

**IN THE COURT OF THE SPECIAL JUDGE, (SPE/CBI)-I, ERNAKULAM**

Present:- Sri. K. Sathyan, Special Judge, Ernakulam  
Thursday the 30<sup>th</sup> day of January, 2020/ 10<sup>th</sup> Magha, 1941

**Crl.M.P. No.83/2020 In C.C.No.1/2018**

**Complainant:** The Central Bureau of Investigation Cochin

**By Public Prosecutor CBI****Accused:**

- 1 K.R. Ramesh (A1), aged 61 years,  
S/o. Late K.V. Ramachandran, residing at  
H. No. 48/205 F, Kalayath House,  
Green Ripple Road, Elamakkara,  
Kochi, Kerala
- 2 Thadeus Joy (A3), aged 53 years,  
S/o. Antony.M.J, residing at Moolankuzhi  
House, Thundathumkadavu, Varappuzha.  
P.O, Ernakulam, Kerala

**A1 by Adv. Sri. Anil K. Nair.**

**A3 by Adv. Sri. K. Rajan.**

This petition coming on for hearing before me on 30.01.2020 and the Court on the same day passed the following:

**ORDER**

1. The accused are prosecuted for offences punishable under Section 120B r/w Section 420, 468 and 471 IPC and Section 13(1) (d) r/w 13(2) of Prevention of Corruption Act, 1988. This court framed charges for the said offences. This case is jointly tried with CC 5/2010.

2. It is pointed out that though this court framed charges against the accused independently for all the substantive offences, a common charge under Section 120B r/w 420, 468, 471 IPC and Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 was omitted. This petition is filed for the purpose of amending charge No.1 so as to make it a common charge for the substantive offences against all accused.

3. No written objection is filed. However, the learned counsel for the first accused submitted that alteration/amendment of the charge at this stage of the case will cause prejudice to the accused.

4. CC No.5/2010 and CC 1/2018 are being tried jointly. CC 6/2010 and CC 2 /2018 are also tried jointly. In fact, CC 1/2018 and CC2/2018 were also filed in 2010 before the Special Court [SPE/CBI-II], Ernakulam. The said cases were transferred to this court by the Hon'ble High Court and new numbers were given.

5. Evidence has been recorded in these cases simultaneously. The final hearing was started on 10.10.2019. However, the Hon'ble High Court has deferred final hearing of these cases till the disposal of OP [Criminal] 436/19 in which the petitioner has challenged the order dt. 25.09.2019 in CrI.MP No.855 of 2019 in CC No. 5 of 2010 and CrI.MP No.854 of 2019 in C.C No.1 of 2018 under section 216 Cr.P.C alleging that the prosecution against the first accused

cannot be continued before this court for the offence under section 13(1) (d) of Prevention of Corruption Act, 1988 as the said section has been omitted from the statute book in the 2018 amendment to the PC Act. The proceedings before the Hon'ble High Court is pending.

6. A perusal of the court charge will show that this court had narrated the ingredients of all the substantive offences therein but mentioned only Section 120B IPC. Separate charges were framed for all the substantive offences. The particulars of conspiracy and the ingredients of all the other substantive offences were mentioned in the first charge. It was only an omission to mention the sections of the substantive offences therein. In fact all the substantive offences were mentioned in the charge in CC 5/2010.

7. The power under Section 216 Cr.P.C can be invoked by the court any time before the judgment is pronounced. When the mistake in the charge is pointed out, it is the duty of the court to correct it. In fact the prosecution and the accused adduced evidence as if charges were framed properly. Therefore, in the interest of justice and for a proper adjudication of the case, it is necessary to amend charge No. 1 as pointed out. This petition is allowed and charge No.1 is corrected by mentioning Sections 420, 468, 471 IPC r/w Section 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988 in addition to Sec. 120B IPC.

In the result,

Crl.M.P.No.83/2020 is allowed.

Dictated to the Confidential Asst., typewritten by her directly to computer system, corrected and pronounced by me in open court on this the 30<sup>th</sup> day of January, 2020.

Sd/-  
K. Sathyan,  
Special Judge (SPE/CBI)-I.

Appendix: Nil.

Id/-  
Special Judge (SPE/CBI)-I.  
(By Order)

//True Copy//

Sd/-  
Sheristadar.

Typed by; Revathi

Comp.by: Sindhu