

IN THE SPECIAL COURT FOR THE TRIAL OF NIA CASES, ERNAKULAM

Present: Smt. Mini S Das, Judge for NIA Cases

Friday the 12th day of January , 2024/22nd Pousha, 1945.

Crl.M.P. No.30/2024

In

SC.03/2023/NIA

Petitioner

: Union of India represented by National
Investigation Agency, Kochi.

**By Sri. Arjun Ambalapatta
(Senior Public Prosecutor, NIA) and
Sri. Sreenath.S (Public Prosecutor, NIA).**

Accused No.1

: Savad S/o Meerankkutty, Muthuvassery House,
Odakkali, Nooleli, District, Ernakulam.

By adv. Wakarulislam K S

This petition coming on for hearing before me on 12.01.2024 and the Court on the same day passed the following:

ORDER

1. This is a report submitted by the Investigating Officer u/s 173(8) seeking permission for further investigation.

2. The Investigating officer states as follows:- The first accused in this case, Sri. Savad went absconding immediately after committing the offence on 04.07.2010 that the charge sheet in this case was filed on 10.01.2011 against this accused, while this accused was absconding. The first accused was arrested on 10.01.2024 on executing the Non-Bailable Warrant issued by this court and he was remanded to judicial custody on the

same day.

3. Heard the learned Senior Public Prosecutor.

4. According to the Investigating officer, the investigation as to the identification of the first accused and the seizure of the weapons used by the assailants could not be completed as the first accused was absconding, and further investigation is inevitable for collecting more evidence as to the persons harboured the first accused, place of concealment of weapons.

5. The Hon'ble Supreme Court in **State through Central Bureau of Investigation v. Hemendhra Reddy and another (2023 KHC 6480)** in paragraph 77 held as follows:-

“ 77. We may summarise our final conclusion as under:

- (i) Even after the final report is laid before the Magistrate and is accepted, it is permissible for the investigating agency to carry out further investigation in the case. In other words, there is no bar against conducting further investigation under Section 173(8) of the Cr.P.C after the final report submitted under Section 173(2) of the Cr.P.C has been accepted.*
- (ii) Prior to carrying out further investigation under Section 173(8) of the Cr.P.C it is not necessary that the order accepting the final report should be reviewed, recalled or quashed.*
- (iv) Further investigation is merely a continuation of the earlier investigation, hence it cannot be said that the accused are being subjected to investigation twice over. Moreover, investigation cannot be put at par with prosecution and punishment so as to fall within the ambit of Clause (2) of Article 20 of the Constitution.*

The principle of double jeopardy would, therefore, not be applicable to further investigation.

- (v) *There is nothing in the Cr.P.C to suggest that the court is obliged to hear the accused while considering an application for further investigation under Section 173(8) of the Cr.P.C.”*

6. This court has taken cognizance of the offences alleged against the first accused. On applying the dictum laid down by the Hon'ble Supreme Court in the above said case, it is open to the Investigating Officer to make further investigation and the matter is informed to this court.

In the said circumstances, the Investigating Officer is permitted to make further investigation in this case.

Dictated to the Confidential Asst., transcribed and typewritten by her, corrected and pronounced by me in open court on this the 12th day of January, 2024.

Appendix: Nil

// True Copy//

Sd/-
Mini S Das
Judge, Spl. Court for NIA Cases

Id/-
Judge, Spl. Court for NIA Cases
(By order)

Sd/-
Sheristadar