to have been misappropriated by them, but without stating which accused has misappropriated how much amount. With respect to this I would say that when it is the precise allegation of the IO, by referring to each accounting year as to how much amount was over paid and who was there in the helm of affairs and who are the cause for that and when he distinctively mentions the said amount at pencil page No.23 to 33 of the final report (Part-I) with reference to the accused, who were there during that relevant period with his notes at Page No.34 and on words, it is too much for these accused again to seek clarification on the same. It is

true that for that particular year or for a particular tender it may not be possible to say which accused misappropriated how much amount precisely, as it is a collective offence as alleged by the IO, so one cannot expect the IO to furnish the individual benefit derived by each accused by making excess payment to the vendors.

ii). Then it is contended by the said accused that in order to prove the hand writings of the officers opinion of the handwriting expert ought to have been obtained by the IO under Sec.45 of Evidence Act and it is not done. I am really surprised by the said submission. When the office notes are the basis for the prosecution of these accused, one cannot expect that those office notes will reach somebodies hand and they will make the proceedings and put up note with their initials. When the rank of the accused with their nature of duties have been explained by the IO and when they are not disputed by the accused nor they can set up such defence on account of they holding their respective offices, it is strange to expect the report of the handwriting expert on such admitted facts. Moreover it would be only opinion and it cannot partake the evidence.

iii). Then it is contended by them that, the charge sheet is premature and the same is hurriedly filed. I think the IO is the right person to explain whether there is any hurried-ness in filing this charge sheet. When FIR was registered in the year 2014 at Cr.No.8/2014, but the charge sheet has been filed in the year 2018, so I wonder

how one can accept the submission of the accused that charge sheet has been filed hurriedly.

iv) The third ground by the accused No.2,9 and 10 is that the charges are general and no specific charge is made against any of them specifically. Here once again I say that it is collective act of the accused in resulting loss to the CMC, Chitradurga through their excess payment to vendors, so one accused cannot be alleged with exact siphoning of amount, that too when it is committed over period of time.

v). Then in ground No.4 the said accused contended that charge sheet is bad for mis-joinder of several charges and the same is hit by Sec.218 & 220 of Cr.P.C. It is their contention that the charge sheet involves mis-joinder of several charges of offences alleged to have committed at different point of time at different accounting periods for more than several years. Thus on Page No.4 of their written submission they also include accounting years 2007-08 and 2009-10, which are not at all included in the final report. It only makes allegation of criminal misconduct with reference to the years 2008-09, 2010-11, 2011-12 and 2012-13 as noted by me in the above table. By adding two more years the said accused are trying to mislead the court. In the financial fraud or misappropriation, like in routine cases the precise place of offence, time and date of commission cannot be ascertained and attributed. Normally such financial fraud will spread over period of time and it

will be done by more than one person. Though the said accused relied on the decisions reported at 2001 Cr.L.J. 1738 and (1994) 4 Crimes they have not bothered to furnish copies of the said decisions.

vi). Then in ground No.5, they contend that charge sheet is bad for mis-joinder of other accused and it is hit by Sec.223 of Cr.P.C. Again while making such submission they refer to six accounting years rather than four accounting years as pointed out by me and answer to their question can be found in Sec.223(c) of Cr.P.C. which reads that persons accused of more than one offence of the same kind, within the meaning of section 219 committed by them jointly within the period of twelve months, can be charged jointly. Therefore in the case in hand, the IO has jointly prosecuted them by showing their role in each tender of each accounting year and how much amount has been flowed out of CMC in excess of what it was required to pay.

vii). Then in ground No.6, these accused contended that no single person has raised any accusing finger against any of them and the complaint filed is purely suo-motu and it is so done for the purpose of statistics at the behest of the persons, who are enimical against them. In this regard I would say that the offences alleged being cognizable, anybody can set the criminal law in to motion and there is no need that it has to be filed by a particular person, like in the case of non-cognizable offences. Then without verifying the case file at ground No.7 the said

accused contended that no regular search warrant is obtained by the IO from the jurisdictional Judicial Magistrate First Class, so investigation is vitiated. Here I invite their attention to the case file and it shows that my predecessor in office has issued search warrants on 08.07.2014 and it is the part of record. The offences alleged against these accused being under PC Act, the JMFC has no power to issue search warrant and it is only a designated special court, which can do so.

viii). Then it contended that since the offences alleged are pertaining to the period 2007-13, so filing of charge sheet in 2018 is barred by time. I think it is too elementary for me to say that in so far as economic offences are concerned there is no limitation. Lastly the accused No.2 and 10 submit that no sanction has been obtained in respect of them. In this regard IO has made an endorsement that when the charge sheet was filed against them they were already retired and moreover as I noted above by referring to the decision of Hon'ble Supreme Court in Battenapatla Venkata Rathnam's case committing of misappropriation is not part of the official duty.

**13. Submission of Accused No.3:**

i). Coming to the grounds urged by the accused No.3, he submits that he used to place order for supply of materials like PVC pipes, fittings, chemicals, oils etc., to the Commissioner of CMC, Chitradurga as per reports

submitted by his subordinates namely Junior Engineers and Water supply operators and moreover the said requirement would be based on approximate need and it is not possible to ascertain the exact quantity of materials required in a year. It is true that when water supply lines have to be maintained over period of one year or for some definite period, provision has to be made for necessary items at the store, but while procuring such items it is necessary for the technical wing to make local inspection and find out whether really such materials are required or not and then to verify how much materials are there in the store and thereafter they have to put up note regarding requisite quantity of materials. Simply on the basis of indent of subordinate officials by sitting in his office, the technical officer cannot forward the same like a post office and place the indent for materials. It only shows he was also interested in procuring the materials without examining whether there is a true requirement or not.

ii). He also contended that it is not the duty of the engineer to prepare approximate price list and it is beyond the duty of technical wing. While making such submission he did not submit further who was responsible to prepare the price list. Before obtaining technical sanction it is the duty of technical wing to prepare the list of items, with the price of each item and later they are required to place it before their higher ups with approximate estimate. Since the IO alleges that no such things were reflected in the documents seized by him, accused has to answer the same.

iii). Then he contended that he is not the person authorize to call for tender or to accept it. It is true that he is not the person to invite tenders or to accept them, but he is a conduit in the process of procuring the items and moreover it is not the allegation of the IO that this accused is the person responsible for inviting of tenders and of accepting them. Precise allegation of the IO is that this accused who is part of technical wing, he did not make spot inspection and ascertain the probable requirement of the items to be procured. In this context no explanation is offered by the accused.

**14. Submission of Accused No.5:**

The accused No.5 also submit that his name is not there in the FIR and unnecessarily he has been proceeded against. In this regard I have already made observation while discussion on other accused. Like the accused No.3, he is also sets up several grounds and already I have made observation with reference to the said grounds and the very same observations would apply to the grounds reiterated by the accused No.5. So I hold that the discussion and findings on the grounds urged by the accused No.3 would suffice to answer the grounds raised by the accused No.5.

**15. Submission of Accused No.6 & 8:**

i). The Accused No.6 & 8 have filed their common written arguments and on reading the same I find that in para.15,16,17 & last few lines of para.18 as well as para.20

show that the said accused have used a discharge application prepared in a case of disproportionate of assets of some other accused and by applying cut and paste, they have made it to suit their case also. That is why in total ignorance of what kind of allegations have been leveled against them, they are making submission as if they are facing case of possessing of disproportionate assets under PC Act. With this brief preface to their written argument on HBC, I would turn to the other grounds urged by them.

ii). In para.2 of their written arguments they submit that on 16.06.2014 as per letter produced at Page No.2 of Volumn-2, ADGP, Bengaluru was pleased to direct Lokayuktha, Chitradurga to register the case and to conduct the investigation, but without any authority from 23.04.2014 itself the investigation was started and it continued unabatedly and finally on 07.07.2014 FIR has been registered on the basis of complaint of one K. Satyanarayana dated 05.07.2014. Thus it is contended that the investigation that has been done from 23.04.2014 to 07.07.2014, that too without registering the case and without mentioning in Station House Diary is illegal. In support of that case they relied on the decision reported at 2014 CrL.L.J. 470 (Lalitha Kumari V/s Government of U.P). While referring to said judgment it appears that they have not gone through the observation made by Hon'ble Court at Para.111 of the said judgment. In that case Hon'ble Court held that registration of FIR U/Sec.154 of Cr.P.C. is not

mandatory where the case involves (a) Matrimonial disputes/family disputes; (b) Commercial offence; (c) Medical negligence case; (d) Corruption case & (e) Case where there is abnormal delay/laches in initiating criminal prosecution, for example, over three months delay in reporting the matter without satisfactorily explaining the reasons for delay. Thus it is stated that the commercial offences and corruption cases are excluded from rigors of Sec.154 of Cr.P.C. In the instant case the accused allegedly having procured the items in excess of the prevailing market price indulged in criminal misconduct and also when it is further alleged that they have enriched at the cost of the state without holding preliminary enquiry the case could not have been registered against them, therefore it is not the investigation, but an enquiry was held before registering the complaint which is legally permissible.

iii). Then in para.6 they contended that sanction accorded against them is manifestly illegal as contents of the Lokayuktha letter were simply copied in the preamble portion of sanction order and without application of mind, the sanction is accorded. In this regard I have already stated in the beginning of my discussion that sanction is only an administrative action and if any lapse is there, the same can be demonstrated in the course of trial. It is not the case of the accused that there is no sanction at all against them to prosecute. Moreover the ratio in

Battenapatla Venkata Ratnam's case also applies to the case of these accused.

iv). Then in para.7 they contended that they are not persons who purchase the items or made payments. Their submission is akin to the accused No.3 and 5, so I hold that the discussion and finding recorded there would also apply to them. Then in para.10 they contended that chances of their conviction is bleak and non-existent with documents and alleged evidence collected by the IO. Here again referring to Dilip Sinh's case referred above, I would say that strong suspicion is enough for the court to proceed for trial and it cannot expect that there must be sufficient evidence to end up the conviction of the accused to frame charge against them. It is also contended that the court has to examine whether evidence produced by the IO is legally acceptable or not. According to me it is not the stage to do that exercise. Then in para.12 they argued that the IO has to adduce evidence which is beyond reasonable doubt and not on the basis of preponderance of probability. It appears that the accused are under the impression that this court is hearing their matter after conclusion of trial.

**16. Submission of Accused No.11 to 14:**

Lastly accused No.11 to 14, who are Presidents of CMC, contended that calling of meeting, procedure of meetings, placing the subjects in the meeting etc., will be done by the commissioner and the concerned staff, so they

cannot be targeted for the lapses if any in the same and they have no role either in calling the tender or in procuring the items. In respect of this I have already pointed out by referring to final report. The IO alleges that these accused by abusing their power as Presidents of CMC, Chitradurga, without having discussion in the standing committee, they got approved the expenditure making CMC to suffer financially. Thus IO submits that these accused are also hand in gloves with the accused, who were expected to discharge their official functions carefully, diligently and in accordance with rules and procedure. According to me when such an allegation is made and the same is prima-facie supported by the documents like the proceedings of the meeting, they have to be answered by these accused in the course of trial. So having made my observation on the grounds urged by different accused, now I will turn to the decisions relied by the accused No.6 & 8.

17. Along with memo the accused No.6 & 8 have produced several citations and I have gone through them one by one. The first case is with respect to Lalitha Kumari, to which I have already discussed while referring to initial enquiry made by the IO. The facts of CrI.P.No.10423/2013 (K.S. Ravindra, Udaykumar Kamath V/s The State of Karnataka by Lokayuktha, High Court of Karnataka) show that without registering any crime number, Lokayuktha had raided the check post where the accused were discharging their duty and allegedly found receiving of

bribe by them. Wherefore Hon'ble High Court relying on Lalitha Kumari's case held that said procedure of raiding the place without registration of the case is wrong. In this case no such thing has happened, infact before registering the FIR enquiry was held and thereafter case has been registered and investigation was commenced then.

18. In (1998) 9 SCC 268 (State of T.N. V/s M.M. Rajendran) Hon'ble Court noticed that while obtaining sanction all relevant documents were not produced by the IO, therefore it held that sanction is vitiated. In 2008 CrI.L.J. 347 (SC) State of Karnataka V/s Ameerjan) similar mistake like in the case of Rajendran was done. In 2002 CrI.L.J.1369 (Delhi High Court) (Sushil Ansal V/s State) Hon'ble High Court of Delhi observed that if there are no chances of conviction, it is permissible to discharge an accused. According to me view of the decision of Hon'ble Supreme Court in Dilip Sinh's case, the ratio laid down in Sushil Ansal's case cannot be pressed in to service.

19. In 1999 CrI.L.J.1869 (Nirajnaj Singh Karam Singh Punjabi V/s Jitendra Bhimraj Bijja & Others) it was held that court has to evaluate material and documents made available by the prosecution. In 2007 CrI.L.J.3622 (Arun Gulab Gawli v/s State of Maharashtra) the said accused was proceeded against based on the statement of co-accused. That is why Hon'ble Court quashed the proceedings against the appellant. SLP. (CrI.) 4130/2006)

(State of M.P. V/s Sheetla Sahai & Ors) again Hon'ble court held that while framing charge court has to examine whether ingredients of offence are made out by the prosecution or not.

20. In 2010 CrI.L.J.968 (D. Vijay Kuamr & Etc., V/s State of A.P.) Hon'ble court explained words "there are no sufficient grounds" court held that the trial court has to evaluate legally and acceptable evidence. In (2002) 2 SCC 135 (Dilawar Balu Kurane V/s State of Maharashtra) again Hon'ble Supreme Court had an occasion to examine scope of Sec.227 of Cr.P.C. Therein it is held that court has to sift and weigh evidence for limited purpose of finding out whether prima-facie case has been made out or not. In respect of 1994 CrI.L.J.12 (Ananda Bezbaruah V/s Union of India) I can only say that the said judgment is totally inapplicable to the facts and circumstances of this case.

21. In 2003 CrI.L.J. 4036 (Chilka Srinivas & Another V/s The State of A.P.) only based on the partnership deed and other documents, in addition to the accused who was found in possession of spurious confectionery, other partners of the firm were also arrayed as co-accused and that was deprecated by the High Court. In 1988 CrI.L.J. 1415 (The State V/s Maj.WPF, Roberts & Another) Guwahati High Court explained scope of Sec.227 of Cr.P.C. Lastly in LAWS (MPH) 1996 1251 (K.N. Thapak V/s Special Police Establishment Lokayuktha, Moti Mahal,

Gwalior) a formal authorization to investigation was handed down to the investigation officer by filling gaps of prescribed proforma, thus there was no speaking order to carry out the investigation.

22. In the case in hand no such things have been demonstrated. Since I have referred to the latest judgment of Dilip Sinh Kishore Sinh's case, in my opinion judgments of other High Courts on that point would become otiose. Thus on thorough reading of the entire case file, I am of the firm opinion that accused have failed to show that there are no grounds to proceed against them. Conversely the prosecution has shown that there are sufficient grounds and materials to proceed against them for the offences alleged. Therefore rejecting the grounds urged by the accused, I answer the point in hand in the negative.

23. **Point No.2:-** In the result, I proceed to make the following:-

**O R D E R**

The prayer of the accused No.1 to 6, 8 to 14 for their discharge is rejected.

(Dictated to the Stenographer Grade-III, transcribed and computerized by her, script corrected, signed and pronounced by me in the open Court on this the 18<sup>th</sup> day of March, 2026).

**(RON VASUDEV)**

Prl. District & Sessions Judge,  
Chitradurga.