

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

Present:-

Shri. Kamanees K., Judge, Special Court for NIA Cases.

Wednesday, the 25th day of May, 2022 / 4th Jyaishta, 1944

CrI.M.P No. 17/2022

in

SC No. 4 / 2021

(R.C No. 01/2021/NIA/KOC)

Petitioners / Accused No. 6, 8 & 9:-

- 1) Suresh Raj.A @ Suresh @ Chinna Suresh,
S/o Arasarathinam,
No. 126- 8th Cross Street,
Irandamkatalai, Samayapuram,
Kundrathur, Chennai – 69.
- 2) Ramesh A.,
S/o. Arasarathinam,
resident of Madampitiya, Modara, Colombo – 15
presently residing at House No. 312/A, (AVRA-14)
Thekkanath House, Athani P.O.,
Aluva, Ernakulam District.
- 3) Satkunam @ Sabesan,
S/o. Sachithanatham, No.29/19,
Anbuvazhipuram, Trincomallie, Sri Lanka.
Now residing at F/No. 33, Muralikrishna Nagar,
Main Road, Valsaravakkam, Chennai.

R1 by Adv. Smt. Sangeetha Lakshmana

R2 by Adv. Sri. P.M.Ziraj.

R3 by Adv. Sri. Noushad.

Respondent / Complainant :-

Union of India,
represented by National Investigation Agency, Kochi

By Sri. Arjun Ambalapatta, Senior Public Prosecutor, NIA.

This petition having been heard on 19/05/2022 and the Court on this day passed the following:-

ORDER

1) The brief facts of the case is as follows :- The Indian Coast Guard intercepted and traced out a Sri Lankan fishing boat by name 'Ravihansi' at Arabian Sea, found in possession of huge quantities of contraband articles including narcotic drugs along with five AK-47 rifles and 1000 numbers of 9mm ammunitions with six Sri Lankan nationals onboard. The boat along with ammunitions were seized by the Narcotics Control Bureau (NCB) Sub-Zone, Kochi on 25.03.2021 and 26.03.2021 on their arrival at Vizhinjam port at Thiruvananthapuram. The case was registered by the NCB against six Sri Lankan nationals namely, L.Y.Nandana(A1), H.K.G.B. Janaka Dassppriya(A2), A.H.S.Mendis Gunasekara(A3), S.A.Namesh Chullaka Senarath (A4), Thilanka Madushan Ranasingha(A5) and Dadallage Nisanka A(A6). The seized articles and arrested six accused persons were produced at JFCM Court, Neyyattinkara by NCB and the case was transferred to the Sessions Court, Vanchiyoor,

Thiruvananthapuram. On the basis of the report submitted by NCB, a case was registered on 05.04.2021 at Vizhinjam police station as Crime No.498/2021 dated 05.04.2021 under section 27 of Arms Act and section 34 of IPC for the illegal possession of arms and ammunitions before JFCM, Neyyattinkara. As per the notification of Government of India, Ministry of Home Affairs dated 27.04.2021, the National Investigation Agency took over the investigation and re-registered the case as RC 1/2021/NIA/KOC under section 7 r/w 25(1AA) of Arms Act and the FIR was submitted before this court. The investigation was taken over from Kerala police on 12.05.2021. The accused were formally arrested by the NIA on 11.06.2021 at Central Jail, Poojappura. They were produced before this court on 21.06.2021 on a production warrant issued by the court in CrI.MP No.99/2021. The accused persons were taken into NIA custody from 21.06.2021 to 28.06.2021 and further extended custody were given to the NIA. They were produced before the court on 02.07.2021 and were remanded back.

2) The chargesheet has been filed in this case and cognizance has been taken against the accused No. 1 to 9 under different heads mentioned in the petition. The petition states that the accused persons have following properties in their ownership and possession as detailed below :-

SL No.	Name and accused number	Details of the property	Remarks
1.	Satkunam @ Sabesan (A-9)	TN 10 BB 0473 Toyota Innova Crysta Car	
2.	Satkunam @ Sabesan (A-9)	TN-10 BL 8923 Glanza	
3.	Satkunam @ Sabesan (A-9)	TN-25 BV 0105 Hiace (Toyota)	
4.	Satkunam @ Sabesan (A-9)	TN-10 BT 0006 Volvo car	
5.	Satkunam @ Sabesan (A-9)	TN-10 BD 9585 BMW Bike	
6.	Satkunam @ Sabesan (A-9)	TN 12 AK 0006 Volvo Car	Registered in the name of Soundarajan (A-8)
7.	Suresh Raj (A-6)	TN 87 6738 Hyundai Creta Car	Registered in the name of John Paul, S/o. Mani, age 32/21, R/o 32, MGR Nagar, Mudichathamman Koil Street, Poonamalle, Chennai-600056
8.	Suresh Raj (A-6)	TN 85 E 6090 Yamaha YZ Motor Cycle	
9.	Suresh Raj (A-6)	TN-12 J 2073 Tempo Traveller	Registered in the name of John Paul, S/o Mani, age 32/21, r/o 32, MGR Nagar, Mudichathamman Koil Street, Poonamalle, Chennai-600056
10.	Suresh Raj (A-6)	TN-85A 7827 Scorpio,	Registered in the name of Chandran S,

			S/o. Duraiswamy Sundaram, OLD NO 36 NEW NO 5, Palar Street Karaima Nagar, Chennai- 600069
11.	Suresh Raj (A-6)	Property with Building Document No. 2762/2021 dated 28.11.2020 , Doc No. 3138/2020 dtd 19.12.2020 Name of Executant (1) Parthipan (2) Soundarajan and Name of Claimants (1) Suresh Raj [Plot No. 94, Survey No. 140/1B, Village –Thirupanthiyur, SRO-Sunguvarachatram]	
12.	Suresh Raj (A6) & Satkunam @ Sabesan (A-9)	Property Document No. 1839/2017 dated 05.09.2017 Name of Executant (1) Manikammal (2) K Muralidharan (3) Thenmozhi (4) K Sreedhar (5) Guna Sundari (6) G Mariyappan (7) R Murugan and Name of Claimants (1) Suresh Raj (2) Sudarshini (3) Satkunam. [Plot No., Survey No. 81/3, 81/3A,1/3A2,81/3B1, 81/3B1B Village-	Property registered in the joint name of Suresh Raj, Sudarshini And Satkunam

		Gengadevankuppam SRO- Cheyyur]	
13.	Suresh Raj (A-6)	Property Document No 8805/2014 dated 01.12.2014 Name of Executant V Selvam and Name of Claimants (1) Suresh Raj (2) Sudarshini. [Plot No.126, Survey No. 227/2A, 227/2B, 227/2C 227/3, 227/3E, 227/3E1, 227/3E2 Village –Irindayam Kattalai, SRO- Pammal]	Property registered in the joint name of Suresh Raj and Sudarshini
14	Suresh Raj (A-6)	Property Document No. 3875/2012 dated 28.09 2012 Name of Executant :G Rani and Name of Claimants: Sudarshini. [Plot No.33, Survey No. 49/5A, Village –Kalambakkam , SRO- Perambakkam]	Property registered in the name of Sudarshini
15	Suresh Raj (A-6)	Property of the Document No. 284/2021 dated 27.01.2021 Name of Executant (1) Kondal Raj, (2) Sumithra Devi Mohan Raj (3) Mohan Raj and Name of Claimants: Sudarshini. [Plot No.60, Survey No. 140/5A1, Village –Thirupanthiyur,	Property registered in the name of Sudarshini

		SRO- Sunguvarachatram]	
16	Ramesh A (A-8)	TN 22 DR 7447 Mahindra Marazzo	
17	Ramesh A (A-8)	TN-22 DU 0004 Honda WRV	
18	Ramesh A (A-8)	Property Document No. 3136/2020 dated 16.11.2020 Name of Executant: Jayanthi and Name of Claimants Ramesh and Jasmine. [Plot No., Survey No. 282/1, 255/1G, Village –Nelvay, SRO- Uthiramerur]	Property registered in the joint name of Ramesh and Jasmine

3) It can be seen that among these properties, certain properties have been acquired in the name of different persons. However, the prosecution maintains a case that these properties have been purchased using the tainted money. There has to be an order under section 33(1) of the Unlawful Activities (Prevention) Act attaching the above said properties of the accused Nos. 1 to 9 as found in the schedule given – operative during the trial.

4) The accused No.7 submitted that he has not have filed any objection. However, the endorsement to that effect had been qualified subject to verification by the court whether the properties in question belongs to the accused No.6, Suresh Raj.

5) No other accused persons filed any objection to the same. However, there was submission across the bar that only an interim attachment alone is possible under section 33(1) of the Unlawful Activities (Prevention) Act.

6) Section 33(1) of the Unlawful Activities (Prevention) Act is as follows :-

“33. Forfeiture of property of certain persons.—(1) Where any person is accused of an offence under Chapter IV or Chapter VI, it shall be open to the court to pass an order that all or any of the properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be attached, if not already attached under this Chapter.”

7) Therefore, it is clear that the attachment, if any, that is being passed, shall be operative during the period of such trial only. Here, the offence charged with is under Chapter VI. The NIA has filed a memo regarding serving of copies of property details received from authorities belonging to Suresh Raj, Satkunam, Soundarajan and Ramesh A to their respective lawyers.

8) The case of the prosecution is that the properties had been attached either in the name of the respective accused persons or by using the tainted money. The fact remains that some of the accused persons are Srilankan

nationals, still properties haveare seen acquired. There has been a submission that notice has to be served to the respective property owners. Such a procedure is not contemplated for attachment during trial.

9) For reasons mentioned in the petition, the properties scheduled along with this petition shall stand attached under section 33(1) of the Unlawful Activities (Prevention) Act which will be operative during the period of trial and until judgment is passed.

Dictated to the Confidential Asst., transcribed and typewritten by her, corrected and pronounced by me in open court on this the 25th day of May, 2022.

Sd/-
Kamanees.K.
Judge

APPENDIX : NIL

// True copy //

Id/-
Judge
(By Order)

Sheristadar

Crl.M.P No. 17/2022
in
SC 4/2021/NIA
(RC No. 01/2021/NIA/KOC)
Order Dated 25/05/2022