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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.07.2026

PRONOUNCED ON : 19.08.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.1063 of 2023 & Crl.A.No.1226 of 2022
and Crl.M.P.No.13954 of 2026

Crl.R.C.No.1063 of 2024 :-

State represented by
Additional S.P., SPE,
CBI, ACB,
Chennai. ... Petitioner

Vs.

G.Janakiraman
S/o.M.Ganesan,
Retired Manager,
Vessel Management Cell (VMC),
National Institute of Ocean Technology (NIOT),
Chennai.
R/o. D-2, Block-I, Green Part Apartments,
Velacherry, Chennai. ... Respondent

PRAYER: Criminal Revision has been filed under Section 397 r/w 401 of the Cr.P.C., to call for the original records of the judgment dated 24.11.2022 in C.C.No.6 of 2023 on the file of the learned Special Judge for CBI Cases, XIII Additional City Civil Court, Chennai and allow this Criminal Revision Petition and set aside the findings of the learned Trial Court in para 65 of the judgment dated 24.11.2022 for not convicting the respondent/ accused under Section 120-B r/w. 420 of IPC.

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For Petitioner(s) : Mr.K.Srinivasan,
Special Public Prosecutor for CBI

For Respondent(s): Mr.V.S.Venkatesh

Crl.A.No.1226 of 2022 :-

G.Janakiraman
S/o.M.Ganesan,
Retired Manager,
Vessel Management Cell (VMC),
National Institute of Ocean Technology (NIOT),
Chennai.
R/o. D-2, Block-I, Green Part Apartments,
Velacherry, Chennai. ... Appellant

Vs.

State represented by
Additional S.P., SPE,
CBI, ACB,
Chennai. ... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C., to set aside the conviction and sentenced imposed on the appellant by the learned XIII Additional Special Judge for CBI Cases, Chennai, in C.C.No.6 of 2023 by the impugned judgment dated 24.11.2022 by allowing this appeal.

For Appellant (s) : Mr.V.S.Venkatesh

For Respondent(s): Mr.K.Srinivasan,
Special Public Prosecutor for CBI

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COMMON ORDER

The Criminal Revision has been filed as against the judgment dated 24.11.2022 passed by the learned XIII Additional Special Judge for CBI Cases, Chennai, in C.C.No.6 of 2023, thereby discharging the accused for the offence punishable under Section 120-B r/w. 420 of IPC.

2. The Criminal Appeal has been filed as against the judgment dated 24.11.2022, passed by the learned XIII Additional Special Judge for CBI Cases, Chennai, in C.C.No.6 of 2023, thereby convicting the accused for the offence punishable under Section 13(2) r/w. 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter referred to as "PC Act").

3. Since both the Criminal Appeal and Criminal Revision Case are arising out of the same judgment passed by the learned XIII Additional Special Judge for CBI Cases, Chennai, in C.C.No.6 of 2023, this Court passes a common order in both the Criminal Appeal and Criminal revision.

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4. The case of the prosecution is that the 1st Accused was working as Group Head, Vessel Management Cell, in the National Institute of Ocean Technology (hereinafter referred to as "NIOT"). The 2nd Accused was a foreign shipbuilding company, and the 3rd Accused was the Managing Director of the 2nd Accused Company. According to the prosecution, all the accused persons conspired together and cheated NIOT by falsely certifying invoices submitted by the 2nd Accused to the tune of Rs.4,33,44,240/-, despite the stipulated work not having been completed, thereby causing wrongful loss to NIOT and corresponding wrongful gain to the accused. Based on the complaint, the Additional Superintendent of Police, CBI, registered an FIR in RC.No.38/A/2011. Upon completion of the investigation, the final report was filed, and the same was taken cognizance of by the Trial Court in C.C.No.6 of 2013. Insofar as Accused Nos.2 and 3 are concerned, the case was split up and renumbered as C.C.No.5 of 2014, and the trial was proceeded against the 1st Accused alone.

5. In order to establish the charges, the prosecution examined P.W.1 to P.W.18 and marked Ex.P1 to Ex.P.39. On the side of the 1st Accused, D.W.1 was examined and Ex.D1 to Ex.D13 were marked. On perusal of the oral and documentary evidence, the Trial Court found the

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1st Accused guilty of the offence punishable under Section 13(2) r/w. Section 13(1)(d) of the PC Act, 1988, and sentenced him to undergo three years of rigorous imprisonment and to pay a fine of Rs.50,000/-, in default, to undergo six months of simple imprisonment. However, the 1st Accused was discharged from the offence punishable under Section 120B r/w. Section 420 of IPC for want of sanction under Section 197(1) of the Cr.P.C. Aggrieved by the conviction and sentence, the 1st Accused has preferred the present appeal in Crl.A.No.1226 of 2026. Challenging the order of discharge, the CBI has preferred the revision in Crl.R.C.No.1063 of 2023.

6. The learned counsel appearing for the 1st Accused submitted that the 1st Accused had joined the service of NIOT in the year 1996 and resigned from service in December 2006. His resignation was duly accepted, and he was relieved from service by the Ministry of Earth Sciences on 31.01.2007. It is further submitted that the respondent registered the case only on 22.09.2011, i.e., after a lapse of four years and eight months from the date on which the 1st Accused was relieved from service. It is also submitted that, at the time of permitting the 1st Accused to retire from service, no vigilance enquiry was either pending or had been initiated against him at the Ministry level.

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6.1. The learned counsel further submitted that the law mandates obtaining sanction under Section 19 of the PC Act as well as under Section 197 of Cr.P.C, for prosecuting the accused. However, the 1st Accused was prosecuted without obtaining the requisite sanction, on the premise that, at the time of taking cognizance, he was no longer a public servant and, therefore, sanction under Section 19 of the PC Act was not required. Nevertheless, the Trial Court held that sanction under Section 197 of Cr.P.C., was mandatory for prosecuting the 1st Accused for the offences punishable under Section 120-B r/w. Section 420 of IPC, and accordingly discharged him from the said charges. It is further submitted that, on the same reasoning, sanction under Section 19 of the PC Act was also necessary for prosecuting the 1st Accused for the offence punishable under Section 13(2) r/w. with Section 13(1)(d) of the PC Act. Therefore, the he contended that the Trial Court ought to have discharged the 1st Accused from the said charge as well, for want of the requisite sanction under Section 19 of the PC Act.

6.2. The learned counsel further submitted that the FIR was registered solely on the basis of source information. However, without

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examining Accused Nos.2 and 3, the CBI merely shown them as absconding accused and proceeded to file the final report. The crux of the allegation was that, in respect of the five invoices referred to in the second charge, the 1st Accused had committed misconduct by falsely certifying the completion of the stipulated work. However, the Trial Court, while considering Ex.P.3, Ex.P.4 and Ex.P.5, found that no fault could be attributed to the 1st Accused and that no criminal misconduct was made out against him in respect of those invoices. On the other hand, insofar as Ex.P.6 and Ex.P.8 are concerned, the Trial Court held that the 1st Accused had falsely certified the completion of the respective stages of work. Therefore, the learned counsel submitted that the finding of guilt in respect of Ex.P6 and Ex.P.8 is unsustainable and prayed that the 1st Accused be acquitted of the offence punishable under Section 13(2) r/w. Section 13(1)(d) of the PC Act.

7. Per contra, the learned Special Public Prosecutor appearing for the CBI submitted that the prosecution examined P.W.1 to P.W.18 and marked Ex.P1 to Ex.P.39. On careful appreciation of the oral and documentary evidence, the Trial Court rightly found the 1st Accused guilty of the offence punishable under Section 13(2) r/w. Section 13(1)(d)

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of the PC Act. However, the 1st Accused was discharged from the offence punishable under Section 120B r/w. Section 420 of IPC, solely on the ground that the prosecution had failed to obtain sanction under Section 197 of the Cr.P.C. It is further submitted that, where a single set of facts satisfies the ingredients of two distinct offences, the requirements of the more serious offence being fulfilled, both offences are liable to be taken into consideration for the purpose of determining the liability and awarding appropriate punishment.

7.1. The learned Special Public Prosecutor further submitted that the 1st Accused was a public servant within the meaning of the PC Act and was working as a Manager in NIOT, an autonomous body functioning under the Ministry of Earth Sciences, Government of India. NIOT is managed by a Governing Council headed by its Director. The 1st Accused was not removable from service by the Government, and the competent authority to remove him from service was the Director of NIOT. Therefore, the requirement of obtaining sanction under Section 197 of Cr.P.C did not arise in the present case. Hence, he submitted that the order of discharge passed by the Trial Court in respect of the offence punishable under Section 120-B r/w. Section 420 of the IPC, is

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unsustainable and prayed that the 1st Accused be convicted for the said offence.

8. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

9. There are three accused in total, the appellant is arrayed as the 1st Accused. The 2nd Accused is a foreign shipbuilding company, and the 3rd Accused is the Managing Director of the 2nd Accused Company. Since Accused Nos.2 and 3 were absconding, the case against them was split up and the trial proceeded against the 1st Accused alone. Based on source information, the CBI registered the FIR in RC.No.38/A/2011 dated 22.09.2011. The allegation against the 1st Accused is that, while he was working as Manager, Vessel Management Cell, NIOT, he conspired with the other accused and cheated NIOT by falsely certifying invoices submitted by the 2nd Accused to the tune of Rs.4,33,44,240/-, despite the stipulated work not having been completed, thereby causing wrongful loss to NIOT and corresponding wrongful gain to the accused. The charges framed against the 1st Accused are as follows:-

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"That you G.Janakiraman, who was functioning as Group Heal /Manager, Vessel Management Cell (VMC), NIOT, Chennai during the period 01.01.2002 to 31.01.2007, as a public servant

Firstly, you were in charge of VMC Group for supervision and procurement of vessels and M/s Vik-Sandvik, (split up case accused 5/2014 At represented by A2) a Norwegian company for ship designing and consultant for ship building works and Shri Svein Sandvik (split up case accused in 5/2014 A1 represented by A2 Shri Svein Sandvik) was Managing Director during the period from 2003 to 2007. In 2003, the Government of India approved procurement of new TDV Technology demonstration vessel" by name "Sagar Nidhi" at the cost of Rs.155 crores by NIOT. In 2003, M/s Vik Sandvik,(split up case accused 5/2014 A1 represented by A2) Norway was selected as a consultant by NIOT, in a global tender to offer consultancy to NIOT in the matter of preparing designs, drawing and cost estimates for the proposed ship building and supervision of ship building work and an agreement dated 11.2.2004 was entered into between NIOT and M/s Vik Sandvik (split up case accused 5/2014 A1 represented by A2) incorporating various terms and conditions for the consultancy contract and schedule of payments. Later on in a global tender M/s Fincantieri, Italy was selected as Ship builder for NIOT for constructing TDV Sagar Nidhi and an agreement was

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entered into between NIOT and (split up case accused 5/2014 A1 represented byA2) on 11.2.2004 incorporating various terms and conditions of consultancy and schedule of payments. You are supposed to certify the genuineness of the invoices submitted by consultancy contractor (split up case accused 5/2014 A1 represented by A2) and M/s Vik Sandvik (split up case accused 5/2014 A1 represented by A2) submitted false invoices claiming execution of consultancy work under part I and part II of contract agreement dated 11.2.2004 and you falsely certified these invoice without execution of required consultancy work by A2 company (split up case accused 5/2014 A1 represented by A2) in criminal conspiracy (with A2 accused Company and A3 Svein Sandwik) and thereby you have committed an offence punishable u/s 120-B r/w 420 IPC and within my cognizance.

Secondly That as per the agreement dated 11.2.2004 between NIOT and A2 M/s Vik Sandvik, (split up case accused 5/2014 A1 represented by A2) 25% payment has to be made on completion of basic design. A2 M/s Vik Sandvik (split up case accused 5/2014 A1 represented by A2) had submitted invoice no.7890 dt.5.5.2004 for USD 41,175 equivalent to Rs.18,87,873/- You on 28.5.2004 falsely certified this invoice for payment without completion of stipulated work and without receipt of the required drawings and in Invoice No.8061 dt.27.9.2004 for USD 16,470- you had falsely certified this invoice on

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1.10.2004 as if detailed design, technical specifications and cost estimates were delivered by A2 (split up case accused 5/2014 A1 represented by A2)M/s Viksandvik and accepted by NIOT and falsely recommended for the release of payment and in Invoice No.9449 dt.14.9.2006 for USD 6,74,120/-. And as per the terms of payment, of contract agreement dated 11.2.2004, the payment for work under Part II Sl.No.2 is defined as "On completion and issue of drawings to the builder during construction phase equal monthly payment". But, A2(split up case accused 5/2014 A1 represented by A2) M/s Vik Sandvik has raised the invoice No.9449 for the work as "After shipbuilding tender evaluation" and award of building contract. You in criminal conspiracy with A2 and A3 had certified this incorrect description of work in the invoice to show undue favour to A2(split up case accused 5/2014 A1 represented by A2) Contractor. This invoice was falsely certified and paid by A1 for the same work second time. And in the Invoice No.9450 dt.14.9.2006 for USD 2,52,795/- was raised for the work of "After shipbuilding tender evaluation and award of building contract ' as per agreement dt.11.2.2004, being the 15% of US $ 1685.300 for USD 252.795. and as per Clause 27, F2, Part II, Sl.No.1, the agreement dt.11.2.2004 for the payment is to be released for 40% and by illegal payment of this invoice for USD 252795 an amount of Rs.1,12,08,930/- was wrongful loss caused to NIOT. And in the Invoice No. 8266 dt.30.12.2004 for USD 16,470/- for the work of "After

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shipbuilding tender evaluation and award of building contract", you had certified this invoice on 12.1.2006 and for invoice No.8266, A2 (split up case accused 5/2014 A1 represented by A2) M/s Vik Sandvik was paid Rs.5,67,182/- based on the certification given by you. The above said facts establishes the allegation of criminal misconduct by you as a Public Servant by abuse of official position by corrupt and illegal means to show undue favour to A2(split up case accused 5/2014 A1 represented by A2) company in the matter of certification of their invoices by cheating NIOT and causing wrongful loss of about Rs.4,33,44,240/- to NIOT and corresponding wrongful gain to (split up case accused 5/2014 A1 represented by A2) and thus you have committed offences punishable u/s Section 13(2) r/w 13(1) (d) of PC Act, 1988 and within my cognizance."

10. Insofar as the first charge is concerned, the 1st Accused was charged with the offence punishable under Section 120-B r/w. Section 420 of IPC. The 1st Accused was working as a Scientist, Grade-F, and, according to the defence side, he had never functioned as the Group Head of the Vessel Management Cell, NIOT, during the period from 01.01.2002 to 31.01.2007. The prosecution has also failed to establish the nature and scope of the duties allegedly performed by the 1st Accused in his capacity as Manager of NIOT. Though the prosecution specifically alleged that the

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1st Accused had certified the genuineness of the invoices, it has failed to substantiate the said allegation by adducing any cogent oral or documentary evidence.

11. Further, the Trial Court discharged the 1st Accused from the offence punishable under Section 120-B r/w. Section 420 of the IPC, for want of sanction under Section 197(1) of Cr.P.C. The Trial Court rightly concluded that, insofar as the said offences are concerned, the prosecution had failed to obtain the requisite sanction under Section 197(1) of Cr.P.C. At the same time, the Trial Court held that Section 19 of the PC Act, mandates previous sanction only in respect of a public servant who is employed in, and continues to be in, service at the time of taking cognizance. Since the 1st Accused had already resigned from service and was no longer in service when the case was registered and the final report was filed, the Trial Court held that no sanction under Section 19 of the PC Act was required for prosecuting him under the said Act.

12. The said finding of the Trial Court is contrary to the dictum laid down by the Hon'ble Supreme Court of India in ***A. Srinivasulu v. The State represented by the Inspector of Police, CBI/ACP, Chennai***,

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reported in ***2023 LiveLaw (SC) 485***, wherein, the Hon'ble Supreme Court held that, prior to the amendment of the PC Act, 1988, by the Prevention of Corruption (Amendment) Act, 2018 (Act 16 of 2018), which came into force on 26.07.2018, the requirement of previous sanction under Section 19(1)(a) of the PC Act was confined only to a person "who is employed". On the other hand, Section 197(1) of the Cr.P.C expressly contemplated the requirement of previous sanction in respect of "any person who is" as well as "any person who was employed". It is further held that, by virtue of the amendment introduced by Act 16 of 2018, Section 19(1)(a) of the PC Act was suitably amended so as to require previous sanction even in respect of "a person who was employed at the time of commission of the offence". Therefore, the requirement of sanction under Section 19 of the PC Act has to be considered with reference to the law that was applicable at the relevant point of time i.e., the date of commission of the alleged offence.

13. In the case on hand, admittedly, the 1st Accused was no longer employed as Manager in NIOT either at the time of registration of the case, filing of the final report, or while taking cognizance by the Trial Court. Therefore, the prosecution did not obtain previous sanction under

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Section 197(1) of the Cr.P.C for prosecuting the 1st Accused. However, the requirement of sanction under Section 197(1) of the Cr.P.C is attracted when the alleged offence is committed by a public servant while acting or purporting to act in the discharge of his official duties. Therefore, the prosecution ought to have obtained the requisite previous sanction under Section 197(1) of Cr.P.C., before prosecuting the 1st Accused for the offences punishable under IPC.

14. Further, as per the Agreement dated 11.02.2004, marked as Ex.P1, the consultant was entitled to raise invoices towards the services rendered by it, and the payment was to be released in stages upon completion of the specified milestones. Under Part-I of the Agreement, 25% of the payment was to be released upon completion of the basic design; a further 15% was to be released upon completion of the tender documents; 40% was to be released upon satisfactory completion of the model test and incorporation of the model test results into the design; another 10% was to be released upon satisfactory acceptance of the detailed design and cost estimates by NIOT; and the remaining 10% was to be released after evaluation of the shipbuilding tender and award of the shipbuilding contract.

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15. Insofar as Part-II of the Agreement is concerned, during the construction supervision stage, the payment schedule was to correspond with the payment schedule of the ship construction, with the payments being proportionately released in line with the completion of the respective stages and the corresponding payments made to the shipyard. Accordingly, 40% of the payment was to be released during the construction supervision stage. Upon completion and issuance of drawings to the builder during the construction phase, a further 40% was to be released by way of equal monthly payments. The remaining 20% was to be released as the final payment upon satisfactory completion of the construction of the vessels, including the tests, trials and delivery of the vessels. The Agreement further stipulated that the payments would be made only upon receipt of invoices through wire transfer and that no Letter of Credit would be opened in advance. Accordingly, the lump-sum consideration agreed upon for Part-I and Part-II of the Agreement was US$1,64,700 and US$16,85,300, respectively.

16. According to the case of the prosecution, the invoices marked as Ex.P3 to Ex.P.6 and Ex.P.8 were falsely certified by the 1st Accused, and payments were made despite the stipulated works not

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having been completed, thereby causing wrongful loss to NIOT and corresponding wrongful gain to the accused. However, insofar as the invoices marked as Ex.P3 to Ex.P.6 and Ex.P.8 are concerned, the prosecution has failed to establish that the same were falsely certified by the 1st Accused. The Trial Court, upon appreciation of the evidence, also found that the invoices marked as Ex.P3, Ex.P.4 and Ex.P.5 had been duly and correctly certified by the 1st Accused and that no misconduct could be attributed to him in respect of the certification of the said invoices.

17. Insofar as Ex.P6, the invoice dated 14.09.2006, is concerned, the same was certified by the 1st Accused after the shipbuilding tender evaluation and award of the building contract, in accordance with the Agreement dated 11.02.2004. As per the terms of the Agreement, 40% of the payment was to be released in line with the corresponding payment schedule of the shipyard. The said invoice was endorsed and certified by the 1st Accused on 03.01.2007. The 2nd Accused Company had undertaken functional design, detailed engineering and construction supervision, and the technical drawings and other outputs generated through the interaction between the shipyard, the 2nd Accused and NIOT were furnished in the form of a CD. The report of the Progress Review

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Committee relating to the second and third instalments also indicated satisfactory progress in the construction of the vessel as envisaged under the Agreement. Therefore, the 1st Accused certified the payment of 15% claimed under the said invoice. Likewise, another invoice dated 14.09.2006, marked as Ex.P.8, was certified by the 1st Accused after the shipbuilding tender evaluation and award of the building contract, in accordance with the Agreement dated 11.02.2004. The amount agreed under Part-II of the Agreement was US$1,685,300, and the amount claimed under the said invoice was US$674,120, corresponding to 40% of the agreed consideration.

18. On perusal of the documents marked on the side of the 1st Accused, it is evident that Ex.D.8 is the file produced before the Trial Court, containing the documents relating to the tender process, technical drawings, minutes of meetings and the entire correspondence exchanged between NIOT and Accused Nos.2 and 3 from the commencement of the construction of the vessel until its delivery, along with the valid IRS Class Certificate of the vessel prevailing at the time of its delivery by the shipyard. Further, a perusal of Ex.D.13 reveals that the vessel had been duly delivered and that, thereafter, a request was made for release of the outstanding payment due to Accused Nos.2 and 3 to the tune of

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US$7,58,925. The Trial Court, however, convicted the 1st Accused on the ground that he had certified the invoices marked as Ex.P6 and Ex.P.8 without conducting any inspection and without completion of the respective stages of work.

19. However, there is no material on record to establish that NIOT had suffered any actual loss on account of the certification of the said invoices. No claim was made either by NIOT or by the Ministry against the shipbuilder, namely, Accused Nos.2 and 3. Further, the prosecution has also failed to establish that the 1st Accused had received any pecuniary advantage in connection with the alleged acts. In the absence of any evidence establishing wrongful loss to NIOT, corresponding wrongful gain to the accused, or receipt of any pecuniary advantage by the 1st Accused, the prosecution has failed to prove the charges beyond reasonable doubt. Accordingly, the benefit of doubt goes in favour of the 1st Accused.

20. In view of the aforesaid discussions, the conviction and sentence imposed on the 1st Accused in the judgment dated 24.11.2022, passed by the learned XIII Additional Special Judge for CBI Cases,

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Chennai, in C.C.No.6 of 2023, is hereby set aside. The appellant/first accused is acquitted of the charge under Section 13(2) r/w. 13(1)(d) of the PC Act, in C.C.No.6 of 2023 on the file of the learned XIII Additional Special Judge for CBI Cases, Chennai. The fine amount, if any paid, shall be refunded to the appellant forthwith. The bail bonds, if any executed, shall stand cancelled. Further, this Court finds no infirmity or illegality in the discharge order passed by the Trial Court. Hence, the Criminal Revision filed by the CBI is devoid of merits and cannot be sustained and is liable to be dismissed.

21. Accordingly, the Criminal Revision Case in Crl.R.C.No.1063 of 2023 stands dismissed and the Criminal Appeal in Crl.A.No.1226 of 2022 stands allowed. Consequently, connected miscellaneous petition is also closed.

19.08.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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G.K.ILANTHIRAIYAN. J,

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To

1. The XIII Additional Special Judge for CBI Cases,
Chennai.

2.The Additional S.P.,
SPE, CBI, ACB,
Chennai.

3. The Public Prosecutor,
Madras High Court,
Chennai.

Common Order in
Crl.R.C.No.1063 of 2023 & Crl.A.No.1226 of 2022
and Crl.M.P.No.13954 of 2026

19.08.2026

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