



2026:KER:48561

WP(PIL) NO. 114 OF 2026

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. SOUMEN SEN

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

FRIDAY, THE 3<sup>RD</sup> DAY OF JULY 2026 / 12TH ASHADHA, 1948

WP(PIL) NO. 114 OF 2026

PETITIONER/S:

JOJO JOSE  
AGED 51 YEARS  
PERIKILAMALAYIL, CHERIKKODE P.O, SREEKANDAPURAM,  
KANNUR, KERALA, PIN - 670631

BY ADV SHRI.RADHAKRISHNAN R.

RESPONDENT/S:

- 1 THE CHIEF SECRETARY  
GOVERNMENT OF KERALA, SECRETARIAT,  
THIRUVANANTHAPURAM, KERALA-695001
- 2 THE SECRETARY TO GOVERNMENT (HOME DEPARTMENT)  
GOVERNMENT OF KERALA, SECRETARIAT,  
THIRUVANANTHAPURAM, KERALA, PIN - 695001
- 3 THE SECRETARY  
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND  
PENSIONS, DEPARTMENT OF PERSONNEL AND TRAINING  
(DOPT), NORTH BLOCK, DELHI, PIN - 110001



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- 4 THE DIRECTOR CENTRAL BUREAU OF INVESTIGATION  
(CBI)  
PLOT NO 5-B, CGO COMPLEX, LODHI ROAD, NEW DELHI,  
110003
- 5 THE DIRECTOR GENERAL OF POLICE (DGP)  
POLICE HEADQUARTERS, VAZHUTHACAUD,  
THIRUVANANTHAPURAM, KERALA, PIN - 695014
- 6 ADDITIONAL DIRECTOR  
DIRECTORATE OF ENFORCEMENT, A & P ARCADE,  
SAHODARAN AYYAPPAN ROAD (S.A. ROAD), NEAR METRO  
PILLAR NO. 772, KADAVANTHRA, KOCHI, PIN - 682016

BY ADVS.  
GOVERNMENT PLEADER  
SHRI.AMAL PARTHASARADHY, CGC  
DIRECTOR GENERAL OF PROSECUTION

OTHER PRESENT:

C. RASHEED -SPL.GP TO DGP

THIS WRIT PETITION (PUBLIC INTEREST LITIGATION)  
HAVING COME UP FOR ADMISSION ON 03.07.2026, THE COURT ON  
THE SAME DAY DELIVERED THE FOLLOWING:



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**JUDGMENT**

**Dated this the 3<sup>rd</sup> day of July 2026**

**SOUMEN SEN, C.J.**

Heard Mr. Radhakrishnan R., learned counsel for the petitioner, Mr. Jaisankar V. Nair, learned Standing Counsel for the Enforcement Directorate, Mr. Sreelal N. Warriar, learned counsel for respondent No.4, Mr. C. Rasheed, Special Government Pleader to DGP and Mr. P Sreekumar, learned Additional Solicitor General for India instructed by Mr. Amal Parthasaradhy, learned Central Government Counsel.

2. The present writ petition has been filed in the nature of a Public Interest Litigation (PIL) by a practicing advocate at Delhi and Kerala. The petitioner also claims to be a social worker.

3. The genesis of the present application appears to be an untoward incident that occurred during the search operations conducted by the Enforcement Directorate (ED) at various locations linked to the family of the former Chief



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Minister. The writ petitioner has alleged that various obstructions were created by supporters of the Left Democratic Front during the search operations. It is further alleged that, in view of the attack on and assault of the Enforcement Directorate (ED) officials during the raid, FIR No. 0762/2026 was registered by the Sub-Inspector of Police, Museum Police Station. The petitioner contends that the registration of the aforesaid FIR by a junior police officer would not result in an impartial and effective investigation capable of unearthing the true nature of the crime where senior MLAs, MPs and former ministers had allegedly interfered with law enforcement. It is alleged that the FIRs deliberately do not mention the political leaders involved and that there is a possibility of negotiated policing, which may not lead to a proper investigation. Therefore, in order to protect the federal officials from the State-sponsored violence and to ensure a fair investigation, it is imperative that the investigation into the two FIRs, namely, FIR Nos. 0762/2025



and 0763/2026, be transferred to the CBI.

4. On 04.06.2026, when this writ petition was taken up, this Court directed the learned Government Pleader to file a statement, in the form of a report, regarding the steps taken pursuant to the registration of the FIR concerning alleged assault on ED officials. In compliance with the said direction, the learned State Public Prosecutor filed a memo enclosing the statement of facts on behalf of the 5<sup>th</sup> respondent. The said statement is dated 02.07.2026. In the said statement, the nature of the offences is clearly indicated, and the various sections under which the FIR has been registered is also disclosed. It is stated that investigation of Crime 0762/2026 of Museum Police Station in which the Enforcement Directorate officials were attacked while discharging their lawful duties is being investigated meticulously. The report has further revealed that in respect of Crime 0762/2023, the ISHO, Museum took over the investigation of the case and evidences regarding the existence of facts in issue and other



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relevant facts have been swiftly obtained, particularly with the assistance of Scientific Experts and Photo and Videographic unit. The Scene mahazar of the place of occurrence and the vehicles which came under the attack were precisely prepared. Necessary evidences have been collected to establish the alleged offences and the state of things that had existed at the time of commission of the offences. It is further stated that 25 accused have so far been identified and arrested and sent to judicial custody on different occasions. Among the accused arrested, two accused got injured while they were attacking the officials and their wound certificates were collected and submitted before the learned JFCM III, Thiruvananthapuram. Apart from the collection of documentary evidences, oral evidences have been obtained from 44 witness. The contention that the local police had prior warning of a massive protest march is denied. When information was received regarding some commotion near Bakery Junction, the police have acted



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quickly which in fact prevented the situation from further escalation. No prior warning or intimation was passed on to the Kerala police regarding the search that would be launched on 27.05.2026. There has been no intelligence lapse and the incidents that had happened were completely brought under control within a short span of time and moreover it has been properly addressed invoking relevant legal action, particularly in an intense and immediate manner. Most of the protesters who had taken part in the offence with common object have been identified as of now with relevant video footage and 25 of them have been arrested so far. The investigation of this case is in the right direction and the investigating team is in the process of collecting following materials as evidences for a holistic final report:

- a. The Forensic examination of the mobile phones seized from the accused.
- b. Certified copies of Call Data Records.
- c. Weapons that might have used by the



accused that has not been recovered.

- d. Duty certificates of officials.
- e. Bank account statement of Royal Travels.
- f. Forensic and Finger print results.
- g. Tower dump data etc.

It is assured that the Final Report of the case will be filed before the court without undue delay.

5. Apart from the registration of the case, another crime case No. 763/2026 U/s 189(2), 191(2), 190, 132, 121(1) and 118(1) BNS was registered in Museum Police Station based on the statement of an injured police personnel in the alleged incident and case is being investigated as procedure warrants.

6. The learned counsel for the petitioner argued that steps so far taken would not be sufficient to deny the prayer for a CBI investigation, having regard to the serious nature of the crime.

7. We have meticulously read the affidavit. Having regard to



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the progress made in the investigation, it is not possible at this stage to arrive at a conclusion that the State Investigating Agency is not conducting the said investigation impartially. The record does not *prima facie* show that the Investigating Agency is acting in breach of its duty or has failed to act impartially. The extraordinary power to direct a CBI investigation must be exercised sparingly and with circumspection. In cooperative federalism, such power ought to be invoked only when it is manifest that the State Investigating Agency is acting with bias, and that there is no possibility of a fair investigation, having regard to the influence that State machinery is likely exert over the State Investigating Agency. The Court should not ordinarily disturb the federal structure by directing a CBI investigation. The extraordinary power must be exercised sparingly and cautiously and in exceptional circumstances only when it becomes necessary to provide credibility and instill confidence in investigation or where the incident may have



national and international ramification or such an order may be necessary for doing complete justice and enforcing fundamental rights. The court is required to come to a conclusion that on the basis of the material it can be safely concluded that such material does disclose a prima facie case in our view for an investigation by CBI or any other similar agency. The Apex Court in numerous decisions has cautioned that the extraordinary power of the constitutional case under Article 32 and 226 respectively on direction to CBI to conduct investigation must be exercised with more caution which cannot be passed merely because the parties have level some allegations against some public officials. It is only in exceptional situations that the court may direct CBI or independent agency to investigate replacing the state agency where it become necessary to provide credibility and instill confidence in the investigation. The contextual and attended circumstances have to be singularly evaluated and analysed to decide necessity of further investigation or investigation by



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an impartial agency. In a fairly recent judgment in Anant Thanur Karmusi vs. State of Maharashtra & Ors, reported in<sup>1</sup> the Hon'ble Supreme Court in paragraph 34 has held as under:

*34: In the case of Himanshu Kumar & Ors. (supra), this Court had occasion to consider the power of the Court to transfer investigation to any other independent agency. After taking into consideration the catena of judgments on the point, it is reiterated that investigation may be transferred to the CBI only in "rare and exceptional cases". In paragraphs 44 to 53, it is observed and held as under:*

*44. It is now settled law that if a citizen, who is a de facto complainant in a criminal case alleging commission of cognizable offence*

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1 2023(5) SCC 820



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*affecting violation of his legal or fundamental rights against high Government officials or influential persons, prays before a Court for a direction of investigation of the said alleged offence by the CBI, such prayer should not be granted on mere asking.*

*45. A Constitution Bench of this Court, in the case of the State of West Bengal v. Committee for Protection of Democratic Rights, West Bengal, reported in (2010) 3 SCC 571, has made the following observations pointing out the situations where the prayer for investigation by the CBI should be allowed: 70.... In so far as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such powers should be exercised, but*



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*time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory*



*investigations.*

*46. In the above decision, it was also pointed out that the same court in Secretary, Minor Irrigation & Rural Engineering Services, U.P. v. Sahngoo Ram Arya, (2002) 5 SCC 521, had said that an order directing an enquiry by the CBI should be passed only when the High Court, after considering the material on record, comes to the conclusion that such material does disclose a prima facie case calling for an investigation by the CBI or any other similar agency.*

*47. In an appropriate case when the Court feels that the investigation by the police authorities is not in a proper direction, and in order to do complete justice in the case and if high police officials are involved in the alleged crime, the Court may be justified in such*



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*circumstances to handover the investigation to an independent agency like the CBI. By now it is well-settled that even after the filing of the charge sheet the court is empowered in an appropriate case to handover the investigation to an independent agency like the CBI.*

*48. The extraordinary power of the Constitutional Courts Under Articles 32 and 226 respectively of the Constitution of India qua the issuance of directions to the CBI to conduct investigation must be exercised with great caution as underlined by this Court in the case of Committee for Protection of Democratic Rights, West Bengal (supra) as adverted to herein above, observing that although no inflexible guidelines can be laid down in this regard, yet it was highlighted that such an order cannot be passed as a matter of*



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*routine or merely because the parties have levelled some allegations against the local police and can be invoked in exceptional situations where it becomes necessary to provide credibility and instill confidence in the investigation or where the incident may have national or international ramifications or where such an order may be necessary for doing complete justice and for enforcing the fundamental rights.*

*49. We are conscious of the fact that though a satisfaction of want of proper, fair, impartial and effective investigation eroding its credence and reliability is the precondition for a direction for further investigation or re-investigation, submission of the charge sheet ipso facto or the pendency of the trial can, by no means, be a prohibitive impediment. The*



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*contextual facts and the attendant circumstances have to be singularly evaluated and analyzed to decide the needfulness of further investigation or re-investigation to unravel the truth and mete out justice to the parties. The prime concern and the endeavour of the court of law should be to secure justice on the basis of true facts which ought to be unearthed through a committed, resolved and a competent investigating agency.*

*50. The above principle has been reiterated in K.V. Rajendran v. Superintendent of Police, CBCID South Zone, Chennai, (2013) 12 SCC 480. Dr. B.S. Chauhan, J. speaking for a three-Judge Bench of this Court held:*

*13....This Court has time and again dealt with the issue under what circumstances the investigation can be transferred from the State*



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*investigating agency to any other independent investigating agency like CBI. It has been held that the power of transferring such investigation must be in rare and exceptional cases where the court finds it necessary in order to do justice between the parties and to instil confidence in the public mind, or where investigation by the State police lacks credibility and it is necessary for having "a fair, honest and complete investigation", and particularly, when it is imperative to retain public confidence in the impartial working of the State agencies....*

*51. Elaborating on this principle, this Court further observed:*

*"17.... the Court could exercise its constitutional powers for transferring an investigation from the State investigating*



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*agency to any other independent investigating agency like CBI only in rare and exceptional cases. Such as where high officials of State authorities are involved, or the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation, and further that it is so necessary to do justice and to instil confidence in the investigation or where the investigation is prima facie found to be tainted/biased.”*

*52. The Court reiterated that an investigation may be transferred to the CBI only in "rare and exceptional cases". One factor that courts may consider is that such transfer is "imperative" to retain "public confidence in the impartial working of the State agencies." This observation must be read with the*



*observations made by the Constitution Bench in the case of Committee for Protection of Democratic Rights, West Bengal (supra), that mere allegations against the police do not constitute a sufficient basis to transfer the investigation.*

*53. In Romila Thapar v. Union of India, (2018) 10 SCC 753, one of us, A.M. Khanwilkar, J., speaking for a threeJudge Bench of this Court (Dr. D.Y. Chandrachud, J. dissenting) noted the dictum in a line of precedents laying down the principle that the Accused "does not have a say in the matter of appointment of investigating agency". In reiterating this principle, this Court relied upon its earlier decisions in Narmada Bai v. State of Gujarat, (2011) 5 SCC 79, Sanjiv Rajendra Bhatt v. Union of India, (2016) 1 SCC 1, E. Sivakumar*



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*v. Union of India, (2018) 7 SCC 365, and Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542. This Court observed:*

*“30...the consistent view of this Court is that the Accused cannot ask for changing the investigating agency or to do investigation in a particular manner including for court-monitored investigation.”*

*54. It has been held by this Court in CBI v. Rajesh Gandhi, 1997 Cri. LJ 63, that no one can insist that an offence be investigated by a particular agency. We fully agree with the view in the aforesaid decision. An aggrieved person can only claim that the offence he alleges be investigated properly, but he has no right to claim that it be investigated by any particular agency of his choice.*

*55. The principle of law that emerges from the*



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*precedents of this Court is that the power to transfer an investigation must be used "sparingly" and only "in exceptional circumstances". In assessing the plea urged by the Petitioner that the investigation must be transferred to the CBI, we are guided by the parameters laid down by this Court for the exercise of that extraordinary power."*

There is nothing on record to show that the present dispensation is influencing the State Investigating Agency to give a report in favour of the accused.

8. Considering the present status of the investigation and the materials on record, it cannot be concluded at this stage that the investigation is not fair or impartial. The State Investigating Agency has assured that it shall file the charge sheet without undue delay. In view of the above, we are not inclined to pass any further orders in this Public Interest Litigation.



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The Public Interest Litigation is accordingly dismissed.

Sd/-

**SOUMEN SEN  
CHIEF JUSTICE**

Sd/-

**SYAM KUMAR V.M.  
JUDGE**

uu/03.07.2026



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APPENDIX OF WP(PIL) NO. 114 OF 2026

**PETITIONER EXHIBITS**

- Exhibit P1** TRUE COPIES OF THE REPORT PUBLISHED BY VARIOUS NATIONAL NEWS PAPERS ,THE HINDU, THE INDIAN EXPRESS & TIMES OF INDIA DATED 28/5/2026, AT THEIR WEBSITES
- Exhibit P2** RUE COPY OF FIR 0762-2026 FILED BY KERALA POLICE ON DATED 27/05/2026 AGAINST IDENTIFIABLE 300 PERSONS
- Exhibit P3** TRUE COPY OF FIR 0763-2026FILED BY KERALA POLICE ON DATED 28/05/2026 AGAINST IDENTIFIABLE 1 PERSON
- Exhibit P4** TRUE COPY OF REPRESENTATION TO COMPETENT AUTHORITIES AS RESPONDENTS BY THE PETITIONER ON DATE 28/05/2026