

IA No.08/2025
CC No.03/19, CIS No. 190/2019
CBI Vs K.R.S. Murthi & Ors.
RC No.217/2015/ A-0002/ CBI/ ACU-V/
New Delhi

11.03.2026 At 3pm

Present : Applicant/A-6 Veena Sri Ram Rao, through V/c.
Sh. Chirag Madan, Sh. Ronit Bose, Sh. Rahul
Agarwal & Ms. Rachael Tuli, Ld. Counsel for A-6.
Sh. Neeraj Jain & Sh. Rishi Raj Sharma, Ld. SPP,
through V/c.
Sh. Surender Kumar Rohilla, DSP, AC-II, CBI.

ORDER

- (1) Vide this order, I shall dispose off the application u/S 4(2) of The Prevention of Corruption Act, 1988 ("PC Act" in short) filed on behalf of applicant/A-6 Veena S. Rao seeking transfer of the present matter to the competent court having jurisdiction.
- (2) It is stated in the application that the present applicant/accused during the course of arguments on the charge raised an objection pertaining to the jurisdiction of CBI to investigate within the State of Karnataka and the territorial jurisdiction of this court to take cognizance of this matter as per the provisions of the PC Act.

(3) It is further stated in the application that the present application has been moved pursuant to the order dated 29.10.2025 passed by this court wherein this court was of the view that since the objection raised by the applicant/accused goes to the root of the jurisdiction of this court therefore, a formal application may be filed and the CBI can accordingly respond to the same.

(4) It is further stated that as per the allegations in the charge sheet, the entire conspiracy has been hatched within the jurisdiction of Bangalore, Karnataka and no further offence as alleged has taken place within Delhi and therefore, this court lacks territorial jurisdiction to try the present matter. A table displaying all the relevant events related to the alleged offences in their chronological order and their venues was also listed in the application, which is as under:-

Date	Events Related to Alleged Offences	Venue
15.04.2004	Joint Venture Proposal submitted by M/s Forge Advisors to M/s Antrix Corporation Ltd.	Bangalore
14.05.2005	Shankara Committee was constituted to examine the JV Proposal.	Bangalore
21.05.2004 17.08.2004 01.12.2004	Meetings of Shankara Committee JV Proposal converted into a Lease of Space Segment Capacity Agreement.	Bangalore
17.12.2004	M/s Devas Multimedia Pvt. Ltd. was incorporated.	Bangalore
24.12.2004	57 th Meeting of the Board of Directors of M/s Antrix Corporation Ltd.	Bangalore
15.01.2005	1 st Meeting of the Board of the	Bangalore

	Directors of Devas Multimedia Pvt. Ltd.	
28.01.2005	Agreement signed between M/s Antrix Corporation Ltd. and M/s Devas Devas Multimedia Pvt. Ltd.	Bangalore
17.03.2005	58 th Board meeting of the M/s Antrix Corporation Ltd.	Bangalore
26.05.2005	104 th meeting of the Space Commission. All Space Commission Notes were prepared and finalized in Bangalore. Space Commission has not been accused of any offence.	New Delhi
17.06.2005	Draft Cabinet Note received by DoS from A-1.	Bangalore
08.08.2005	123 rd Meeting of TAG clearing proposal for GSAT-6 by the Space Commission.	Bangalore
17.06.2005 to 12.11.2005	Processing of Cabinet Note dated 12.11.2005.	Bangalore
01.12.2005	Cabinet approves Construction of GSAT 6. Cabinet Note for construction of GSAT 6 was processed and finalized in Bangalore. No Cabinet member has been accused of any offence.	New Delhi
02.02.2006	Letter issued by A-1 to A-2 that Antrix is in a position to build spacecraft and lease capacity to DEVAS as per Agreement dated 28 th January 2005.	Bangalore
19.07.2006	Amendment to Article 31 of Antrix Devas Agreement altering the continuation lease fees from “mutually agreed” to “reasonable” (Investments in DEVAS accelerate)	Bangalore

(5) It is further stated that from the bare perusal of the sequence of events related to the alleged offences u/S 120-B r/w 420 of IPC and Section 13(2) r/w 13(1)(d) of PC

Act, 1988 and substantive offence u/S 13(2) r/w 13(1)(d) of PC Act, 1988, along with the place of their occurrence, it is prima facie clear that the events related to the entire alleged conspiracy, starting with the meetings leading to receipt of the JV Proposal; the processing of the JV Proposal; the Sankara Committee meetings; conversion of the JV Proposal into a Lease of Space Segment Capacity Agreement; incorporation and registration of M/s DEVAS Multimedia Pvt. Ltd. as an Indian Company with the Registrar of Companies, Bangalore on 17.12.2004; finalization of the Antrix-Devas Agreement and approval by the Antrix Board at the 57th Board meeting on 24.12.2024 and signing of the Antrix-Devas Agreement on January 2005, have all taken place in Bangalore. Further the Department of Space, Government of India (DoS), ISRO and M/s Antrix Corporation Ltd, are located in Bangalore. The registered office of M/s DEVAS Multimedia Pvt. Ltd. is also in Bangalore.

- (6) Further no alleged substantive offence or component of any alleged substantive offence, either in attempt or furtherance of conspiracy or abetment, has taken place in New Delhi, i.e. the jurisdiction of this court. The respondent (CBI) has deliberately misled the Ld. Trial Court that it has the territorial jurisdiction to try the instant case. It is submitted that no part of the cause of action has arisen within the territorial jurisdiction of the Ld. Trial

Court, thereby denuding this Court of the jurisdiction to try the instant case.

(7) It is further stated that a combined reading of Section 3 and Section 4 of the PC Act would make it abundantly clear that the fundamental basis for determining territorial jurisdiction of the court is the place of commission of an offence punishable under the PC Act. It is further stated that in the instant case however, contrary to the mandate of Section 4 r/w 3 of PC Act, jurisdiction is being sought to be conferred in Delhi court, only on the basis of place of FIR.

(8) It is further stated that as per Section 4(2) of the PC Act, every offence specified in sub-section (1) of Section 3 shall be tried by the Special Judge for the area within which it was committed, or, as the case may be, by the Special Judge appointed for the case, or, where there are more Special Judges than one for such area, by such one of them as may be specified in this behalf by the Central Government. It was emphasized that in the present matter, the offence as alleged has been committed within the State of Karnataka.

(9) It is further stated that even as per Section 3(1) of the PC Act, the offence first must be triable under the PC Act and further any conspiracy or attempt to commit or

abetment of any of the offences, are also triable. However in the instant case, no conspiracy, attempt or abetment for any of the alleged offences have been committed within New Delhi. Further, a perusal of Section 3 makes it abundantly clear that jurisdiction would be primarily determined based on the place of commission of offence punishable under the PC Act. Therefore, in respect to the same, this court has no jurisdiction to try the alleged offence if any, in the instant case.

(10) It is further stated that Section 4(2) of the PC Act, the PC Act being a special enactment, the provisions relating to jurisdiction of the Trial Court would be governed by the Special Act and not by the provisions of the Criminal Procedure Code/BNSS, 2023. It is further stated that Section 4 of PC Act, which deals with cases triable by Special Judges, has a non-obstante clause. It excludes application of provisions of CrPC regarding territorial jurisdiction of the court.

(11) It is further stated that reading of provisions of Section 3(1), 4(1) & (2) of PC Act makes it clear that even where conspiracy to commit any offence under the PC Act is alleged, only the Special Judge appointed for the area where the offence under the PC Act is alleged to have been committed, alone has territorial jurisdiction to try such case. Hence, the continuation of further proceedings in the

instant case is an abuse of law and violation of petitioner's fundamental rights as envisaged under Article 21 of the Indian Constitution.

(12) It is further stated that no prejudice would be caused if the present application is allowed. However, grave prejudice would be caused to the applicant/accused in the event the relief sought herein is not granted. Accordingly, it is prayed that the present application may be allowed and return the present case to CBI for presenting the same before the competent court having jurisdiction to adjudicate the present matter.

(13) Reply has been filed by CBI to the aforesaid application contending that the overall conduct of applicant/A-6 is not bonafide and by filing multiple applications/ petitions including for production of documents u/S 91 CrPC and for further investigation u/S 173(8) CrPC, an attempt was being made by her (A-6) to somehow obstruct the proceedings before this court. The applicant/A-6 has been delaying arguments on charge on one pretext or the other even though arguments on charge on behalf of prosecution and three accused public servants i.e. A-1, A-5 & A-7 have already concluded.

(14) It is further stated that the present application has been filed at a belated stage and in view of judgment of

Hon'ble Supreme Court in the case titled as CBI Vs M/s Narayan Niryat India Pvt. Ltd. and Ors., Crl.Appeal No.4390/2025, wherein it has been observed that objections qua jurisdiction ought not to be raised at a belated stage but soon after registration of FIR, the present application is not maintainable at this stage.

(15) The issue of territorial jurisdiction goes to the root of prosecution and it should have been raised at the first available opportunity rather than after seven years of obtaining bail by submitting herself (A-6) to the jurisdiction of this court, which amounts to approbating and reprobating at the same time.

(16) The present application was liable to be rejected also for the reason that this court had taken cognizance of the offence vide order dated 16.09.2017 and the court does not have the power of review and hence, it cannot review the earlier order. Moreover, the cognizance order dated 16.09.2017 is already under challenge before Hon'ble High Court by applicant/A-6 in Crl. M.C.No.457/18 but the ground raised in the present application, was not taken therein. Infact, an attempt is being made by the applicant/A-6 to efface the proceedings taken place in last eight years and get it transferred to a new court and that too after spending considerable precious judicial hours.

(17) It is further stated that the entire conspiracy in the present case revolves around securing rights over the S Band Spectrum from Govt. of India, Department of Space, walloping the first rights of defence establishments and this could have been done only by the approval of and budget allocation approval of Cabinet and thereafter, the Hon'ble Prime Minister of India, who happened to be Incharge of Department of Space, during the relevant time.

(18) It is further stated that the present application was also required to be rejected for the reason that in this case, offences have been committed at several locations including New Delhi. Hence, in the light of provisions of Section 3/4 of PC Act, 1988 as well as Section 178 of CrPC (Section 198 of BNSS, 2023), this court was fully competent to try this case.

(19) It is further stated that many incidents in connection with the present offence have taken place in New Delhi, which are enumerated as below:-

(i) Even though, Department of Space is based in Bangalore, it has a special secretariat at New Delhi under the Ministry of Science & Technology. The officers of Department of Space including the Secretary, Addl. Secretary and other officers of associated organizations such as ISRO, Antrix

Corporation Ltd., conduct important meetings in the above secretariat of DoS at New Delhi.

(ii) The 122nd meeting of Technical Advisory Group (TAG) of the INSAT Coordination Committee to discuss the issue of requirement of Spectrum for Devas Project, was conducted at DoS, Branch Secretariat, New Delhi on 30.11.2004.

(iii) The 127th meeting of TAG was also held in New Delhi on 19.09.2007. Similarly, the TAG sub-committee meeting on Devas experimental plan was also held at New Delhi on 06.01.2009.

(iv) The issue of GSAT-6 Satellite which was being developed for Devas, was discussed in 104th meeting of Space Commission, which took place at New Delhi on 26.05.2005 and was attended by several accused persons alongwith officers of Govt. of India.

(v) Further, the members of Space Commission consist of high level officers of Govt. of India and its meetings are generally held in New Delhi.

(vi) The Space Commission's 105th, 113th& 114th meetings were also held in New Delhi.

(vii) Further, the draft cabinet note containing the misleading information was also sent by A-6 to the Planning Commission at New Delhi, on 22.08.2005. Infact, A-6 made protracted communication with

Planning Commission at New Delhi on the issue of draft cabinet note.

(viii) The cabinet note was also signed at DoS Branch Secretariat at New Delhi on 17.11.2005 wherein A-5 & A-6 was also present.

(ix) The Union Cabinet assembled at New Delhi on 01.12.2005 and approved the proposal for GSAT 6 Satellite, received from DoS Branch Secretariat, New Delhi and the approval of Ministry of Finance, Department of Economic Affairs, FIPB Unit, New Delhi was obtained for foreign collaboration and receiving of FDI.

(x) The License Agreement for provision of internet service was signed at New Delhi on 02.05.2008 between M/s Devas Multimedia Pvt. Ltd. and Department of Tele Communications, Sanchar Bhawan, New Delhi.

(20) Though, reply has also been filed with respect to the objections of applicant/A-6 regarding consent and applicability of Section 5/6 of Delhi Special Police Establishment Act, 1946 (DSPE Act) but the same is not being reproduced as the said objection was not pressed by applicant/A-6, in the present application. Prayer is accordingly made to dismiss the application contending that this court has jurisdiction to try the present case and the offences committed therein.

(21) Rejoinder was filed by the applicant/A-6 to the above reply wherein the averments and contentions raised in the reply, were largely denied. It is stated that a bare perusal of Section 4(2) of PC Act, shows that the Special Court which has territorial jurisdiction to adjudicate upon the case, is the court of the area, where the offence was committed. As per the charge sheet, the alleged offences, if any, have been committed within the jurisdiction of Bangalore, Karnataka and no offence as alleged, had taken place within the territorial jurisdiction of Delhi and therefore, this court lacks territorial jurisdiction to try the present matter. The contents of the application were largely reiterated in the rejoinder and it was also contended that charge sheet does not contain any alleged offence against the Space Commission or the Union Cabinet, for their respective approvals given for construction of GSAT 6 Satellites. Further, at no point of time, Department of Space, Bangalore maintained a Special Secretariat at New Delhi under Ministry of Science & Technology, rather in 2005, Branch Secretariat / Liaison Office was provided as working space for all scientists, officers who had to come to Delhi on official duty. It was denied that any cabinet note was signed at DoS Branch Secretariat, New Delhi on 17.11.2005 since there was no such mention whatsoever, either on the note sheets or the correspondence sheets as produced by CBI.

(22) Written note was also filed on behalf of prosecution/ CBI during arguments reiterating the facts mentioned in the reply. Several judgments were relied upon by the CBI which are as under :-

(a) V. K. Puri Vs CBI, 2007 (6) SCC 91;

(b) CBI Vs Narayan Niryat, Crl. Appeal No.4390/2025, Decided on 09.10.2025;

(c) CBI Vs A. Satish Kumar, 2025 SCC Online SC 15 and;

(d) CBI Vs Keshub Mahindra & Ors., 2011 (6) SCC 216.

(23) A note on the list of events/ alleged offences committed on behalf of applicant/A-6 was also filed by A-6 which are a brief note of the facts already mentioned in the application and is not being repeated herein for the sake of brevity. It is however, also stated that all the alleged offences as mentioned in the reply, even if taken to be true on their face value, only attract offences under the IPC and not PC Act. In view of the judgment of Hon'ble Supreme Court and the plain reading of statute, it is clear that the basis of jurisdiction would be the place of offence, where the alleged offences under PC Act had taken place. It is alleged that the CBI is making new allegations from time to time which are even beyond the scope of the charge sheet. For example, there was no allegation made in the charge sheet, of any offence relating to the Planning Commission which is mentioned in the reply. Prayer is once again made to return the present case to CBI for

presenting the same before the competent court having jurisdiction to adjudicate the present matter.

(24) The applicant/A-6 has relied upon several judgments which are as follows:-

(a) CBI Vs Braj Bhushan Prasad, (2001) 9 SCC 432;

(b) State of Jharkhand Vs Lalu Prasad Yadav, (2017) 8 SCC 1,

(c) Sanjay Tripathi Vs CBI, 2012 SCC OnLine Del 569,

(d) Sumit Tandon Vs CBI, 2012 SCC OnLine Del 2025,

(e) Sri BY Raghvendra Vs Sri Vinod B, Writ Petition No.38135 of 2012.

(25) I have considered arguments and submissions from both the sides as well as perused the material on record.

(26) A bare perusal of the charge sheet and the relied upon documents, gives a clear indication that the majority of acts leading to the commission of the present offences and especially the offences pertaining to PC Act, have been committed within the territorial jurisdiction of Bangalore (presently Bengaluru). The joint venture proposal for the launch of GSAT6 Satellite was submitted by M/s Forge Advisors to M/s Antrix Corporation Ltd. at Bengaluru, the Shankara Committee to examine the JV proposal was constituted at Bengaluru, the meetings of Shankara Committee which lead to the conversion of JV

proposal into lease agreement were held at Bengaluru, accused no.4 who was the prime beneficiary of the alleged conspiracy and other offences, was incorporated at Bengaluru, the agreement dated 28.01.2005 between M/s Antrix Corporation Ltd. and M/s Devas Multimedia Pvt. Ltd., was signed at Bengaluru, various meetings of Board of Directors of M/s Antrix Corporation Ltd. and M/s Devas Multimedia Pvt. Ltd. with respect to the GSAT 6 Satellite took place at Bengaluru, the processing of Cabinet note dated 12.11.2005, amendment to Article 31 of Antrix Devas Agreement whereby the term pertaining to continuation lease fees was altered from “mutually agreed” to “reasonable” also took place at Bengaluru besides many other acts. It is also not out of place to mention that the Department of Space, Govt. of India, ISRO as well as M/s Antrix Corporation are situated in Bengaluru. Accordingly, it is quite clear that the substantial acts leading to the commission of alleged offences, has taken place in Bengaluru.

(27) In its reply, the CBI has also given a list of various acts which have taken place in New Delhi such as various TAG sub committee meetings, 104th, 105th, 113th & 114th meeting of Space Commission being held at New Delhi, the approval of Finance Minister & the Prime Minister for placing the cabinet note before the Union Cabinet, was obtained at New Delhi, the processing of the cabinet note

also took place in New Delhi, the approval given to M/s Devas Multimedia for foreign collaboration and receiving the FDI, from New Delhi and other acts. It was also stated that Department of Space, though based in Bengaluru, was having a special secretariat at New Delhi under the Ministry of Science & Technology where important meetings were conducted, which included officers of DoS including Secretary, Addl. Secretary and other officers of associated organizations i.e. ISRO, Antrix Corporation etc. However, the above acts are mostly in furtherance and are allied to the alleged offences under PC Act and do not form the substantial part of the alleged offences except one may say, the 104th meeting of Space Commission which was held at New Delhi on 26.05.2005 and the signing of the license agreement on 02.05.2008 for provision of internet service, between Devas Multimedia Pvt. Ltd. and Department of Telecommunication, New Delhi. Further some of above acts relate to the consequences which ensued upon the commission of alleged offences under PC Act. It is further rightly pointed out by A-6 that there is no mention in the charge sheet that the Department of Space, though based in Bengaluru, was having a special secretariat at New Delhi under the Ministry of Science & Technology where important meetings were conducted.

(28) The above facts would show that the substantial part of the offences have been committed within the territorial

jurisdiction of Bengaluru. However at the same time, it has to be stated that several acts which lead to the commission of the aforesaid offences, had also taken place in New Delhi. Under such circumstances, the court has to decide whether it has the territorial jurisdiction to try the above offences or should the matter be tried at a court within the territorial jurisdiction of another state (stated to be that of Bengaluru) ?

(29) The Ld. Counsel for applicant/A-6 has strongly relied upon one judgment of Hon'ble Supreme Court in the case titled as CBI Vs Braj Bhushan Prasad (Supra) wherein it has been held as follows:-

“34. What is the main offence in the charges involved in all these 36 cases? It is undisputed that the main offence is under Section 13(1)(c) and also Section 13(1)(d) of the PC Act. The first among them is described thus :

“13.(1)A public servant is said to commit the offence of criminal misconduct, -

* * *

(c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person to do so.”

The next offence is described like this :

“13.(1) A public servant is said to commit the offence of criminal misconduct, -

* * *

(d) if he, -

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage;or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest."

35. We have no doubt in our mind that the hub of the act envisaged in first of those two offences is "dishonestly or fraudulently misappropriates". Similarly the hinge of the act envisaged in the second section is "obtains" for himself or for any other person, any valuable thing or pecuniary advantage by corrupt or illegal means.

36. The above acts were completed in the present cases when the money has gone out of the public treasuries and reached the hands of any one of the persons involved. Hence, so far as the offences under Section 13(1)(c) and Section 13(1)(d) are concerned the place where the offences were committed could easily be identified as the place where the treasury concerned was situated. It is an undisputed fact that in all these cases the treasuries were situated within the territories of Jharkhand State.

37. Thus, when it is certain where exactly the offence under Section 13 of the PC Act was committed, it is an unnecessary exercise to ponder over the other areas wherein certain allied activities, such as conspiracy or preparation, or even the prefatory or incidental acts were done, including the consequences ensued.

38. In this context it is useful to refer to Section 181 of the Code which falls within Chapter XIII, comprising of provisions regarding jurisdiction of the criminal courts in inquiries and trials. Section 181 pertains to "place of trial in case of certain offences". Sub-section (4) thereof deals with the jurisdiction of the courts if the offence committed is either criminal misappropriation or criminal breach of trust. At least four different courts have been envisaged by the sub-section having jurisdiction for trial of the said offence and any one of which can be chosen. They are : (1) the Court within whose local jurisdiction the offence was committed; (2) the Court within whose local jurisdiction any part of the property which is the subject of the offence was received; (3) the Court within whose local jurisdiction any part of the property which is the subject of the offence was retained; and (4) the Court within those local jurisdiction any part of the property which is subject of the offence was required to be returned or accounted for, by the accused.

39. Now, observe that distinction between Section 181(4) of the Code and Section 4(2) of the PC Act. When the former provision envisaged at least four courts having jurisdiction to try a case involving misappropriation the latter provision of

the PC Act has restricted it to one court i.e. the Court of the Special Judge for the area "within which the offence was committed". No other Court is envisaged for trial of that offence. We pointed out above that when the charge contains the offence or offences punishable under the PC Act as well as the offence of conspiracy to commit or attempt to commit or any abetment of any such offence, the Court within whose local jurisdiction the main offence was committed alone has jurisdiction.

40. Shri Kapil Sibal, learned senior counsel contended that Section 4(2) of the PC Act does not override the provisions of the Code regarding jurisdiction because among the four sub-sections included in Section 4 of the said Act, only first and the last sub-sections are tagged with the non obstante words "notwithstanding anything contained in the Code of Criminal Procedure". In his submission the fact that sub-section (2) is freed from the non obstante words would indicate that the provisions of the Code can as well be read with that sub-section. In that context learned senior counsel invited our attention to Sections 178 to 180 of the Code, showing that different courts having domain over different local areas have concurrent jurisdiction to inquire into or try the offences and hence the trial is permissible in any one of them.

41. Absence of a non obstante clause linked with Section 4(2) of the does not lead to a conclusion that the sub-section is subject to the provisions of the Code. A reading of Section 4(2) of the Code (not PC Act) gives the definite indication that the legal position is the other way round. Section 4 of the Code is regarding trial of offences under the Indian Penal Code and other laws. Sub-section (1) of it relates only to offences under the Indian Penal Code. Sub-section (2) relates to "all offences under any other law". It is useful to read the said sub-section at this stage :

"4.(2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences."

42. Thus, if the PC Act has stipulated any place for trial of the offence under that Act the provisions of the Code would stand displaced to that extent in regard to the place of trial. We have, therefore, no doubt that when the offence is under Section 13(1)(c) or Section 13(1)(d) of the PC Act the sole determinative factor regarding the Court having jurisdiction is the place where the offence was committed.

43. A decision of the Kerala High Court, among the various decisions cited before us, has been relied upon by both sides highlighting the observations therein. In *Banwarilal Jhunjhunwalla and ors. v. Union of India*, AIR 1959 Kerala 311, P.T. Raman Nayar, J. (as the learned Chief Justice then was) had to consider the question of jurisdiction of a Court regarding the offence under Section 5(2) of the PC Act of 1947 in junction with a few other penal code offences. The facts in that case were that two accused entered into contracts at New Delhi for the supply of timber for the Central Railways Administration. But the consignees of the timber were at Bombay, Hyderabad and Jhansi. For the supply of timber, bills were passed and payments were made at New Delhi as per cheques which were encashed at Bombay. But the supply of low quality of timber was made within the State of Kerala. Certificate for good quality of such timber was issued at different places situated in the State of Kerala by one Thomson, Inspecting Officer of the Railway Board, Bombay. The said officer, along with other accused were prosecuted before the Court of a Special Judge at Kerala for the above-mentioned offences. The main accused - Thomson - raised the question regarding jurisdiction of that Court situated at Kerala. Learned Judge held that "taking the first offence under Section 5(2) of the PC Act, alleged to have been committed by Thomson, there can be little doubt that it was committed within the State of Kerala where he passed inferior jungle wood as timber of the contract quality and issued false certificates to that effect."

44. It was argued before the learned Judge that the conspiracy took place outside the State of Kerala and hence Section 180 of the Code would apply. Repelling the said contention learned Judge said thus:

"The application of Section 180, Criminal Procedure Code is even more certain. A conspiracy like an abetment is not an act which is inherently an offence. It is its relation to the other act which is its object that makes it an offence. Taking this particular case, it is by reason of the relation of the conspiracy to the act contemplated, namely, the commission of an offence under Section 5(2) of the Prevention of Corruption Act, that makes the conspiracy an offence; and that is so whether that other act is one or not. For one act to be related to another it is enough if that other act is in contemplation, it is not necessary that it should be actually committed."

45. The said decision relied on by both sides would thus support the proposition that the place of jurisdiction would be determinative by reference to the place where the main

offence was committed. The fact that other allied acts were committed at different places would be hardly sufficient to change the venue of the trial to such other places.”

(emphasis supplied)

(30) The aforesaid judgment in Braj Bhushan Prasad (supra) has been followed upon by Hon’ble Supreme Court in various cases such as State of Jharkhand Vs Lalu Prasad Yadav (Supra), Sanjay Tripathi Vs CBI (Supra) and also by the Hon’ble High Court of Delhi in case titled as Sumit Tandon Vs CBI (Supra) and Sri BY Raghvendra Vs Sri Vinod B (Supra) of Hon’ble Karnataka High Court.

(31) From the aforesaid judgment of Braj Bhushan Prasad (Supra), it is quite clear that firstly, the place of commission of offences under the provisions of PC Act shall be the sole determinative factor regarding the Special Court of CBI for having territorial jurisdiction to try the matter and secondly, the place of jurisdiction would be determined by reference to the place where the main offence was committed and the fact that that allied acts were committed at different places or the place where the consequences ensued, would not be sufficient to change the venue of the trial to such other places.

(32) Ld. SPP, CBI (Sr. Advocate) argued that the above proposition as expounded by Hon’ble Supreme Court in Braj Bhushan Prasad case (Supra) was not the ratio decidendi of the judgment and rather, the same was laid

down by Hon'ble Supreme Court in the peculiar facts of the case which had occasioned due to bifurcation of the State of Bihar into two states i.e. State of Bihar and State of Jharkhand. However, this court would disagree with the said contention for the reason that the above judgment of Hon'ble Supreme Court in Braj Bhushan Prasad (Supra) has been followed by Hon'ble Supreme Court as well as Hon'ble High Courts in India, in various cases, subsequently.

(33) Ld. SPP, CBI had placed reliance upon the case titled as V. K. Puri Vs CBI (Supra) contending that the said judgment had distinguished the judgment of Braj Bhushan Prasad (Supra) by holding that "What is material therefore is that the criminal misconduct had been committed during the period the accused held office and not the places where he had held offices." It was also held that the said case was not a case falling under Clauses (c) & (d) of sub Section (1) of Section 13 of the PC Act as was the case in Braj Bhushan Prasad (Supra). It was further held that:-

"Each Court, where a part of the offence has been committed, would, therefore, be entitled to try an accused. The 1988 Act does not bar application of [Section 178](#) of the Code of Criminal Procedure. If application of the provision of [Section 178](#) of the Code of Criminal Procedure is not barred, the fact that the appellant has a part of his known source of income at Delhi, in our opinion, would confer jurisdiction upon the Delhi Courts."

(34) However, it has to be kept in mind that the above judgment has nowhere distinguished the judgment of Braj Bhushan Prasad (Supra) on merits. Rather, the above case of V. K. Puri Vs CBI (Supra) was related to offence u/S 13(1) (e) of PC Act, for acquiring of assets, disproportionate to the accused's known source of income and not like the present case where criminal conspiracy is alleged to have been hatched for commission of various offences under IPC as well as PC Act. Moreover, Braj Bhushan Prasad (Supra) case is a Three Judge Bench order whereas V. K. Puri Vs CBI (Supra) is of Two Judge Bench. Furthermore, the ratio of Braj Bhushan Prasad (Supra) has been followed in many subsequent cases which have been decided after the case of V. K. Puri Vs CBI (Supra). Hence, I do not find much force in the submission of Ld. SPP, CBI.

(35) Ld. SPP, CBI has also placed relied upon CBI Vs Narayan Niryat (Supra) wherein it was held that :-

“10. In our considered opinion, both the reasons given by the High Court are misconceived and misdirected. We say so for the reasons that lack of consent under Section 6 of the Delhi Special Police Establishment Act, 1946 ought to have been raised soon after registration of FIR. Once the investigation is complete, chargesheet has been filed and the court of competent jurisdiction has taken cognizance, no such plea can be raised to vitiate the validity of an order taking cognizance of the chargesheet, save and except when it causes severe miscarriage of justice; or where proceedings for quashing of the FIR have been initiated and a chargesheet has been filed during pendency of the quashing proceedings. In such a case, the aggrieved person may have

some justification in contending that the filing of a chargesheet during the pendency of the quashing proceedings will not prejudice his right.”

(36) Relying upon the aforesaid judgment, it was argued that the objection relating to territorial jurisdiction ought to have been taken at the first stage and not after the case has proceeded for more than seven years in this court and that the applicant/A-6 had submitted herself to the jurisdiction of this court. However, this court would again differ from the above contention of Ld. SPP, CBI since the question of law which appears to be involved in CBI Vs Narayan Niryat (Supra) was whether the investigation and subsequent proceedings will be vitiated for want of consent of the State concerned as per Section 6 of DSPE Act and not with respect to whether a court can try an offence without having territorial jurisdiction to do so. So, CBI Vs Narayan Niryat (Supra) was with respect to validity of investigation whereas the present case is with respect to place of trial, an entirely different issue. Similarly, the other judgments relied upon by Ld. SPP, CBI are distinguishable on facts and question of law involved therein and are not relevant for the disposal of the present application.

(37) It was also argued on behalf of prosecution that applicability of Cr.PC has been clearly envisaged u/s 5(3) of PC Act, for the present purposes, it was indispensable to

refer to Sec 178-181 CrPC and any interpretation contrary to the statute was abhorred. However, a perusal of paras 40 and 41 of the judgment in Braj Bhushan Prasad case (supra) shows that the above arguments were also made before the Hon'ble Supreme Court in that case, which rejected the same. This court cannot take a contrary view.

(38) Coming back to the matter in issue, it was again held in the case titled as *Lalu Prasad @ Lalu Prasad Yadav vs State Through C.B.I. (A.H.D.) Ranchi*, CrI. Appeals nos. 1066-68/2003 decided on 26.08.2003 by Hon'ble three judge bench of Supreme Court of India, while relying upon Braj Bhushan Prasad case (supra) as follows :-

“Thus it has already been held, by a three Judge bench of this Court, that the main offences were under the Prevention of Corruption Act. It has been held that the offence of conspiracy is an allied offence to the main offence under the Prevention of Corruption Act. The cases are before the Special Judges because the main offences are under the Prevention of Corruption Act. **The main offences under the Prevention of Corruption Act in each case is in respect of the alleged transaction in that case. As conspiracy is only an allied offence it cannot be said that the alleged overt acts are in the course of the same transaction. We are bound by this decision.** In any case we see no reason to take a different view. As it has already been held that the charge of conspiracy is only an allied charge and that the main charges (under the Prevention of Corruption Act) are in respect of separate and distinct acts i.e. monies siphoned out of different Treasuries at different times, we fail to see as to how these cases could be amalgamated.”

(39) Having considered all the facts and case laws on the point, in my considered view, this court does not have territorial jurisdiction to try the present case/offences

therein, since the substantial portion of the acts leading to the present offences, have not taken place within the territorial jurisdiction of Delhi.

(40) Another question which though not agitated before the court, may also arise here i.e. whether the court can return the charge sheet to the IO for want of territorial jurisdiction, in the absence of any provision to that effect under the CrPC. The answer lies in the case titled as *Malkiat Singh vs State* (2005)121 DLT 668, decided by Hon'ble Delhi High Court, wherein it was held as follows:-

“The present case is instituted on a police report and is not a complaint case. Section 170 Cr.P.C. requires the officer in charge of a police station to forward the accused to a Magistrate empowered to take cognizance of an offence upon a police report. There is no specific provision as to how the Magistrate not having territorial jurisdiction over the subject matter of the offence should deal with a police report which is presented to him. The only option for the Magistrate is to return the report to the officer in charge of the police station so that he could comply with the provisions of Section 170 Cr.P.C. Although for trial of a case instituted on a police report no provision parallel to Section 201 has been prescribed, there is no difficulty in borrowing the remedy provided in Section 201 for curing the defect which has crept into this case which is entirely curable. The irregularity is not one which vitiates the entire proceedings, when seen in the light of the provisions of Sections 460 and 462 of the Cr.P.C. Section 462 goes to the extent of providing that even the order of the criminal court cannot be set aside on the ground that the inquiry, trial or other proceedings took place in an area over which he did not have the jurisdiction.

In a recent judgment in the case of CRL.M.C.No.1681/2000 titled *R.K. Jain & Ors. vs. State (NCT of Delhi) & Anr.* decided on 21.5.2005, the same practice has been adopted by

this court and the M.M. has been directed to return the police report to the investigating officer so that the same could be presented to the appropriate Court.”

(emphasis supplied)

(41) Hence, this court can return the charge sheet to the investigating agency. With these observations, the present application is allowed. Accordingly, the present case file alongwith its annexures and all documents (whether relied upon or unrelayed upon, if any) be returned to the IO, CBI. IO is at liberty to present the same before the competent court having jurisdiction to adjudicate the present matter.

(42) Application is accordingly, disposed off and be tagged with the main file.

(43) Copy of the order be given dasti to CBI, as requested.

(Atul Krishna Agrawal)
Special Judge, CBI-19 (PC Act)
RADC/New Delhi/11.03.2026