Case Number before Hon'ble President of India	**PRSEC/E/2021/25383**
Case Number before Hon'ble Prime Minister of India	**PMOPG/E/2021/0507144**
Case Number before Central Vigilance Commission	**184367/2021/vigilance-9**

BEFORE HON'BLE PRESIDENT OF INDIA

COMPLAINT ON AFFIDAVIT

Sh. Rashid Khan Pathan
Residing at Vasant Nagar, Pusad
Dist. Yawatmal – 445303 **…Complainant**

Versus

CJI Shri. N.V. Ramanna
Supreme Court of India,
Tilak Marg, Mandi House,
New Delhi, Delhi 110001 **…Accused**

Sub: i) Immediate directions to C.B.I. to register F.I.R. and investigate the serious charges of corruption and misuse of power and breach of trust of 135 Crores Indians under Section 218, 409 etc. of IPC and other provisions of penal law by CJI Shri. N.V. Ramanna for not disclosing his close relations with the covaxin manufacturer company Bharat Biotech's M.D. and then unauthorizedly and unlawfully doing judicial and administrative acts which ultimately resulted in the **wrongful profit of thousands of crores to vaccine companies** and other related entities and wrongful

losses and death causing side effects to common people.

ii) Directions to the Attorney General for India to file Contempt Petition before Hon'ble Supreme Court as per law laid down in **Re: C.S. Karnan (2017) 7 SCC 1, Barakanta Mishra (1974) 1 SCC 374** against Shri. CJI N.V. Ramanna for his wilful & deliberate disregard and defiance of Supreme Court binding precedents and thereby bringing the majesty & dignity of the Supreme Court in to disrepute.

iii) Direction as to CJI Sh. N.V. Ramanna to resign forthwith as per guidelines, direction and law laid by Constitution Bench in **K. Veeraswami Vs. Union of India (1991) 3 SCC 655,** as his misconduct, breach of oath and trust and offences against administration of justice are much much grave and ex-facie proved, which is unbecoming of a Judge of any Court and his continuance as CJI for a moment will be a further contempt of the Supreme Court.

Respected Sir,

I, Shri. Rashid Khan Pathan the abovenamed Complainant residing at address **Vasant Nagar, Pusad Dist. Yawatmal – 445603**, presently at Mumbai, do hereby solemnly affirm and state on oath as under;

1. That, earlier on **25.08.2021,** I have filed the complaint against CJI N.V. Ramanna which is registered before Hon'ble President of India bearing case No:- **PRSEC/E/ 2021/23207.**

This complaint is sub divided in to following parts for the sake of convenience.

	Veeraswamy Vs. Union of India and others (1991)3 SCC 655.		
19.	Declaration.	**35**	**122**
20.	Prayer	**36**	**122**

2. BRIEF FACTS OF THE CASE:-

2.1. Chief Justice of India Shri. N. V. Ramnna is having close relations with Managing Director of Bharat Bio Tech Company who is a Covaxin manufacturer company funded by Vaccine Mafia Bill Gates. As per declaration of assets given by Shri Ramanna his late mother was having 90,000 shares in **Bharat Bio Tech** & other vaccine companies.

2.2. The above said proofs were given to prove the misuse of power by CJI Ramanna in taking decision of assignment and hearing the cases related with issues which is directly and indirectly helping those people and vaccine mafia to earn a profit of thousands of crores. Though as per Supreme Court rules and law laid down by the Constitution Bench of the Supreme Court, CJI Ramanna was disqualified to deal any matter related with **Bharat Bio Tech** and Vaccine Companies.

2.3. But, he acted in contempt of Supreme Court's own law and in breach of the oath taken as a Judge of the Supreme Court that he will act impartially without affection or ill-will and tried his level best to help the vaccine companies.

Ramanna's breach of trust is ex-facie clear from major instances;

2.4. Two PIL were filed before Supreme Court exposing corrupt practices of vaccine mafia in connivance of Government officials.

(i) Dr. Jacob Puliyel **Writ Petition (Civil) No. 607 of 2021** filed on **13.05.2021**

(ii) Dr. Ajay Gupta Vs. Union of India **Writ Petition (Civil) No. 607 of 2021** filed on **25-05-2021**

2.5. As per Supreme Court rules Chief Justice Of India Ramanna was duty bound to disclose his direct relations, connections with **Bharat Bio Tech (Vaccine Companies**) and indirect relations with Bill Gates. But he suppressed those crucial facts because, if he had disclosed it then he would be disqualified to take the decision of assignment, listing or hearing any case related with them or indirectly profiting them. The decision of assignment would have gone to the second senior most Judge.

2.6. He then dishonestly kept the said petition under urgent category to cold storage for more than 3 months.

Thereafter, he assigned only one petition of Mr. Jacob Puliyal and till date kept the another petition of Ajay Gupta Vs. Union of India **Writ Petition (Civil) No. 607 of 2021** filed on **25-05-2021** pending.

2.7. The petition of Dr. Jacob Pulliyal was also assigned to an incompetent bench of Justice L. Nageshwar Rao & Aniruddha Bose. Both the Judges are faces charges of corruption, contempt and incompetence of become a Judge of the Supreme Court because of law understanding of law.

3. A] PROOFS SHOWING CLOSE RELATIONSHIP BETWEEN CJI N.V. RAMANNA, BHARAT BIO TECH & BILL GATES.

B] DISQUALIFICATION, BIAS, MISUSE AND FRAUD ON POWER BY CJI N.V. RAMANNA TO HELP HIS CLOSE BHARAT BIOTECH & VACCINE COMPANIES.

3.1. Chief Justice of India Shri. N.V. Ramana is having close and cordial relationship with the Corona Vaccine manufacturer Company Bharat Biotech

Limited. Said company is manufacturing co-vaxin. Said company is funded by the vaccine mafia Bill Gates.

3.2. CJI N.V. Ramana's connections with M.D. of Bharat Biotech are ex-facie clear from following proofs:

3.2.1. There are close relations between CJI N.V. Rmanna & M.D. of Bharat Biotech Company.

3.2.2. Justice NV Ramana was seen sitting right next to **Bharat Biotech's managing director (M.D.) Suchitra Ella** on a seminar conducted regarding Violence against women, alongside Justice Ms. G Rohini. They were both judges at the Andhra Pradesh High Court at the time.

SOURCE:

https://www.cii.in/PhotoGalleryDetail.aspx?enc=pbstW8GcSMkvRRLH4PUGqzuVjdZZVQE9zjJCa/wS2VUcVLWcWIpJIFSo19pDaiq1dEPddUoiCCXD7zUH4jyZD0bF7BK3YUaMRJQYyovTuZRnl0VKwuVcllxUH51NPP0u

https://www.cii.in/images/Upload/p1559.jpg

3.2.3. According to the declaration of assets hosted on the Delhi High Courts website, Justice NV Ramana's mother N Sarojini Devi held 90,000 shares of Bharat Biotech, & had an investment of Rs. 50 lakh in Biovet Bangalore, a company which makes vaccines for animals. Justice NV Ramana's mother passed away in 2017, the details of who these shares were transferred to after that are not known.

Source:

(i) https://delhihighcourt.nic.in/writereaddata/upload/Judges/Assets/JAssetsFile_UYAKK0JW.PDF

(ii) https://main.sci.gov.in/pdf/ASSETS/nvramana.pdf

3.2.4. CJI N.V. Ramana met with Bharat Biotech MD Krishna Ella & his wife Suchitra Ella at Tirumala. This meeting took place at Padmavati Guest House, where they greeted N.V.Ramana with flowers. Justice Ramana visited Tirumala temple for darshan, & Suchitra Ella saton the board of trustees of this temple.

Source:

http://news.tirumala.org/supreme-court-judge-justice-nv-ramana-visit-to-model-temple/

http://news.tirumala.org/ttd-board-member-smt-suchitra-ella-presents-typhoid-vaccination-to-temple-staff/

3.2.5. CJI NV Ramana is very close to Ex-CM Chandrababu Naidu, who claims that Genome Valley was his brainchild (Genome valley is where Bharat Biotech's origins lie). Chandrababu Naidu went to pay homage to Justice NV Ramana's mother after her death, and was also spotted at Justice Ramana's daughters wedding. **YSR Jagan Reddy also accused Chandrababu Naidu of using his connections with Bharat Biotechs MD to cause a shortage of vaccines in the state.**

3.2.6. CJI NV Ramana has a very close relationship with Ramoji Rao, an Indian film producer, head of the Ramoji group which owns Ramoji Film City, Ushakiran Movies & ETV Network. Ramoji Rao's grandson is married to Bharat Biotech MD Krishna Ella's daughter. Ramoji Rao was also present in CJI NV Ramana's daughters wedding.

a. https://timesofindia.indiatimes.com/city/hyderabad/ramoji-raos-granddaughter-big-fat-wedding/articleshow/59819607.cms

b. https://www.youtube.com/watch?v=xhFhlKKQfxM

3.2.7. Justice Chelameswar had written to the then CJI, JS Khehar, on March 28 that "the proximity of the Hon'ble judge and the present chief minister of Andhra Pradesh (Chandrababu Naidu) is too well known.

This, according to Chelameswar J, alluded to "the most brazen example of the unwarranted intimacy between the judiciary and the executive." The tenor and tone of the letters of rejection sent by Naidu and Ramana J were, according to Chelameswar J, too similar to be an accident.

> *"The March 21 letter of the Andhra CM said: 'Five out of six recommendees are either relatives of judges, their juniors or their near ones…' The March 24 letter of Justice Ramana said: "Five out of the six recommendees are either the scions of the judges or their juniors or their near ones…"*

Link : https://economictimes.indiatimes.com/news/politics-and-nation/unwarranted-intimacy-between-supreme-court-judge-and-andhra-cm-chandrababu-naidu/articleshow/60266947.cms?from=mdr

3.3. Bharat Biotech's Connection To CJI N.V.Ramana & Bill Gates.

3.3.1. So called indigenous vaccine company Bharat Biotech has received a lot of financial support in various projects from the Bill & Melinda Gates Foundation. A scientist associated with the Gates funded NGO Path & currently working in vaccine development at the Gates foundation, collaborated with scientists from AIIMS to look for a cure to Rotavirus, and they did find one. To

manufacture this, Bharat Biotech was roped in, and millions of dollars of funding poured in from the Gates foundation and other international powers.

3.3.2. Years before the Phase 3 trial of the Rotavirus vaccine was completed, Bill Gates & Krishna Ella signed a contract agreeing to price the Rotavac at 1$ per dose. When Ella ran into financial issues funding the Rotavirus vaccine, it was Bill Gates who stepped in to help him out. The Gates Foundation, made a pledge to fund Rotavac's development and eventually put nearly $65 million into the project. The Rotavac vaccine showed only 56% efficacy in phase III clinical trial and yet it was given a green light by the authorities. Phase 3 trial data of this vaccine revealed that it caused more cases of intussusceptions than the previous Rotavirus vaccine Rotashield which was withdrawn from the market due to it causing intussusceptions!

3.3.3. Despite several attempts by the researchers to get this data out, as well as a petition filed in the Delhi High Court, the respondents refused to share the data. According to the report in a widely respected international journal SCRIP Intelligence, the respondents have pleaded in the High Court that the data should not be released, because release of the data will cause public alarm!

3.3.4. In 2020, a study funded by the Bill & Melinda Gates foundation, claimed that the indigenous Rotavirus vaccine was not associated with an increased risk of intussuception. Bharat Biotech was the first Indian company to receive two grants from the Bill & Melinda Gates Foundation through Program for Appropriate Technology in Health (PATH) to develop new vaccines against Malaria and Rotavirus.

3.3.5. Again, in 2015, Bill and Melinda Gates Foundation poured a whooping $18,500,000 grant into Bharat Biotech "to support construction of a manufacturing facility eligible for World Health Organization prequalification,

thereby ensuring availability and access to second generation liquid rotavirus vaccine for India and Gavi-eligible countries."

3.3.6. In 2012, Bharat Biotech received USD 4 Million 'Strategic Translation Award' from the British Wellcome Trust for clinical development of a new life-saving conjugate vaccine for Invasive Non-Typhoidal Salmonella (iNTS).

3.3.7. Bharat Biotech's research for the Typhoid fever vaccine named Typbar TCV was supported by the Bill and Melinda Gates Foundation, the Clinton Health Access Initiative, the Wellcome Trust and other donors.

Sources: :

https://greatgameindia.com/bill-gates-bharat-biotech/vaccinationinformationnetwork .com/indian-court-told-releasing-vaccine-data-would-alarm-public/

https://www.greenmedinfo.com/blog/indian-rotavirus-vaccine-trial-data-not-forthcoming

https://pubpeer.com/publications/481C3202AB9864F8BE9DD4457921D2#fb36136

https://www.geekwire.com/2018/bill-gates-valley-full-snakes-one-entrepreneur-took-deadly-disease/

https://www.gatesfoundation.org/about/committed-grants/2015/06/opp1106905

https://www.gatesfoundation.org/about/committed-grants/2019/11/inv003491

4. LAW REGARDING DISQUALIFICATION OF A JUDGE TO HEAR ANY MATTER ON JUDICIAL OR ADMINISTRATIVE SIDE.:-

4.1. That, the 1999 charter **'Restatement of Values in Judicial Life',** a code of ethics adopted by the Supreme Court states;

> ***"A Judge shall not hear and decide a matter in a company in which he holds shares… unless he has disclosed his interest and no objection to his hearing and deciding the matter is raised."***

4.2. That, the Constitution Bench in **Supreme Court Advocates-On-Record Association Vs. Union of India (2016) 5 SCC 808,** has ruled as under;

> ***"25.*** *From the above decisions, in our opinion, the following principles emerge:*
>
> ***25.1. If a Judge has a financial interest in the outcome of a case, he is automatically disqualified from hearing the case.***
>
> ***25.2.*** *In cases where the interest of the Judge in the case is other than financial, then the disqualification is not automatic but an enquiry is required whether the existence of such an interest disqualifies the Judge tested in the light of either on the principle of "real danger" or "reasonable apprehension" of bias.*
>
> ***25.3.*** *The Pinochet case [R. v. Bow Street Metropolitan Stipendiary Magistrate, ex p Pinochet Ugarte (No. 2), (2000) 1 AC 119: (1999) 2 WLR 272: (1999) 1 All ER 577 (HL)] added a new category i.e.* ***that the Judge is automatically disqualified from hearing a case where the Judge is interested in a cause which is being promoted by one of the parties to the case."***

4.3. That, the basic principle of judicial conduct is that a judge should not have an interest in the litigation before him which could give rise to an apprehension

of his deciding a matter in favour of one of the parties. Bias by interest falls into two broad classes. First, where the judge has a pecuniary interest in the subject matter of litigation and, second, wherefrom his association with or interest in one of the parties the judge may be perceived to have a bias in favour of that party.

4.4. That, as regards a pecuniary interest of a judge in the case, is clear rule of judicial propriety that even the smallest interest will disqualify a judge automatically and the law will not allow any further enquiry whether his mind was actually biased by the pecuniary interest or not. ***The most frequent application of this rule is when the judge owns shares in a company which is a party in the case before him.***

5. REFUSE BY CHIEF JUSTICE OF INDIA N.V. RAMANNA TO RECUSE FROM THE CASE HAS ERODED THE FACET OF RULE OF LAW:-

5.1 That, it is settled law that, when a Judge is disqualified to hear a case and despite pointing out the said fact to the said Judge if he refuses to recuse from the said case then it erodes the facet of rule of law.

5.2. In **P.K. Ghosh Vs. J.G. Rajput (1995) 3 SCC 744,** it is ruled as under;

> *"We are indeed sad that in these circumstances, B. J. Shethna, J. persisted in hearing the contempt petition, in spite of the specific objection which cannot be called unreasonable on the undisputed facts, and in making the impugned order accepting prima facie the respondent's above noted contention- The more appropriate course for him to adopt was to recuse himself from the Bench hearing this contempt petition, even if it did not occur to him to take that step earlier when he began hearing it. It has become our painful duty to emphasise on this fact most unwillingly. We do so with the fervent hope that no such occasions arise in future which may tend to erode the credibility of the course of administration of justice.*

In the fact and circumstances of this case, we are ***afraid that this facet of the rule of law has been eroded. We are satisfied that B. J. Shethna, J., in the facts and circumstances of this case, should have recused himself from hearing this contempt petition,*** *particularly when a specific objection to this effect was taken by the appellants in view of the respondent's case in the contempt petition wherein the impugned order came to be made in his favour.* ***In our opinion, the impugned order is vitiated for this reason alone.***

A basic postulate of the rule of law is that 'justice should not only be done but it must also be seen to be done'. ***If there be a basis which cannot be treated as unreasonable for a litigant to expect that his matter should not be heard by a particular Judge and there is no compelling necessity, such as the absence of an alternative, it is appropriate that the learned Judge should rescue himself from the Bench hearing that matter.*** *This step is required to be taken by the learned Judge not because he is likely to be influenced in any manner in doing justice in the cause, but because his hearing the matter is likely to give rise to a reasonable apprehension in the mind of the litigant that the mind of the learned Judge, may be subconsciously, has been influenced by some extraneous factor in making the decision, particularly if it to happens to be in favour of the opposite party. Credibility in the functioning of the justice delivery system and the reasonable perception of the affected parties are relevant considerations to ensure the continuance of public confidence in the credibility and impartiality of the judiciary. This is necessary not only for doing justice but also for ensuring that justice is seen to be done."*

5.3. In **Supreme Court Advocates-on-Record Vs.Union of India (2016) 5 SCC 808: 2015 SCC OnLine SC 976** it is ruled as under ;

> ***" Recusal – The prayer should be made to the said particular Judge sitting in the Bench – Other Judges have no role:- Reason should be mentioned about recusal or non recusal - Therefore, I am of the view that it is the constitutional duty, as reflected in one's oath, to be transparent and accountable, and hence, a Judge is required to indicate reasons for his recusal from a particular case. This would help to curb the tendency for forum shopping.***
>
> *The above principles are universal in application. Impartiality of a Judge is the sine qua non for the integrity institution. Transparency in procedure is one of the major factors constituting the integrity of the office of a Judge in conducting his duties and the functioning of the court. The litigants would always like to know though they may not have a prescribed right to know, as to why a Judge has recused from hearing the case or despite request, has not recused to hear his case. Reasons are required to be indicated broadly. Of course, in case the disclosure of the reasons is likely to affect prejudicially any case or cause or interest of someone else, the Judge is free to state that on account of personal reasons which the Judge does not want to disclose, he has decided to recuse himself from hearing the case.*
>
> *On the ground of him having conflicting interests.*
>
> *It is one of the settled principles of a civilised legal system that a Judge is required to be impartial. It is said that the hallmark of a democracy is the existence of an impartial Judge.*
>
> *It all started with a latin maxim Nemo Judex in Re Sua which means literally – that no man shall be a judge in his own cause. There is*

another rule which requires a Judge to be impartial. The theoretical basis is explained by Thomas Hobbes in his Eleventh Law of Nature. He said

"If a man be trusted to judge between man and man, it is a precept of the law of Nature that he deal equally between them. For without that, the controversies of men cannot be determined but by war. He therefore, said that is partial in judgment doth what in him lies, to deter men from the use of judges and arbitrators; and consequently, against the fundamental law of Nature, is the cause of war."

The expression recuse according to New Oxford English Dictionary means – (the act of a Judge) to excuse himself from a case because of possible conflict of interest for lack of impartiality.

R. Grant Hammond, Judicial Recusal: Principles, Process and Problems (Hart Publishing, 2009)

The House of Lords held that participation of Lord Cottenham in the adjudicatory process was not justified. Though Lord Campbell observed:

"No one can suppose that Lord Cottenham could be, in the remotest degree, influenced by the interest he had in this concern: but, my Lords, it is of the last importance that the maxim that no man is to be a judge in his own cause be held sacred. And that is not to be confined to a cause in which he is a party, but applies to a cause in which he has an interest .... This will be a lesson to all inferior tribunals to take care not only that in their decrees they are not influenced by their personal interest, but to avoid the appearance of labouring under such an influence."

In other words, where a Judge has a pecuniary interest, no further inquiry as to whether there was a "real danger" or "reasonable suspicion" of bias is required to be undertaken. But in other cases, such an inquiry is required and the relevant test is the "real danger" test.

"But in other cases, the inquiry is directed to the question whether there was such a degree of possibility of bias on the part of the tribunal that the court will not allow the decision to stand. Such a question may arise in a wide variety of circumstances. These include .... cases in which the member of the tribunal has an interest in the outcome of the proceedings, which falls short of a direct pecuniary interest. Such interests may vary widely in their nature, in their effect, and in their relevance to the subject matter of the proceedings; and there is no rule .... that the possession of such an interest automatically disqualifies the member of the tribunal from sitting. Each case falls to be considered on its own facts."

The learned Judge examined various important cases on the subject and finally concluded:

"Finally, for the avoidance of doubt, I prefer to state the test in terms of real danger rather than real likelihood, to ensure that the court is thinking in terms of possibility rather than probability of bias. Accordingly, having ascertained the relevant circumstances, the court should ask itself whether, having regard to those circumstances, there was a real danger of bias on the part of the relevant member of the tribunal in question, in the sense that he might unfairly regard (or have unfairly regarded) with favour, or

disfavour, the case of a party to the issue under consideration by him."

In substance, the Court held that in cases where the Judge has a pecuniary interest in the outcome of the proceedings, his disqualification is automatic. No further enquiry whether such an interest lead to a "real danger" or gave rise to a "reasonable suspicion" is necessary. In cases of other interest, the test to determine whether the Judge is disqualified to hear the case is the "real danger" test.

The Pinochet[105] case added one more category to the cases of automatic disqualification for a judge. Pinochet, a former Chilean dictator, was sought to be arrested and extradited from England for his conduct during his incumbency in office. The issue was whether Pinochet was entitled to immunity from such arrest or extradition. Amnesty International, a charitable organisation, participated in the said proceedings with the leave of the Court. The House of Lords held that Pinochet did not enjoy any such immunity. Subsequently, it came to light that Lord Hoffman, one of the members of the Board which heard the Pinochet case, was a Director and Chairman of a company (known as A.I.C.L.) which was closely linked with Amnesty International. An application was made to the House of Lords to set aside the earlier judgment on the ground of bias on the part of Lord Hoffman.

23. Lord Wilkinson summarised the principles on which a Judge is disqualified to hear a case. As per Lord Wilkinson -

"The fundamental principle is that a man may not be a judge in his own cause. This principle, as developed by the courts, has two very

similar but not identical implications. First it may be applied literally: if a judge is in fact a party to the litigation or has a financial or proprietary interest in its outcome then he is indeed sitting as a judge in his own cause. In that case, the mere fact that he is a party to the action or has a financial or proprietary interest in its outcome is sufficient to cause his automatic disqualification. The second application of the principle is where a judge is not a party to the suit and does not have a financial interest in its outcome, but in some other way his conduct or behaviour may give rise to a suspicion that he is not impartial, for example because of his friendship with a party. This second type of case is not strictly speaking an application of the principle that a man must not be judge in his own cause, since the judge will not normally be himself benefiting, but providing a benefit for another by failing to be impartial.

In my judgment, this case falls within the first category of case, viz. where the judge is disqualified because he is a judge in his own cause. In such a case, once it is shown that the judge is himself a party to the cause, or has a relevant interest in its subject matter, he is disqualified without any investigation into whether there was a likelihood or suspicion of bias. The mere fact of his interest is sufficient to disqualify him unless he has made sufficient disclosure."

And framed the question;

"....the question then arises whether, in non-financial litigation, anything other than a financial or proprietary interest in the

outcome is sufficient automatically to disqualify a man from sitting as judge in the cause."

He concluded that,

"....the matter at issue does not relate to money or economic advantage but is concerned with the promotion of the cause, the rationale disqualifying a judge applies just as much if the judge's decision will lead to the promotion of a cause in which the judge is involved together with one of the parties"

Lord Wilkinson opined that

even though a judge may not have financial interest in the outcome of a case, but in some other way his conduct or behaviour may give rise to a suspicion that he is not impartial…

and held that:

"...If the absolute impartiality of the judiciary is to be maintained, there must be a rule which automatically disqualifies a judge who is involved, whether personally or as a director of a company, in promoting the same causes in the same organisation as is a party to the suit. There is no room for fine distinctions…"

If a Judge has a financial interest in the outcome of a case, he is automatically disqualified from hearing the case.

In cases where the interest of the Judge in the case is other than financial, then the disqualification is not automatic but an enquiry is required whether the existence of such an interest disqualifies the Judge tested in the light of either on the principle of "real danger" or "reasonable apprehension" of bias.

The Pinochet case added a new category i.e that the Judge is automatically disqualified from hearing a case where the Judge is interested in a cause which is being promoted by one of the parties to the case.

The court normally insists that the objection shall be taken as soon as the party prejudiced knows the facts which entitle him to object. If, after he or his advisers know of the disqualification, they let the proceedings continue without protest, they are held to have waived their objection and the determination cannot be challenged.

In our opinion, the implication of the above principle is that only a party who has suffered or likely to suffer an adverse adjudication because of the possibility of bias on the part of the adjudicator can raise the objection.

The argument of Shri Nariman, if accepted would render all the Judges of this Court disqualified from hearing the present controversy. A result not legally permitted by the "doctrine of necessity".

Not for advocating any principle of law, but for laying down certain principles of conduct.

It is not as if the prayer made by Mr. Mathews J. Nedumpara, was inconsequential.

They were unequivocal in their protestation.

In my respectful opinion, when an application is made for the recusal of a judge from hearing a case, the application is made to the concerned judge and not to the Bench as a whole. Therefore, my

learned brother Justice Khehar is absolutely correct in stating that the decision is entirely his, and I respect his decision.

A complaint as to the qualification of a justice of the Supreme Court to take part in the decision of a cause cannot properly be addressed to the Court as a whole and it is the responsibility of each justice to determine for himself the propriety of withdrawing from a case.

The issue of recusal may be looked at slightly differently apart from the legal nuance. What would happen if, in a Bench of five judges, an application is moved for the recusal of Judge A and after hearing the application Judge A decides to recuse from the case but the other four judges disagree and express the opinion that there is no justifiable reason for Judge A to recuse from the hearing? Can Judge A be compelled to hear the case even though he/she is desirous of recusing from the hearing? It is to get over such a difficult situation that the application for recusal is actually to an individual judge and not the Bench as a whole.

Called upon to discharge the duties of the Office without fear or favour, affection or ill-will, it is only desirable, if not proper, that a Judge, for any unavoidable reason like some pecuniary interest, affinity or adversity with the parties in the case, direct or indirect interest in the outcome of the litigation, family directly involved in litigation on the same issue elsewhere, the Judge being aware that he or someone in his immediate family has an interest, financial or otherwise that could have a substantial bearing as a consequence of the decision in the litigation, etc., to recuse himself from the adjudication of a particular matter. No doubt, these examples are not exhaustive.

Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

A judge shall perform his or her judicial duties without favour, bias or prejudice.

A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.

A judge shall, so far as is reasonable, so conduct himself or herself as to minimise the occasions on which it will be necessary for the judge to be disqualified from hearing or deciding cases.

*A judge shall not knowingly, while a proceeding is before, or could come before, the judge**, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process**. Nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person or issue.*

A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the matter impartially. Such proceedings include, but are not limited to, instances wherethe judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;

the judge previously served as a lawyer or was a material witness in the matter in controversy; or

the judge, or a member of the judge's family, has an economic interest in the outcome of the matter in controversy:

Provided that disqualification of a judge shall not be required if no other tribunal can be constituted to deal with the case or, because of urgent circumstances, failure to act could lead to a serious miscarriage of justice."

The simple question is, whether the adjudication by the Judge concerned, would cause a reasonable doubt in the mind of a reasonably informed litigant and fair-minded public as to his impartiality. Being an institution whose hallmark is transparency, it is only proper that the Judge discharging high and noble duties, at least broadly indicate the reasons for recusing from the case so that the litigants or the well- meaning public may not entertain any misunderstanding that the recusal was for altogether irrelevant reasons like the cases being very old, involving detailed consideration, decision on several questions of law, a situation where the Judge is not happy with the roster, a Judge getting unduly sensitive about the public perception of his image, Judge wanting not to cause displeasure to anybody, Judge always wanting not to decide any sensitive or controversial issues, etc. Once reasons for recusal are indicated, there will not be any room for attributing any motive for the recusal. To put it differently, it is part of his duty to be accountable to the Constitution by upholding it without fear or favour, affection or ill- will. Therefore, I am of the view that it is the constitutional duty, as reflected in one's oath, to be transparent and

accountable, and hence, a Judge is required to indicate reasons for his recusal from a particular case. This would help to curb the tendency for forum shopping.

In Public Utilities Commission of District of Columbia et al. v. Pollak et al.[706], the Supreme Court of United States dealt with a question whether in the District of Columbia, the Constitution of the United States precludes a street railway company from receiving and amplifying radio programmes through loudspeakers in its passenger vehicles. Justice Frankfurter was always averse to the practice and he was of the view that it is not proper. His personal philosophy and his stand on the course apparently, were known to the people. Even otherwise, he was convinced of his strong position on this issue. Therefore, stating so, he recused from participating in the case. To quote his words,

"The judicial process demands that a judge move within the framework of relevant legal rules and the covenanted modes of thought for ascertaining them. He must think dispassionately and submerge private feeling on every aspect of a case. There is a good deal of shallow talk that the judicial robe does not change the man within it. It does. The fact is that on the whole judges do lay aside private views in discharging their judicial functions. This is achieved through training, professional habits, self- discipline and that fortunate alchemy by which men are loyal to the obligation with which they are entrusted. But it is also true that reason cannot control the subconscious influence of feelings of which it is unaware. When there is ground for believing that such unconscious feelings may operate in the ultimate judgment, or may not unfairly lead others to believe they are operating, judges recuse themselves. They

do not sit in judgment. They do this for a variety of reasons. The guiding consideration is that the administration of justice should reasonably appear to be disinterested as well as be so in fact.

*This case for me presents such a situation. My feelings are so strongly engaged as a victim of the practice in controversy that I had better not participate in judicial judgment upon it. I am explicit as to the reason for my non-participation in this case because I have for some time been of the view that it is desirable to state why one takes himself out of a case.***"**

According to Justice Mathew in S. Parthasarathi v. State of A.P.[707], in case, the right-minded persons entertain a feeling that there is any likelihood of bias on the part of the Judge, he must recuse. Mere possibility of such a feeling is not enough. There must exist circumstances where a reasonable and fair-minded man would think it probably or likely that the Judge would be prejudiced against a litigant.

If a reasonable man would think on the basis of the existing circumstances that he is likely to be prejudiced, that is sufficient to quash the *decision [see per Lord Denning, H.R. in (Metropolitan Properties Co. (F.G.C.) Ltd. v. Lannon and Others, etc. [(1968) 3 WLR 694 at 707]). We should not, however, be understood to deny that the Court might with greater propriety apply the "reasonable suspicion" test in criminal or in proceedings analogous to criminal proceedings."*

The Constitutional Court of South Africa in The President of the Republic of South Africa etc. v. South African Rugby Football

Union etc.[708], has made two very relevant observations in this regard:

"Although it is important that justice must be seen to be done, it is equally important that judicial officers discharge their duty to sit and do not, by acceding too readily to suggestions of appearance of bias, encourage parties to believe that by seeking the disqualification of a judge, they will have their case tried by someone thought to be more likely to decide the case in their favour."

"It needs to be said loudly and clearly that the ground of disqualification is a reasonable apprehension that the judicial officer will not decide the case impartially or without prejudice, rather than that he will decide the case adversely to one party."

Ultimately, the question is whether a fair-minded and reasonably informed person, on correct facts, would reasonably entertain a doubt on the impartiality of the Judge. The reasonableness of the apprehension must be assessed in the light of the oath of Office he has taken as a Judge to administer justice without fear or favour, affection or ill-will and his ability to carry out the oath by reason of his training and experience whereby he is in a position to disabuse his mind of any irrelevant personal belief or pre-disposition or unwarranted apprehensions of his image in public or difficulty in deciding a controversial issue particularly when the same is highly sensitive.

The above principles are universal in application. Impartiality of a Judge is the sine qua non for the integrity institution. Transparency in procedure is one of the major factors constituting the integrity of

the office of a Judge in conducting his duties and the functioning of the court. The litigants would always like to know though they may not have a prescribed right to know, as to why a Judge has recused from hearing the case or despite request, has not recused to hear his case. Reasons are required to be indicated broadly. Of course, in case the disclosure of the reasons is likely to affect prejudicially any case or cause or interest of someone else, the Judge is free to state that on account of personal reasons which the Judge does not want to disclose, he has decided to recuse himself from hearing the case"

5.4. Observation of Justice Esher in **Allinson Vs. General Council of Medical Education and Registration, (1894) 1 QB 750 at p. 758)** which is set out below;

"The question is not, whether in fact he was or was not biased. The Court cannot enquire into that. There is something between these two propositions. In the administration of Justice, whether by a recognized legal Court or by persons who although not a legal public Court, are acting in a similar capacity, public policy requires that in order that there should be no doubt the purity of the administration, any person who is to take part in it should not be in such a position that he might be suspected of being biased."

5.5. In **R. Vs. Commissioner of pawing (1941) 1 QB 467,** William J. Observed:

*"I am strongly dispassed to think that **a Court is badly constituted of which an intrested person is a part, whatever may be the number of disintrested peraons. We cannot go into a poll of the Bench."***

5.6. In **High Court of Karnataka Vs. Jai Chaitanya Dasa & Others 2015 (3) AKR 627** it is ruled as under;

"79. *In order to appreciate the case of bias alleged against a Judge, we have to carefully scan the allegations made in the affidavit of the 1st respondent.*

91. *The law on the point of bias is fairly well settled. Lord Denning in the case of Metropolitan Properties Co. (FGC) Ltd., v. London Rent Assessment Panel Committee (1969) 1 QB 577 observed as under:*

"....in considering whether there was a real likelihood of bias, the court does not look at the mind of the justice himself or at the mind of the chairman of the tribunal, or whoever it may be, who sits in a judicial capacity. It does not look to see if there was a real likelihood that he would, or did, in fact favour one side at the expense of the other. The court looks at the impression which would be given to other people. Even if he was as impartial as could be nevertheless if right minded person would think that in the circumstances there was a real likelihood of bias on his part, then he should not sit. And if he does sit his decision cannot stand."

"The Court will not enquire whether he did in fact, favour one side unfairly. Suffice it that reasonable people might think he did. The reason is plain enough. Justice must be rooted in confidence and confidence is destroyed when right-minded people go away thinking, 'the Judge was biased".

Frankfurter, J. in Public Utilities Commission of The District of Columbia v. Pollak, (1951) 343 US 451 at Pg. 466 has held thus:

"The judicial process demands that a Judge move within the framework of relevant legal rules and the court covenanted modes

of though for ascertaining them. He must think dispassionately and submerge private feeling on every aspect of a case. There is a good deal of shallow talk that the judicial robe does not change the man within it. It does. The fact is that on the whole, Judges do lay aside private views in discharging their judicial functions. This achieved through training, professional habits, self-discipline and that fortunate alchemy by which men are loyal to the obligation with which they are entrusted. But it is also true reason cannot control the subconscious influence of feelings of which it is unaware. When there is ground for believing that such unconscious feelings may operate in the ultimate judgment or may not unfairly lead others to believe they are operating, Judges recuse themselves. They do not sit in judgment.

The Apex Court in the case of Mank Lal v. Dr. Prem Chand Singhvi & Others reported in MANU/SC/0001/1957 : AIR 1957 SC 425, explained the meaning of the word 'bias' as under:

"4. It is well settled that every member of a tribunal that is called upon to try issues in judicial or quasi-judicial proceedings must be able to act judicially; and it is of the essence of judicial decisions and judicial administration that judges should be able to act impartially, objectively and without any bias. In such cases the test is not whether in fact a bias has affected the judgment; the test always is and must be whether a litigant could reasonably apprehend that a bias attributable to a member of the tribunal might have operated against him in the final decision of the tribunal. It is in this sense that it is often said that justice must not only be done but must also appear to be done.

In dealing with cases of bias attributed to members constituting tribunals, it is necessary to make a distinction between pecuniary interest and prejudice so attributed. It is obvious that pecuniary interest however small it may be in a subject- matter of the proceedings, would wholly disqualify a member from acting as a judge. But where pecuniary interest is not attributed but instead a bias is suggested, it often becomes necessary to consider whether there is a reasonable ground for assuming the possibility of a bias and whether it is likely to produce in the minds of the litigant or the public at large a reasonable doubt about the fairness of the administration of justice. It would always be a question of fact to be decided in each case. "The principle", says Halsbury, "nemo debet case judex in causaproprta sua precludes a justice, who is interested in the subject matter of a dispute, from acting as a justice therein". In our opinion, there is and can be no doubt about the validity of this principle and we are prepared to assume that this principle applies not only to the justice as mentioned by Halsbury but to all tribunals and bodies which are given jurisdiction to determine judicially the rights of parties."

The Apex Court in the case of A.K. Kraipak & Others v. Union of India and Others reported in MANU/SC/0427/1969 : AIR 1970 SC 150, held as under:

"The real question is not whether he was biased. It is difficult to prove the state of mind of a person. Therefore what we have to see is whether there is reasonable ground for believing that he was likely to have been biased. We agree with the learned Attorney General that a mere suspicion of bias is not sufficient. There must be a reasonable likelihood of bias. In deciding the question of bias we

have to take into consideration human probabilities and ordinary course of human conduct."

Again in the case of Bhajanlal, Chief Minister, Haryana v. Jindal Strips Limited & Others reported in MANU/SC/0836/1994 : (1994) 6 SCC 19, dealing with 'bias' the Supreme Court has held as under:

"Bias is the second limb of natural justice. Prima facie no one should be a Judge in what is to be regarded as 'sua cause', whether or not he is named as a party. The decision-maker should have no interest by way of gain or detriment in the outcome of a proceeding. Interest may take many forms. It may be direct, it may be indirect, it may arise from a personal relationship or from a relationship with the subject matter, from a close relationship or from a tenuous one."

This Court after referring to the aforesaid judgments in the case of M/s. National Technological Institutions (NTI) Housing Co-operative Society Ltd., and Others v. The Principal Secretary to The Government of Karnataka, Revenue Department and Others reported in MANU/KA/1586/2012 : ILR 2012 KAR 3431, at paragraph 39, held as under:

"39. It is of the essence of judicial decisions and judicial administration that judges should act impartially, objectively and without any bias. In such cases the test is not whether in fact a bias has affected the judgment; the test always is and must be whether a litigant could reasonably apprehend that a bias attributable to a Judge might have operated against him in the final decision of the tribunal. It is difficult to prove the state of mind of a person. Therefore what we have to see is whether there is reasonable ground

for believing that he was likely to have been biased. A mere suspicion of bias is not sufficient. There must be a reasonable likelihood of bias. In deciding the question of bias we have to take into consideration human probabilities and ordinary course of human conduct. The concept of natural justice has undergone a great deal of change in recent years. In the past, it was thought that it included just two rules namely: (1) no one shall be a judge in his own case (Nemo debet case judex propria causa) and (2) no decision shall be given against a party without affording him a reasonable hearing (audi alteram partem). Very soon thereafter a third rule was envisaged and that is that quasi judicial enquiries must be held in good faith, without bias and not arbitrarily or unreasonably. But in the course of years, many more subsidiary rules came to be added to the rules of natural justice. The purpose of the rules of natural justice is to prevent miscarriage of justice. Arriving at a just decision is the aim of judicial enquiries. The rules of natural justice are not embodied rules. What particular rule of natural justice should apply to a given case must depend to a great extent on the facts and circumstances of that case, the frame work of the law under which the enquiry is held and the constitution of the Tribunal or body of persons appointed for that purpose. Whenever a complaint is made before a Court that some principle of natural justice had been contravened, the Court should decide whether the observance of that rule was necessary for a just decision on the facts of that case."

Bias may be generally defined as partiality or preference. Frank J., in Linahan, Re (1943) 138 F 2nd 650, 652, observed thus:

"If however, 'bias' and 'partiality' be defined to mean the total absence of preconceptions in the mind of the Judge, then no one has

ever had a fair trial and no one ever will The human mind, even at infancy, is no blank piece of paper. We are born with predispositions and the processes of education, formal and informal, create attitudes which precede reasoning in particular instances and which, therefore, by definition, are prejudiced."

92. *Bias is a condition of mind which sways the judgment and renders the Judge unable to exercise impartiality in a particular case. Bias is likely to operate in a subtle manner. A prejudice against a party also amounts to bias. Reason cannot control the subconscious influence of feelings of which it is unaware. When there is ground for believing that such subconscious feelings may operate in the ultimate judgment or may not unfairly lead others to believe they are operating, Judges ought to recuse themselves. It is difficult to prove the state of mind of a person. Therefore, what we have to see is whether there is reasonable ground for believing that a person was likely to have been biased. A mere suspicion of bias is not sufficient. There must be a reasonable likelihood of bias. In deciding the question of bias, we have to take into consideration human probabilities and ordinary course of human conduct. The Court looks at the impression which would be given to an ordinary prudent man. Even if he was as impartial as could be, nevertheless if right minded person would think that in the circumstances there was a real likelihood of bias on his part, then he should not sit. And if he does sit, his decision cannot stand. For appreciating a case of personal bias or bias to the subject matter, the test is whether there was a real likelihood of bias even though such bias, has not in fact taken place. A real likelihood of bias presupposes at least substantial possibility of bias. The Court will have to judge the*

matter as a reasonable man would judge of any matter in the conduct of his own business. Whether there was a real likelihood of bias, depends not upon what actually was done but upon what might appear to be done. Whether a reasonable intelligent man fully apprised of all circumstances would feel a serious apprehension of bias. The test always is, and must be whether a litigant could reasonably apprehend that a bias attributable to a Judge might have operated against him in the final decision.

93. *Credibility in the functioning of the justice delivery system and the reasonable perception of the affected parties are relevant considerations to ensure the continuance of public confidence in the credibility and impartiality of the judiciary. This is necessary not only for doing justice but also for ensuring that justice is seen to be done. The initiation of contempt action should be only when there is substantial and mala fide interference with fearless judicial action, but not on fair comment or trivial reflections on the judicial process and personnel. The respect for judiciary must rest on a more surer foundation than recourse to contempt jurisdiction."*

5.7. In **State of Punjab Vs. Davinder Pal Singh Bhullar (2011) 14 SCC 770: (2012) 4 SCC (Cri.) 496**it is ruled as under;

"11. *In respect of judicial bias, the statement made by Frank J. of the United States is worth quoting:*

If, however, 'bias' and 'partiality' be defined to mean the total absence of preconceptions in the mind of the Judge, then no one has ever had a fair trial and no one will. The human mind, even at infancy, is no blank piece of paper. We are born with predispositions ''. Much harm is done by the myth that, merely by''.

taking the oath of office as a judge, a man ceases to be human and strips himself of all predilections, becomes a passionless thinking machine.

"Constitution of India, Article 226 - BIAS- allegations made against a Judge of having bias - High Court Judge in order to settle personal score passed illegal order against public servant acted against him - Actual proof of prejudice in such a case may make the case of the party concerned stronger, but such a proof is not required. In fact, what is relevant is the reasonableness of the apprehension in that regard in the mind of the party. However, once such an apprehension exists, the trial/judgment/order etc.

stands vitiated for want of impartiality. Such judgment/order is a nullity and the trial "coram non-judice". - Bias is the second limb of natural justice. Prima facie no one should be a judge in what is to be regarded as "sua causa. Whether or not he is named as a party. The decision-maker should have no interest by way of gain or detriment in the outcome of a proceeding. Interest may take many forms. It may be direct, it may be indirect, it may arise from a personal relationship or from a relationship with the subject-matter, from a close relationship or from a tenuous one – No one should be Judge of his own case. This principle is required to be followed by all judicial and quasi-judicial authorities as non-observance thereof, is treated as a violation of the principles of natural justice. The failure to adhere to this principle creates an apprehension of bias on the part of Judge.

10. *There may be a case where allegations may be made against a Judge of having bias/prejudice at any stage of the proceedings or*

after the proceedings are over. There may be some substance in it or it may be made for ulterior purpose or in a pending case to avoid the Bench if a party apprehends that judgment may be delivered against him. Suspicion or bias disables an official from acting as an adjudicator. Further, if such allegation is made without any substance, it would be disastrous to the system as a whole, for the reason, that it casts doubt upon a Judge who has no personal interest in the outcome of the controversy.

(In re: Linahan 138 F. 2nd 650 (1943))

(See also: ***State of West Bengal and Ors. v. Shivananda Pathak and Ors.*** *MANU/SC/0342/1998 : AIR 1998 SC 2050).*

12. *To recall the words of Mr. Justice Frankfurter in* ***Public Utilities Commission of the District of Columbia v. Franklin S. Pollak*** *343 US 451 (1952) 466: The Judicial process demands that a judge moves within the framework of relevant legal rules and the covenanted modes of thought for ascertaining them. He must think dispassionately and submerge private feeling on every aspect of a case. There is a good deal of shallow talk that the judicial robe does not change the man within it. It does. The fact is that, on the whole, judges do lay aside private views in discharging their judicial functions. This is achieved through training, professional habits, self-discipline and that fortunate alchemy by which men are loyal to the obligation with which they are entrusted.*

13. *In* ***Bhajan Lal, Chief Minister, Haryana v. Jindal Strips Ltd. and Ors.*** *MANU/SC/0836/1994 : (1994) 6 SCC 19, this Court observed that there may be some consternation and apprehension in*

the mind of a party and undoubtedly, he has a right to have fair trial, as guaranteed by the Constitution. The apprehension of bias must be reasonable, i.e. which a reasonable person can entertain. Even in that case, he has no right to ask for a change of Bench, for the reason that such an apprehension may be inadequate and he cannot be permitted to have the Bench of his choice. The Court held as under:

Bias is the second limb of natural justice. Prima facie no one should be a judge in what is to be regarded as 'sua causa', whether or not he is named as a party. The decision-maker should have no interest by way of gain or detriment in the outcome of a proceeding. Interest may take many forms. It may be direct, it may be indirect, it may arise from a personal relationship or from a relationship with the subject-matter, from a close relationship or from a tenuous one.

14. *The principle in these cases is derived from the legal maxim nemo debet esse judex in causa propria sua. It applies only when the interest attributed is such as to render the case his own cause. This principle is required to be observed by all judicial and quasi-judicial authorities as non-observance thereof, is treated as a violation of the principles of natural justice. (Vide:* ***Rameshwar Bhartia v. The State of Assam*** *MANU/SC/0039/1952 : AIR 1952 SC 405;* ***Mineral Development Ltd. v. The State of Bihar and Anr.*** *MANU/SC/0015/1959 : AIR 1960 SC 468;* ***Meenglas Tea Estate v. The Workmen*** *MANU/SC/0139/1963 : AIR 1963 SC 1719; and* ***The Secretary to the Government, Transport Department, Madras v. Munuswamy Mudaliar and Ors.*** *MANU/SC/0435/1988 : AIR 1988 SC 2232).*

The failure to adhere to this principle creates an apprehension of bias on the part of the Judge. The question is not whether the Judge is actually biased or, in fact, has really not decided the matter impartially, but whether the circumstances are such as to create a reasonable apprehension in the mind of others that there is a likelihood of bias affecting the decision. (Vide: ***A.U. Kureshi v. High Court of Gujarat and Anr.*** *MANU/SC/0209/2009 : (2009) 11 SCC 84; and* ***Mohd. Yunus Khan v. State of U.P. and Ors.*** *MANU/SC/0767/2010 : (2010) 10 SCC 539).*

18. *In* ***Locabail (UK) Ltd. v. Bayfield Properties Ltd. and Anr.*** *(2000) 1 All ER 65, the House of Lords considered the issue of disqualification of a Judge on the ground of bias and held that in applying the real danger or possibility of bias test, it is often appropriate to inquire whether the Judge knew of the matter in question. To that end, a reviewing court may receive a written statement from the Judge. A Judge must recuse himself from a case before any objection is made or if the circumstances give rise to automatic disqualification or he feels personally embarrassed in hearing the case. If, in any other case, the Judge becomes aware of any matter which can arguably be said to give rise to a real danger of bias, it is generally desirable that disclosure should be made to the parties in advance of the hearing. Where objection is then made, it will be as wrong for the Judge to yield to a tenuous or frivolous objection as it will be to ignore an objection of substance. However, if there is real ground for doubt, that doubt must be resolved in favour of recusal. Where, following appropriate disclosure by the Judge, a party raises no objection to the Judge hearing or continuing*

to hear a case, that party cannot subsequently complain that the matter disclosed gives rise to a real danger of bias.

19. *In Justice* ***P.D. Dinakaran v. Hon'ble Judges Inquiry Committee*** *MANU/SC/0727/2011 : (2011) 8 SCC 380, this Court has held that in India the courts have held that, to disqualify a person as a Judge, the test of real likelihood of bias, i.e., real danger is to be applied, considering whether a fair minded and informed person, apprised of all the facts, would have a serious apprehension of bias. In other words, the courts give effect to the maxim that 'justice must not only be done but be seen to be done', by examining not actual bias but real possibility of bias based on facts and materials.*

The Court further held:

The first requirement of natural justice is that the Judge should be impartial and neutral and must be free from bias. He is supposed to be indifferent to the parties to the controversy. He cannot act as Judge of a cause in which he himself has some interest either pecuniary or otherwise as it affords the strongest proof against neutrality. He must be in a position to act judicially and to decide the matter objectively. A Judge must be of sterner stuff. His mental equipoise must always remain firm and undetected. He should not allow his personal prejudice to go into the decision- making. The object is not merely that the scales be held even; it is also that they may not appear to be inclined. If the Judge is subject to bias in favour of or against either party to the dispute or is in a position that a bias can be assumed, he is disqualified to act as a Judge, and the proceedings will be vitiated. This rule applies to the judicial and

administrative authorities required to act judicially or quasi-judicially.'

20. *Thus, it is evident that the allegations of judicial bias are required to be scrutinised taking into consideration the factual matrix of the case in hand. The court must bear in mind that a mere ground of appearance of bias and not actual bias is enough to vitiate the judgment/order. Actual proof of prejudice in such a case may make the case of the party concerned stronger, but such a proof is not required. In fact, what is relevant is the reasonableness of the apprehension in that regard in the mind of the party. However, once such an apprehension exists, the trial/judgment/order etc. stands vitiated for want of impartiality. Such judgment/order is a nullity and the trial 'coram non-judice. ”*

6. DISQUALIFICATION OF CJI IN ALLOCATING CASES AS **‘MASTER OF ROSTER’.:-**

6.1. That CJI is the Master of Roster. He decides the allocation of the cases to the Benches in the Supreme Court.

6.2. The law, judicial propriety and binding precedents of the Supreme Court demands that he should recuse himself from allocation of any case related with vaccine companies, Corona, lockdown etc.

6.3. As per earlier precedents, **this job of allocations of cases where CJI is disqualified is to be handed over by Shri. N.V. Ramana to the Second Senior most Judge** i.e. Justice Shri. Uday Umesh Lalit.

6.4. Earlier in the case of contempt related with Prashant Bhushan’s Tweet this procedure was followed and the **then CJI Shri. Sharad Bobde recused from**

the allocation of bench and the decision was taken by the second senior most Judge Shri. N.V. Ramana.

6.5. Hon'ble Supreme in the case of **The CIT Bombay City Vs. R.H.Pandi (1974) 2 SCC 627** Bombay has ruled that practice of the Court is law of the court.

> ***"6…****Cursus curiae est lex curiae. The Practice of the Court is the law of the Court. See Broom's Legal Maxims at p.82. Where a practice has existed it is convenient to adhere to it because it is the practice."*

6.6. In a complaint of sexual harassment against the then CJI Shri. Ranjan Gogoi the decision for 'In-House-Procedure' for constituting enquiry committee was handed over to Second Senior most Judge Shri. Sharad Bobde.

6.7. In that case against the then CJI Shri. Ranjan Gogoi, the present CJI Shri. N.V. Ramana was also one of the members of enquiry Committee. But the victim Supreme Court lady staffer took objection to Justice Shri. N.V. Ramana's presence. Shri. N.V. Ramana recused from the case by giving a 3 page letter dated **25th April, 2019.**

The relevant para of the said letter reads thus;

> *"My decision to recuse is only based on an intent to avoid any suspicion that this institution will not conduct itself in keeping with the highest standards of judicial propriety and wisdom. It is the extraordinary nature of the complaint, and the evolving circumstances and discourse that underly my decision to recuse and not the grounds cited by the complainant per se. Let my recusal be a clear message to the nation that there should be no fears about probity in our institution, and that we will not refrain from going to any extent to protect the trust reposed in us. That is, after all, our*

final source of moral strength. It is true that justice must not only be done, but also manifestly seem to be done."

Link:
https://drive.google.com/file/d/11WYbQb94Bk7IRsbIJxRP7qRAQATFOHd6/view?usp=sharing

7. That on 31st January, 2019 Justice N.V. Ramanna himself recused from the hearing of a petition challenging appointment of Shri. M. Nageshwar Rao as the interim director of the C.B.I.

While recusing himself from hearing the matter, Justice Ramana said Rao is from his home state. "Nageswara Rao is from my home state and I have attended his daughter's wedding," Justice Ramana said.

Link:-

https://www.hindustantimes.com/india-news/justice-nv-ramana-recues-from-hearing-on-m-nageswara-rao-s-appointment-as-interim-cbi-director/story-pKEAjTOS7mgL5IsCTvervN.html

8. That many honest Supreme Court Judges have followed this law in its letter and spirit and recused from the hearing of the case because they and their family members are having shares of the company whose case came up for hearing before them.

9. Justice Markandey Katju recused himself in a part-heard matter as his wife held shares in a company which was a litigant in the case before the bench. On November 6, Justice Kapadia recused himself from a case in which the Sterlite Industries' sister concern, Vedanta, was an applicant in the court.

10. Justice Raveendran recused himself from the case as he had discovered that, his daughter was a lawyer in a firm which was doing legal work not connected with the litigation before him but for one of the Reliance companies.

11. Hence, same law and same procedure should have been followed by Shri. N.V. Ramana in the cases related with vaccines, corona, lockdown and other related issues.

12. However, Shri. CJI N.V. Ramana breached the abovesaid rules and laws and he acted in utter disregard and defiance of the binding precedents of the constitution Benches of the Supreme Court. He on **07.05.2021,** himself presided the Bench and heard the matter **In re:- Contagion of Covid 19 Virus In Prisons, 2021 SCC OnLine SC 376** and signed the order when the issue was related with vaccination. The para 1 and 2 of the said order dated **7th May, 2021** read thus;

> ***"1.*** *Application of impleadment is allowed. The applicant who was already permitted to intervene in the Suo Motu Writ Petition filed the above I.A.s seeking the following reliefs:*
>
> *i. Pass an order directing the High Powered Committees as constituted vide order dated 23.3.2020 of this Hon'ble Court to examine the current situation of risk of virus spreading in prisons and recommend release of prisoners on interim bail/parole based upon the situation in the concerned State.*
>
> *ii. Pass an order directing the State Legal Service Authorities to strictly adhere to the Standard Operating Procedures of National Legal Service Authorities on the functioning of the Undertrial Review Committees as adopted vide order dated 04.12.2018 in WP(C) 406 of 2013 in Re-Inhuman Conditions in 1382 Prisons by this Hon'ble Court.*
>
> *iii. Pass an order directing the High Powered Committees/High Courts to identify and release the vulnerable categories of prisoners on an urgent basis.*
>
> *iv. Pass an order directing the High Powered Committees/State Legal Services Authorities to periodically monitor the prison-wise*

occupancy rates in their respective States, and give a report of the same to this Hon'ble Court of the prison occupancy as on 31st March, 2021, and the prospective increase in occupancy rate on a monthly basis, in the format as annexed in Annexure A9.

v. Pass an order directing the DG Prisons to publish the prison-wise occupancy rates of UTPs/Convicts/Detenues on their website monthly.

vi. Pass an order directing the High Powered Committees/ monitoring teams to prioritise healthcare in prisons and scrutinise the prison-specific readiness and response plans as directed by this Hon'ble Court vide its order dated 23.03.2020 in the present case.

V Pass an order directing the State Governments/Union Territories to undertake a vaccination drive in the prisons across their respective States/Union Territories.

viii. Pass any other order or further directions as this Court may deem fit or proper in the circumstances of the case.

***2.** On 11.03.2020, the World Health Organisation declared Covid-19 as a pandemic. On 16.03.2020, 107 persons were tested positive for Covid-19 in our country. Anticipating the spread of Covid-19 virus in overcrowded prisons, notices were issued to all the Chief Secretaries, Administrators, Home Secretaries, Director Generals of Prisons and Departments of Social Welfare of **all the States and Union Territories seeking their response regarding immediate measures to be adopted for the welfare of inmates in prisons and juveniles lodged in remand homes**."*

13. The second offence proving lack of fairness and impartiality and showing misuse of power CJI Shri. Ramanna is that he unlawfully took the two petitions against vaccination to himself for allocation of benches, where his close company Bharat

Biotech is a party Respondent. He kept said petitions pending for around 3 months. However as per law he is disqualified to act as a Master of Roster. The proper and legal course available for him was to direct the registry to place those petitions before the Second Senior Most Judge Shri. Uday U. Lalit. But he breached the law and by adopting corrupt practices kept the petitions pending. Then he allocated only one petition to the Bench of Justices L. Nageshwar Rao and Aniruddha Bose. Both the Judges are history of corruption charges and they are incompetent to deal with such cases having impact on 135 crores Indians.

14. Both the said Judges tried their level best to help the vaccine mafia.

Therefore, I have filed complaint on **25.08.2021** before Hon'ble President of India bearing case No. **PRESC/E/2021/23207.**

The prayers in the said complaint read thus;

a) Immediate direction for action as per the rules of **'In-House Procedure'** for withdrawal of all judicial work from Judges Sh. L. Nageshwar Rao and Sh. Aniruddha Bose for their involvement in serious criminal offences against entire humanity by their act of commission and omission and deliberate defiance of law and binding precedents with ulterior motive to help the vaccine mafia and for their intentional failure to protect the fundamental rights of the citizens when they were made aware of the clear proofs.

b) Constituting the inquiry committee headed by Hon'ble Justice Uday U. Lalit the second senior most Judge, as the case requires enquiry related with the CJI Sh. N.V. Ramanna.

c) Direction for enquiring the role of CJI Shri N.V. Ramanna in not performing his duty honestly and lawfully more particularly with regard to

most important petitions related with life and liberty of **135 Crore** citizens regarding death causins' illegalities in vaccination firstly by not listing them urgently and secondly listing only one petition and assigning some petitions to corrupt and incompetent Judges such as L. Nageshwar Rao & Aniruddha Bose.

d) Direction to C.B.I. to register F.I.R. against Justice L. Nageshwar Rao, Aniruddha Bose, CJI N.V. Ramanna and other Co-conspirators under **Section 191, 192, 193, 218, 409, 219, 465, 466, 471, 474, 115, 302, 109 r/w 120 (B) & 34 of I.P.C** and to prosecute them before the competent Court as per law laid down by the constitution Bench in **K. Veeraswami Vs. UOI 1991 (3) SCC 655.**

OR

According sanction to the complaint to prosecute accused Judges under abovesaid offences or any other offences disclosed from the materials proofs available on record as mentioned in this complaint.

e) Direction for placing this complaint before second senior most Judge Shri. U.U. Lalit for taking suo-moto cognizance of contempt against CJI N.V. Ramanna, Justices Shri L. Nageshwar Rao and Shri Aniruddha Bose in view of law laid down in **P.N. Duda (1988) 3 SCC 167, Re: M.P. Dwivedi (1996) 4 SCC 152, Re: C.S. Kannan (2017) 7 SCC 1,** for their wilful disregard and defiance of the binding precedents of Hon'ble Supreme Court and also for lowering the majesty and dignity of the Supreme Court by way of their act of commission & omission.

f) Forwarding an impeachment reference against Justice L. Nageshwar Rao & Aniruddha Bose to Rajya Sabha as per **'In-House Procedure'** and as

per law laid down in **Addl. District and Session Judge 'X' Vs. Registrar (2015) 4 SCC 91**

g) Direction for constituting a special Bench of 7 Judges to hear the cases related with vaccines mandates and conspiracies to kill the Indians.'

h) Direction for constituting a special Bench of 7 Judges to hear the cases related with vaccines mandates and conspiracies to kill the Indians.

15. That, after receiving the said complaint, the CJI Shri. N.V. Ramana unwillingly removed Justice Aniruddha Bose from the said Bench and converted the two Judge Bench to three Judge Bench by adding two new Judges i.e. Shri. Justice Bhushan Gavai and Justice Smt. B.V. Nagarathna.

16. This was also unlawful because CJI Shri. N.V. Ramana is disqualified to constitute Benches or take any decision on administrative side which is having impact on judicial side.

17. That, all such acts are null and void in view of law laid down by Hon'ble Supreme Court in catena of decisions.

18. Needless to mention that, the **Hon'ble Chief Justice cannot act against the High Court Rules and law even though he is the master of the Roster.**

All his decisions are subject to pass the test of Article 14 of the Constitutional and should not be arbitrary.

18.1. That Full Bench of Karnataka High Court in **Narasimhasetty Vs. Padmasetty ILR 1998 Kar 3230** had ruled that, the exercising of the power of Master of Roster by the Chief Justice by deviating from the normal rule based on the regular practice of the Court or the statutory provisions must stand the test of reason and objectivity since such exercise will be always subject to mandates of Article 14 of the Constitution of India which absolutely prohibits the exercise of

powers in a discriminatory, arbitrary or mala fide manner and always entitle the aggrieved party to seek remedy against the same by approaching the appropriate forum.

It is ruled as under;

> ***"15.*** *It also goes without saying that while exercising powers of allocation/distribution of judicial work among the benches, it is open for the Chief Justice to devise his own method of classification of cases to ensure quick and effective disposal of cases and for effective administration of justice. Such classifications can be based on any intelligible criteria like the nature of disputes involved, valuation of the subject matter, age of the case, the areas from which the cases are arising, as also as to whether the cases pertain to private or public litigation, whether the jurisdiction to be exercised is revisional, appellate, or original, whether the cases are to be instituted on regular petitions or on informations received from known or unknown sources and the like, keeping in view the recent judgment of the Supreme Court in the case of State of Rajasthan (supra).* ***But is needs to be stressed here that the exercising of the said power by the Chief Justice by deviating from the normal rule based on the regular practice of the Court (See (1974) 2 SCC 627 : AIR 1974 SC 2269, para 6) or the statutory provisions must stand the test of reason and objectivity since such exercise will be always subject to mandates of Article 14 of the Constitution of India which absolutely prohibits the exercise of powers in a discriminatory, arbitrary or mala fide manner and always entitle the aggrieved party to seek remedy against the same by approaching the appropriate forum.*** *No judge of the High Court can claim to himself any inherent power to take cognizance of a*

particular cause either on being moved or suo moto unless it is assigned by the Chief Justice to the judge concerned. The extent of power of the Chief Justice and that of the judges of the High Court has to be now treated as authoritatively determined and clearly delineated. But it may be clarified that if any learned Judge, either suo moto or on the basis of information coming to his possession, prima facie finds that any matter, not concerning the jurisdiction assigned to him, needs to be examined in the judicial side of the High Court, then, by recording his opinion in writing, he may refer the same to the Chief Justice for being placed before an appropriate Bench."

18.2. In **Chnandrabhai K. Bhoir Vs. Krishna Arjun Bhoir (2009) 2 SCC 315** it is ruled as under;

***"26.** Thus, the said issue, in our opinion, did not attain finality. In any view of the matter, **an order passed without jurisdiction would be a nullity. It will be a coram non judice. It is non est in the eye of the law.** Principles of res judicata would not apply to such cases. (See Chief Justice of A.P. v. L.V.A. Dixitulu [(1979) 2 SCC 34 : 1979 SCC (L&S) 99] , Union of India v. Pramod Gupta [(2005) 12 SCC 1] and National Institute of Technology v. Niraj Kumar Singh [(2007) 2 SCC 481 : (2007) 1 SCC (L&S) 668])"*

18.3. Such order which is bad at inception vitiates the further proceedings. Constitution Bench in the case of **A.K. Kraipak v. Union of India (1969) 2 SCC 262** ruled that;

***"…** If the decision of the selection board is held to have been vitiated, it is -clear to our mind that the final recommendation made by the Commission must also be held to have been vitiated."*

18.4. That in **Pandurang Vs. State (1986) 4 SCC 436,** where it is ruled as under;

> ***"4…Even a "right" decision by a "wrong" forum is no decision. It is non-existent in the eye of law. And hence a nullity. The judgment under appeal is therefore no judgment in the eye of law.*** *This Court in State of M.P. v. Dewadas [(1982) 1 SCC 552 : has taken a view which reinforces our view.* ***The matter having been heard by a court which had no competence to hear the matter, it being a matter of total lack of jurisdiction.***
>
> *This right cannot be taken away .... except by amending the rules. So long as the rules are in operation it would be arbitrary and discriminatory to deny him this right regardless of whether it is done by reason of negligence or otherwise. Deliberately, it cannot be done. Negligence can neither be invoked as an alibi, nor can cure the infirmity or illegality, so as to rob the accused of his right under the rules. Even if the decision is right on merits, it is by a forum which is lacking in competence with regard to the subject-matter. We wish to add that the Registry of the High Court was expected to have realized the true position and ought not to have created a situation which resulted in waste of court time, once for hearing the appeal, and next time, to consider the effect of the rules. No court can afford this luxury with the mountain of arrears which every court is carrying these days."*

18.5. In **Sudakshina Ghosh Vs. Arunangshu Chakraborty 2008 SCC OnLine Cal 34,** ruled that the Chief Justice cannot assign the case against the rules framed by the Court.

18.6. Similar view is taken by the Hon'ble Supreme Court in the case of **Addl. District & Seesions Judge 'X' Vs. Registrar General of High Court of Madhya Pradesh (2015) 4 SCC 91.**

18.7. In **State Vs. Mamta Mohanty's case (2011) 3 SCC 436** it is ruled as under;

> "***37. It is a settled legal proposition that if an order is bad in its inception, it does not get sanctified at a later stage.*** *A subsequent action/development cannot Validate an action which was not lawful as its inception, for the reason that the illegality strikes at the root of the order. It would be beyond the competence of any authority to validate such an order……. Once the court comes to the conclusion that a wrong order has been passed, it becomes the solemn duty of the court to rectify the mistake rather than perpetuate the same.Whiledealing with a similar issue, this Court in* ***Hotel Balaji & Ors.v. State of A.P. ., AIR 1993 SC 1048*** *observed as under:*
>
> *"**...**To perpetuate an error is no heroism. To rectify it is the compulsion of judicial conscience.*

18.8. In **State of Punjab v. Davinder Pal Singh Bhullar, (2011) 14 SCC 770**, it is ruled as under;

> ***107****. It is a settled legal proposition that* ***if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order.*** *In such a fact situation, the legal maxim sublato fundamento cadit opusmeaning thereby that foundation being removed, structure/work falls, comes into play and applies on all scores in the present case.*

108. *In Badrinath v. Govt. of T.N. [(2000) 8 SCC 395 : 2001 SCC (L&S) 13 : AIR 2000 SC 3243] and State of Kerala v. Puthenkavu N.S.S. Karayogam [(2001) 10 SCC 191] this Court observed that once the basis of a proceeding is gone, all consequential acts, actions, orders would fall to the ground automatically and this principle is applicable to judicial, quasi-judicial and administrative proceedings equally.*

109. *Similarly in Mangal Prasad Tamoli v. Narvadeshwar Mishra [(2005) 3 SCC 422] this Court held that if an order at the initial stage is bad in law, then all further proceedings, consequent thereto, will be non est and have to be necessarily set aside.*

110. *In C. Albert Morris v. K. Chandrasekaran [(2006) 1 SCC 228] this Court held that a right in law exists only and only when it has a lawful origin. (See also Upen Chandra Gogoi v. State of Assam [(1998) 3 SCC 381 : 1998 SCC (L&S) 872] , Satchidananda Misra v. State of Orissa [(2004) 8 SCC 599 : 2004 SCC (L&S) 1181] , SBI v. Rakesh Kumar Tewari [(2006) 1 SCC 530 : 2006 SCC (L&S) 143] and Ritesh Tewari v. State of U.P. [(2010) 10 SCC 677 : (2010) 4 SCC (Civ) 315 : AIR 2010 SC 3823])*

111. *Thus, in view of the above, we are of the considered opinion that the orders impugned being a nullity, cannot be sustained. As a consequence, subsequent proceedings/ orders/ FIR/ investigation stand automatically vitiated and are liable to be declared non est.*

19. The second important petition against vaccine mafia's frauds is filed by Dr. Ajay Gupta bearing **W.P. No.(C) 588 of 2021**, In the said petition also the company Bharat Biotech is a party Respondent said petition is not yet listed by Shri. N.V. Ramana. He did not allocate it to any Bench. The proper procedure which should have been followed

by CJI Shri. N.V. Ramana was to ask the Registry to place both the petitions before second senior most Judge Shri. Uday Umesh Lalit and allow him to take a decision of allocating the appropriate Bench.

20. But Shri. N.V. Ramana acted illegally and unlawfully and only for the welfare of vaccine companies and acted against the welfare of law and the citizen and this is an unbecoming of a Judge.

21. Hence, the CJI Shri. N.V. Ramana is guilty of Contempt of Supreme Court's binding precedents and he is also guilty of offences u/s **52, 166, 218, 219, 409, 120(B), 34, 109** etc., of IPC.

22. LAW REGARDING UNJUST DISCRETION AND FRAUD ON POWER BY A JUDGE.:-

22.1. Hon'ble Supreme Court in **Medical Council of India Vs G.C.R.G. Memorial Trust & Others (2018) 12 SCC 564** has ruled as under:

> ***The judicial propriety requires judicial discipline. Judge cannot think in terms of "what pleases the Prince has the force of law". Frankly speaking, the law does not allow so, for law has to be observed by requisite respect for law.***
>
> ***A Judge should abandon his passion. He must constantly remind himself that he has a singular master "duty to truth" and such truth is to be arrived at within the legal parameters. No heroism, no rhetorics.***
>
> ***A Judge even when he is free, is still not wholly free; he is not to innovate at pleasure; he is not a knighterrant roaming at will in pursuit of his own ideal of beauty or of goodness; he is to draw inspiration from consecrated principles***

10. In this context, we may note the eloquent statement of Benjamin Cardozo who said:

The judge is not a knight errant, roaming at will in pursuit of his own ideal of beauty and goodness.

11. In this regard, the profound statement of Felix Frankfurter1 is apposite to reproduce:

For the highest exercise of judicial duty is to subordinate one's personal pulls and one's private views to the law of which we are all guardians-<u>those impersonal convictions that make a society a civilized community, and not the victims of personal rule.</u>

The learned Judge has further stated:

What becomes decisive to a Justice's functioning on the Court in the large area within which his individuality moves is his general attitude toward law, the habits of the mind that he has formed or is capable of unforming, his capacity for detachment, his temperament or training for putting his passion behind his judgment instead of in front of it. The attitudes and qualities which I am groping to characterize are ingredients of what compendiously might be called dominating humility.

13. In this context, we may refer with profit the authority in Om ***Prakash Chautala v. Kanwar Bhan MANU/SC/0075/2014 : (2014) 5 SCC 417*** *wherein it has been stated:*

19. It needs no special emphasis to state that a Judge is not to be guided by any kind of notion. The decision making process expects a Judge or an adjudicator to apply restraint, ostracise perceptual subjectivity, make one's emotions subservient to one's reasoning and think dispassionately. He is expected to be guided by the established norms of judicial process and decorum.

And again:

20. A Judge should abandon his passion. He must constantly remind himself that he has a singular master "duty to truth" and such truth is to be arrived at within the legal parameters. No heroism, no rhetorics.

14. In ***Dwarikesh Sugar Industries Ltd. v. Prem Heavy Engineering Works (P) Ltd. and Anr. MANU/SC/0639/1997 : (1997) 6 SCC 450****, the threeJudge Bench observed:*

32. When a position in law is well settled as a result of judicial pronouncement of this Court, it would amount to judicial impropriety to say the least, for the subordinate courts including the High Courts to ignore the settled decisions and then to pass a judicial order which is clearly contrary to the settled legal position. Such judicial adventurism cannot be permitted and we strongly deprecate the tendency of the subordinate courts in not applying the settled principles and in passing whimsical orders which necessarily has the effect of granting wrongful and unwarranted relief to one of the parties. It is time that this tendency stops.

15. The aforestated thoughts are not only meaningfully pregnant but also expressively penetrating. They clearly expound the role of a Judge, especially the effort of understanding and attitude of judging. ***A Judge is expected to abandon his personal notion or impression gathered from subjective experience. The process of adjudication lays emphasis on the wise scrutiny of materials sans emotions. A studied analysis of facts and evidence is a categorical imperative. Deviation from them is likely to increase the individual gravitational pull which has the potentiality to take justice to her coffin.***

22.2. In the case of **Official Liquidator Vs. Dayananad (2008) 10 SCC 1** ruled as under;

"Court cannot act contrary to law and expect others to obey their orders- If the courts command others to act in accordance with the provisions of the Constitution and the rule of law, it is not possible to countenance violation of the constitutional principle by those who are required to lay down the law."

22.3. Supreme Court in **Smt. Prabha Sharma Vs. Sunil Goyal and Ors. (2017) 11 SCC 77,** where it is ruled as under;

"Article 141 of the Constitution of India - disciplinary proceedings against Additional District Judge for not following the Judgments of the High Court and Supreme Court - judicial officers are bound to follow the Judgments of the High Court and also the binding nature of the Judgments of this Court in terms of Article 141 of the Constitution of

India. We make it clear that the High Court is at liberty to proceed with the disciplinary proceedings and arrive at an independent decision.

BRIEF HISTORY (From : (MANU/RH/1195/2011))

High Court initiated disciplinary proceedings against Appellant who is working as Additional District Judge, Jaipur City for not following the Judgments of the High Court and Supreme Court. Appellant filed SLP before Supreme Court - Supreme Court dismissed the petition.

Held, the judgment, has mainly stated the legal position, making it clear that the judicial officers are bound to follow the Judgments of the High Court and also the binding nature of the Judgments of this Court in terms of Article 141 of the Constitution of India. We do not find any observation in the impugned judgment which reflects on the integrity of the Appellant. Therefore, it is not necessary to expunge any of the observations in the impugned Judgment and to finalise the same expeditiously.

Based on this Judgment, disciplinary proceedings have been initiated against the Appellant by the High Court. We make it clear that the High Court is at liberty to proceed with the disciplinary proceedings and arrive at an independent decision and to finalise the same expeditiously."

23. LAW REGARDING ACTION OF CONTEMPT AGAINST SUPREME COURT JUDGES.:-

23.1. That, in **Subrata Roy Sahara Vs. UOI (2014) 8 SCC 470,** it is ruled that if any Supreme Court Judge/Bench is not performing his/its duty as per binding

judgments/ direction of the Supreme Court then such Judge will be guilty of contempt of Hon'ble Supreme Court.

23.2. Seven Judge Bench in **Re: C.S. Karnan (2017) 7 SCC 1,** has ruled that, anyone can file contempt petition against judges. Judges have no protection.

It is ruled as under;

> ***"1**. The task at our hands is unpleasant. It concerns actions of a Judge of a High Court. The instant proceedings pertain to **alleged actions of criminal contempt, committed by Shri Justice C.S. Karnan**. The initiation of the present proceedings suo motu, is unfortunate. In case this Court has to take the next step, leading to his conviction and sentencing, the Court would have undoubtedly travelled into virgin territory. This has never happened. This should never happen. **But then, in the process of administration of justice, the individual's identity, is clearly inconsequential. This Court is tasked to evaluate the merits of controversies placed before it, based on the facts of the case. It is expected to record its conclusions, without fear or favour, affection or ill will.***
>
> ***60.** Faced with an unprecedented situation resulting from the incessant questionable conduct of the contemnor perhaps made the Chief Justice of India come to the conclusion that all the abovementioned questions could better be examined by this Court on the judicial side. **We see no reason to doubt the authority/jurisdiction of this Court to initiate the contempt proceedings. Hypothetically speaking, if somebody were to move this Court alleging that the activity of Justice Karnan***

tantamounts to contempt of court and therefore appropriate action be taken against him, this Court is bound to examine the questions. It may have accepted or rejected the motion. But the authority or jurisdiction of this Court to examine such a petition, if made, cannot be in any doubt. *Therefore, in our opinion, the fact that the present contempt proceedings are initiated suo motu by this Court makes no difference to its maintainability."*

23.3. Constitution Bench of this Hon'ble Court in **Baradakanta Mishra Ex-Commissioner of Endowments v. Bhimsen Dixit, (1973) 1 SCC 446** had ruled that, any other contempt proceedings should not be taken in to consideration.

"15. The conduct of the appellant in not following previous decisions of the High Court is calculated to create confusion in the administration of law. It will undermine respect for law laid down by the High Court and impair the constitutional authority of the High Court. *His conduct is therefore comprehended by the principles underlying the law of Contempt. The analogy of the inferior court's disobedience to the specific order of a superior court also suggests that his conduct falls within the purview of the law of Contempt. Just as the disobedience to a specific order of the Court undermines the authority and dignity of the court in a particular case, similarly the deliberate and mala fide conduct of not following the law laid down in the previous decision undermines the constitutional authority and respect of the High Court. Indeed, while the former conduct has repercussions on an individual case and on a limited number of persons, the latter conduct has a much wider and more*

*disastrous impact. It is calculated not only to undermine the constitutional authority and respect of the High Court, generally, but is also likely to subvert the Rule of Law and engender harassing uncertainty and confusion in the administration of law**".***

(Emphasis supplied)"

23.4. In **Legrand (India) Private Ltd. Vs. Union of India 2007 (6) Mh.L.J.146**, it is ruled as under;

"9(c).** If in spite of the earlier exposition of law by the High Court having been pointed out and attention being pointedly drawn to that legal position, in utter disregard of that position, proceedings are initiated, it must be held to be a wilful disregard of the law laid down by the High Court and would amount to civil contempt as defined in Section 2(b) of the Contempt of Courts Act, 1971.**"

24. RELEVANT PROVISIONS OF INDIAN PENAL CODE:-

24.1. Section 218,166,219,409,120(B) read thus;

218. Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.—Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from

forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

166. Public servant disobeying law, with intent to cause injury to any person.—Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both. Illustration A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

219. Public servant in judicial proceeding corruptly making report, etc., contrary to law.—Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

409. Criminal breach of trust by public servant, or by banker, merchant or agent.—Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with 1[imprisonment for life], or with

imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

120B. Punishment of criminal conspiracy.—

(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, 2[imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]

24.2. CASE LAWS IN SECTION 218 OF IPC:-

25.2.1. The section is concerned with bringing erring public servants to book for falsifying the public records in their charge. The essence of the offence under section 218 is intent to cause loss or injury to any public or person or thereby save any person from legal punishment or save any property from forfeiture or any other charge, **Biraja Prosad Rao Vs. Nagendra Nath, (1985) 1 Crimes 446 (Ori.)**

24.2.2. ACTUAL COMMISSION OF OFFENCE NOT NECESSARY:

The actual guilt or innocence of the alleged offender is immaterial if the accused believes him guilty and intends to screen him, **Hurdut Surma, (1967) 8 WR (Cr.) 68**.

24.2.3. The question is not whether the accused will be able to accomplish the object he had in view, but whether he made the entries in question with the intention to cause or knowing it to be likely that he will thereby cause

loss and injury. The fact that the accused conceived a foolish plan of injuring in retaliation of the disgrace inflicted upon him by his arrest is no ground for exculpating him from the offence, **Narapareddi Seshareddi, In Re, AIR 1938 Mad 595.**

24.2.4. Where the accused increased the marks of particular persons for pecuniary benefits during the course of preparing final record for appointment as physical education teacher, it was held that the offence alleged is clearly made out, **Rakesh Kumar Chhabra Vs. State of H.P., 2012 Cr.L.J. 354 (HP)**

24.2.5. For the purpose of an offence punishable under section 218 the actual guilt or otherwise of the offender alleged as sought to be screened from punishment is immaterial. It is quite sufficient that the commission of a congnizable offence has been brought to the notice of the accused officially and that in order to screen the offender that accused prepared the record in a manner which he knew to be incorrect, **Moti Ram Vs. Emperor, AIR 1925 Lah 461.**

24.2.6. The Supreme Court has held that, if a police officer has made a false entry in his diary and manipulated other records with a view to save the accused was subsequently acquitted of the offence cannot make it any the less an offence under this section, **Maulud Ahmad Vs. State of U.P.,(1964) 2 Cr.L.J. 71 (SC).**

24.2.7. Where it was proved that, the accused's intention in making a false report was to stave off the discovery of the previous fraud and save himself or the actual perpetrator of that fraud from legal punishment, it was held that he was guilty of this offence, **Girdhari Lal, (1886) 8 All 633.**

25. LAW REGARDING PROSECUTION OF CHIEF JUSTICE OF INDIA.:-

25.1. Constitution Bench of Hon'ble Supreme Court in **K. Veeraswami Vs. Union of India 1991 (3) SCC 655,** has dealt this issue and made it clear that, the Hon'ble President of India has to consult with second senior most Judge regarding sanctioning of prosecution of Chief Justice of India.

It is ruled as under;

> ***"12….*** *The President, therefore, being the authority competent to appoint and to remove a Judge, of course in accordance with the procedure envisaged in Article 124, clauses (4) and (5) of the Constitution, may be deemed to be the authority to grant sanction for prosecution of a Judge under the provisions of Section 6(1)(c) in respect of the offences provided in Section 5(1)(e) of the Prevention of Corruption Act, 1947. In order to adequately protect a Judge from frivolous prosecution and unnecessary harassment the President will consult the Chief Justice of India who will consider all the materials placed before him and tender his advice to the President for giving sanction to launch prosecution or for filing FIR against the Judge concerned after being satisfied in the matter. The President shall act in accordance with advice given by the Chief Justice of India.*
>
> **……...**
>
> ***Similarly in the case of Chief Justice of India the President shall consult such of the Judges of the Supreme Court as he may deem fit and proper and the President shall act in accordance with the advice given to him by the Judge or Judges of the Supreme Court."***

25.2. That, such issue is recently faced by the Supreme Court where the complaint against CJI was enquired by the second senior most Judge Sh. S.A. Bobde.

26. LAW REGARDING PROSECUTION OF SUPREME COURT JUDGES IN INDIA;

26.1. In **K. Veeraswami Vs. UOI (1991) 3 SCC 655,** it is ruled as under;

> ***"SANCTIONING AUTHORITY FOR PROSECUTION OF HIGH COURT & SUPREME COURT JUDGES IS HON'BLE PRECEDENT OF INIDA – JUDGE SHOULD RESIGN HIMSELF:***
>
> ***12……****In order to adequately protect a Judge from frivolous prosecution and unnecessary harassment the President will consult the Chief Justice of India who will consider all the materials placed before him and tender his advice to the President for giving sanction to launch prosecution or for filing FIR against the Judge concerned after being satisfied in the matter. The President shall act in accordance with advice given by the Chief Justice of India. If the Chief Justice is of opinion that it is not a fit case for grant of sanction for prosecution of the Judge concerned the President shall not accord sanction to prosecute the Judge. This will save the Judge concerned from unnecessary harassment as well as from frivolous prosecution against him as suggested by my learned brother Shetty, J., in his judgment. Similarly in the case of Chief Justice of India the President shall consult such of the Judges of the Supreme Court as he may deem fit and proper and the President shall act in*

accordance with the advice given to him by the Judge or Judges of the Supreme Court. The purpose of grant of previous sanction before prosecuting a public servant i.e. a Judge of the High Court or of the Supreme Court is to protect the judge from unnecessary harassment and frivolous prosecution more particularly to save the Judge from the biased prosecution for giving judgment in a case which goes against the government or its officers though based on good reasons and rule of law.

53. *It is inappropriate to state that conviction and sentence are no bar for the Judge to sit in the court. We may make it clear that if a Judge is convicted for the offence of criminal misconduct or any other offence involving moral turpitude, it is but proper for him to keep himself away from the court. He must voluntarily withdraw from judicial work and await the outcome of the criminal prosecution. If he is sentenced in a criminal case he should forthwith tender his resignation unless he obtains stay of his conviction and sentence. He shall not insist on his right to sit on the bench till he is cleared from the charge by a court of competent jurisdiction.* ***The judiciary has no power of the purse or the sword. It survives only by public confidence and it is important to the stability of the society that the confidence of the public is not shaken. The Judge whose character is clouded and whose standards of morality and rectitude are in doubt may not have the judicial independence and may not command confidence of the public. He must voluntarily withdraw from the judicial work and administration.***

The emphasis on this point should not appear superfluous. Prof. Jackson says "Misbehaviour by a Judge, whether it takes place on the bench or off the bench, undermines public confidence in the administration of justice, and also damages public respect for the law of the land; ***if nothing is seen to be done about it, the damage goes unrepaired. This a must be so when the judge commits a serious criminal offence and remains in office".*** *(Jackson's Machinery of Justice by J.R. Spencer, 8th Edn. pp. 369-70* ***(Para 54)"***

26.2. In **Shameet Mukherjee Vs. C.B.I. 2003 SCC OnLine Del 821** it is ruled as under;

"Cr. P.C. – Section 439 – *Accused was a Judge of High Court – Arrested under section 120 – B, IPC r/w sec. 7,8,11,12,13 (1) of prevention of corruption Act.- Charges of misuse of power for passing favourable order – Petitioner/accused is having relationship with another accused – Petitioner used to enjoy his hospitality in terms of wine and women – 12 days police remand granted but nothing incriminating was found – Petitioner's wife is ill – Held petitioner entitled to be released on bail.****"*

26.3. In **Mrs. Nirmal Yadav Vs. CBI 2011 SCC OnLine P&H 15415,** it is ruled as under;

"*Hon'ble Supreme Court observed:*

Be you ever so high, the law is above you." Merely because the petitioner has enjoyed one of the highest constitutional offices(Judge of a High Court), she cannot claim any special right or privilege as an accused than prescribed under law.

Rule of law has to prevail and must prevail equally and uniformly, irrespective of the status of an individual.

The petitioner Justice Mrs. Nirmal Yadav, the then Judge of Punjab and Haryana High Court found to have taken bribe to decide a case pending before her- CBI charge sheeted - It is also part of investigation by CBI that this amount of Rs.15.00 lacs was received by Ms. Yadav as a consideration for deciding RSA No.550 of 2007 pertaining to plot no.601, Sector 16, Panchkula for which Sanjiv Bansal had acquired interest. It is stated that during investigation, it is also revealed that Sanjiv Bansal paid the fare of air tickets of Mrs. Yadav and Mrs. Yadav used matrix mobile phone card provided to her by Shri Ravinder Singh on her foreign visit. To establish the close proximity between Mrs. Yadav, Ravinder Singh, Sanjiv Bansal and Rajiv Gupta, CBI has given details of phone calls amongst these accused persons during the period when money changed hands and the incidence of delivery of money at the residence of Ms. Nirmaljit Kaur and even during the period of initial investigation - the CBI concluded that the offence punishable under Section 12 of the PC Act is established against Ravinder Singh, Sanjiv Bansal and Rajiv Gupta whereas offence under Section 11 of the PC Act is established against Mrs. Justice Nirmal Yadav whereas offence punishable under Section 120-B of the IPC read with Sections 193, 192, 196, 199 and 200 IPC is also established against Shri Sanjiv Bansal, Rajiv Gupta and Mrs. Justice Nirmal yadav

It has been observed by Hon'ble Supreme Court ***"Be you ever so high, the law is above you." Merely because the petitioner has enjoyed one of the highest constitutional offices (Judge of a High Court), she cannot claim any special right or privilege as an accused than prescribed under law. Rule of law has to prevail and must prevail equally and uniformly, irrespective of the status of an individual.*** *Taking a panoptic view of all the factual and legal issues, I find no valid ground for judicial intervention in exercise of inherent jurisdiction vested with this Court. Consequently, this petition is dismissed.*

B) In-House procedure 1999 , for enquiry against High Court and Supreme Court Judges - Since the matter pertains to allegations against a sitting High Court Judge, the then Hon'ble Chief Justice of India, constituted a three members committee comprising of Hon'ble Mr. Justice H.L. Gokhale, the then Chief Justice of Allahabad High Court, presently Judge of Hon'ble Supreme Court, Justice K.S. Radhakrishnan, the then Chief Justice of Gujarat High Court, presently, Judge of Hon'ble Supreme Court and Justice Madan B. Lokur, the then Judge of Delhi High Court, presently Chief Justice Gauhati High Court in terms of In-House procedure adopted by Hon'ble Supreme Court on 7.5.1997. The order dated 25.8.2008 constituting the Committee also contains the terms of reference of the Committee. The Committee was asked to enquire into the allegations against Justice Mrs. Nirmal Yadav, Judge of Punjab and Haryana High Court revealed, during the

course of investigation in the case registered vide FIR No.250 of 2008 dated 16.8.2008 at Police Station, Sector 11, Chandigarh and later transferred to CBI. The Committee during the course of its enquiry examined the witnesses and recorded the statements of as many as 19 witnesses, including Mrs. Justice Nirmal Yadav (petitioner), Ms. Justice Nirmaljit Kaur, Sanjiv Bansal, the other accused named in the FIR and various other witnesses. The Committee also examined various documents, including data of phone calls exchanged between Mrs. Justice Nirmal Yadav and Mr. Ravinder Singh and his wife Mohinder Kaur, Mr. Sanjiv Bansal and Mr. Ravinder Singh, Mr. Rajiv Gupta and Mr. Sanjiv Bansal. On the basis of evidence and material before it, the Committee of Hon'ble Judges has drawn an inference that the money delivered at the residence of Hon'ble Ms. Justice Nirmaljit Kasectionur was in fact meant for Ms. Justice Nirmal Yadav."

26.4. In **Jagat Patel Vs State of Gujarat 2016 SCC OnLine Guj 4517** it is ruled as under;

"*Two Judges caught in sting operation – demanding bribe to give favourable verdict – F.I.R. registered – Two accused Judges arrested – Police did not file charge-sheet within time – Accused Judges got bail – complainant filed writ for transferring investigation.*

Held, the police did not collected evidence, phone details – CDRS – considering apparent lapses on the part of police,

High Court transferred investigation through Anti-Corruption Bureau.

A Constitution Bench of this Court in Subramanian Swamy v. Director, Central Bureau of Investigation & Anr. (2014) 8 SCC 682, reiterated that corruption is an enemy of the nation and tracking down corrupt public servants and punishing such persons is a necessary mandate of the Act 1988.

Not only this has a demoralising bearing on those who are ethical, honest, upright and enterprising, it is visibly antithetical to the quintessential spirit of the fundamental duty of every citizen to strive towards excellence in all spheres of individual and collective activity to raise the nation to higher levels of endeavour and achievement.

It encourages defiance of the rule of law and the propensities for easy materialistic harvests, whereby the society's soul stands defiled, devalued and denigrated.

Corruption is a vice of insatiable avarice for self-aggrandizement by the unscrupulous, taking unfair advantage of their power and authority and those in public office also, in breach of the institutional norms, mostly backed by minatory loyalists. Both the corrupt and the corrupter are indictable and answerable to the society and the country as a whole. This is more particularly in re the peoples' representatives in public life committed by the oath of the office to dedicate oneself to the unqualified welfare of the laity, by faithfully and conscientiously discharging their duties attached thereto in

accordance with the Constitution, free from fear or favour or affection or ill-will. A self-serving conduct in defiance of such solemn undertaking in infringement of the community's confidence reposed in them is therefore a betrayal of the promise of allegiance to the Constitution and a condemnable sacrilege. Not only such a character is an anathema to the preambular promise of justice, liberty, equality, fraternal dignity, unity and integrity of the country, which expectantly ought to animate the life and spirit of every citizen of this country, but also is an unpardonable onslaught on the constitutional religion that forms the bedrock of our democratic polity.

Both the Presiding Officers and two staff members were suspended by the Gujarat High Court and a first information report being I-C.R. No. 1 of 2015 came to be registered

The accused-judicial officers preferred Special Criminal Application, seeking a writ of mandamus, which ultimately came to be rejected by this Court on the ground that it was a large scale scam. The Court further observed in its prima facie conclusion that the officers have tarnished the image of the judiciary and the facts of the case are gross and disturbing.

Both the said accused were arrested and produced before the learned District and Sessions Judge. The regular bail application preferred by them came to be rejected and they were sent to the judicial custody. It is alleged that except the evidence furnished by the petitioner, no fresh evidence came

to be collected by the respondent No. 2-Investigating Officer. The slipshod manner of investigation of the complaint led the petitioner to approach the High Court.

It is the grievance of the petitioner that due to improper investigation by an incompetent Police Officer, there are many more accused who are roaming freely in the society and no attempts have been made to arrest the seven advocates who were a part of this corruption racket. It is also their say that in a zeal to protect the erring officer, the remand of both the accused persons has not been sought for. The reason of unaccounted wealth received towards the illegal gratification has not been pressed into service for seeking remand. The deliberate lapse on the part of the respondent No. 2 has jeopardised the audio and video proof which have been tendered. The hard disk which is a preliminary evidence and the CD-a secondary evidence, have been ignored. The charge sheet ought to have been filed within a period of sixty days from the date of the arrest of the accused, which since was not done, it resulted into their release as they both have been given default bail. According to the petitioner, it was the duty of the respondent as well as the Registrar (Vigilance) to check the entire hard disk to find out other and further corrupt practices by the accused persons. Therefore, it is urged that the investigation be carried out by a person having impeccable integrity.

Dealing firstly with the first issue of remand, it is not in dispute that the remand of the accused who both are the

judicial officers and allegedly involved in corrupt practice has not been sought for.

From the beginning it is the case of the complainant that the conduct, which has been alleged in the complaint has brought disrepute to the investigation. It is also his say that huge amount of illegal gratification had been demanded by both the judicial officers in the pending matters and, therefore, to presume that there was no material to seek remand, is found unpalatable. It is an uncontroverted fact that the Vigilance Officer (VO-II), who has filed his affidavit-in-reply, has retired during the pendency of the investigation. While he continued to act as Investigating Officer also, he could have conducted the investigation more effectively and with scientific precision. To be complacent and/or to presume anything while handling serious investigation cannot be the answer to the requirements of law. It though may not be said to be an attempt to save the accused, it surely is an act, which would raise the eye-brows, particularly when the investigation was at a very nascent stage against the judicial officers. Recourse of the society against all kinds of injustice and violation of law when is in the judiciary, all the more care would be essential when judicial officers themselves are alleged of demand of bribe for discharging their duties under the law. Not that remand in every matter is a must to be sought. But, the stand taken by the Investigating Officer to justify his stand leaves much to be desired.

At the time of hearing of this petition, when a specific query was raised as to why the charge sheet was not filed within the

time frame, non-receipt of report from the Forensic Science Laboratory was shown to be one of the strongest grounds

Undoubtedly, in every criminal matter where the investigation is to be completed and the charge sheet is to be laid either within 60 days or 90 days, the report of the Forensic Science Laboratory does not necessarily form the part of the papers of the charge sheet. The Criminal Manual also provides for submission of the Forensic Science Laboratory report if not submitted with the charge sheet, at a belated stage.

It is not a sound reason put forth on the part of the Investigating Officer that the pendency of the Forensic Science Laboratory report had caused delay in filing the charge sheet

Such time limit to place the charge sheet could not have gone unnoticed and that ought not to have furnished a ground for default bail when otherwise these officers were refused bail by the competent Court.

Even when the CD did not reveal giving of illegal gratification, but only demand, how could all other angles of this serious issues be left to the guesswork. To say that after the Special Officer (Vigilance) recorded the statement of the complainant and collected some material, nothing remained to be collected, is the version of the Investigating Officer wholly unpalatable. After a thorough investigation, he would have a right to say so and the Court if is not satisfied or the complainant finds it unacceptable, he can request for further

investigation under section 173(8) of the Code of Criminal Procedure. But, how could an Investigating Officer presume from the tenor of the complaint or the CD sent by the complainant about non-availability of the evidence.

To give only one example, it is unfathomable as to why the Investigating Officer failed to call CDRs in this matter.

In every ordinary criminal matter also, collecting of CDRs is found to be a very useful tool to prove whereabouts of parties and also to link and resolve many unexplained links. CDRs are held to be the effective tool by a Division Bench of this Court in one of the appeals, by holding thus:

"It would be apt to refer to certain vital details CDR, which known as Call detail record as also Call Data record, available on the internet [courtesy Wikipedia]. The CDR contains data fields that describe a specific instance of telecommunication transaction minus the content of that transaction. CDR contains attributes, such as [a] calling party; [b] called party; [c] date and time; [e] call duration; [f] billing phone number that is charged for the call; [g] identification of the telephone exchange; [h] a unique sequence number identifying the record; [i] additional digits on the called number, used to route the call; [j] result of the call ie., whether the same was connected or not; [k] the route by which call left the exchange; [l] call type [ie., voice, SMS, etc.].

Call data records also serve a variety of functions. For telephone service providers, they are critical to the production of revenue. For law enforcement, CDRs provide a wealth of information that can help to identify suspects, in that they can reveal details as to an individual's relationships with associates, communication and behavior patterns and even location data that can establish the whereabouts of an individual during the entirety of the call. For companies with PBX telephone systems, CDRs provide a means of tracking long distance access, can monitor telephone usage by department; including listing of incoming and outgoing calls.

In a simpler language, it can be said that the technology can be best put to use in the form of CDRs which contains data fields describing various details, which also includes not only the phone number of the subscriber originating the call and the phone number receiving such call etc., but, the details with regard to the individual's relationships with associates, the behaviour patterns and the whereabouts of an individual during the entirety of the call.

The whole purpose of CDR is not only to establish the number of phone calls which may be a very strong circumstance to establish their intimacy or behavioral conduct. Beyond that, such potential evidence also can throw light on the location of the mobile phone and in turn many a times, the position and whereabouts of the person using them with the aid of mobile phone tracking and phone positioning, location of mobile phone and its user is feasible. As the mobile phone ordinarily communicates wirelessly with the closest base station. In

other words, ordinarily, signal is made available to a mobile phone from the nearest Mobile tower. In the event of any congestion or excessive rush on such mobile tower, there is an inbuilt mechanism of automatic shifting over to the next tower and if access is also not feasible there, to the third available tower. This being largely a scientific evidence it may have a material bearing on the issue, and therefore, if such evidence is established scientifically before the Court concerned, missing link can be provided which more often than not get missed for want of availability of credible eye-witnesses. We have noticed that in most of the matters these days, scientific and technical evidence in the form of Call Data Record is evident. However, its better and further use for the purpose of revealing and establishing the truth is restricted by not examining any witness nor bringing on record the situation of the mobile towers. Such kind of evidence, more particularly in case of circumstantial evidence will be extremely useful and may not allow the truth to escape, as the entire thrust of every criminal trial is to reach to the truth."

25. With the nature of direct allegations of demand of illegal gratification by the judicial officers for disposition of justice, they would facilitate further investigation and also may help establishing vital links. No single reason is given for not collecting the CDRs during the course of investigation of crime in question.

This Court has exercised the power to transfer investigation from the State Police to the CBI in cases where such transfer

is considered necessary to discover the truth and to meet the ends of justice or because of the complexity of the issues arising for examination or where the case involves national or international ramifications or where people holding high positions of power and influence or political clout are involved.

The Apex Court in the said decision further observed that the purpose of investigation is to reach to the truth in every investigation. For reaching to the truth and to meet with the ends of justice, the Court can exercise its powers to transfer the investigation from the State Police to the Central Bureau of Investigation. Such powers are to be exercised sparingly and with utmost circumspection.

In Sanjiv Kumar v. State of Haryana and Others (2005) 5 SCC 517, where this Court has lauded the CBI as an independent agency that is not only capable of but actually shows results:

CBI as a Central investigating agency enjoys independence and confidence of the people. It can fix its priorities and programme the progress of investigation suitably so as to see that any inevitable delay does not prejudice the investigation of the present case. They can think of acting fast for the purpose of collecting such vital evidence, oral and documentary, which runs the risk of being obliterated by lapse of time. The rest can afford to wait for a while. We hope that the investigation would be entrusted by the Director, CBI to an officer of unquestioned independence and then monitored so as to reach a successful conclusion; the truth is discovered

and the guilty dragged into the net of law. Little people of this country, have high hopes from CBI, the prime investigating agency which works and gives results. We hope and trust the sentinels in CBI would justify the confidence of the people and this Court reposed in them.

Mere glance at these two documents also prima facie reveal hollowness of the investigation in criminal matter and this Court is further vindicated by these materials that the matter requires consideration.

It is certainly a case where the investigation requires to be conducted by a specialised agency which is well equipped with manpower and other expertise.

Some of the aspects where the said officer Ms. Rupal Solanki, Assistant Director, Anti-Corruption Bureau, needs to closely look at and investigate are:

*"**(i)** The collection of CDRs of the accused and all other persons concerned with the crime in question.*

***(ii)** Non-recordance of any statements of advocates and litigants by the then Investigating Officer except those which had been recorded by the Special Officer (Vigilance) at the time of preliminary investigation.*

***(iii)** Investigation concerning various allegations of demand of illegal gratification by both the judicial officers and the details which have been specified in the CD, as also reflected*

in the imputation of charges for the departmental proceedings.

(iv) *The issue of voice spectography in connection with the collection of the voice sample in accordance with law.*

(v) *The examination of hard disk/CPU by the Forensic Science Laboratory, which is in possession of the petitioner.*

(vi) *Investigation against all other persons who are allegedly involved in abetting this alleged crime of unpardonable nature.*

(vii) *All other facets of investigation provided under the law, including disproportionate collection of wealth which she finds necessary to reach to the truth in the matter.**"***

26.5. In **Addl. District and Session Judge 'X' Vs. Registrar (2015) 4 SCC 91** it is ruled as under;

"33. *The "In-House Procedure", as determined with reference to the Judges of the High Court, is accordingly being extracted hereunder:*

*"**High Court Judge***

A complaint against a Judge of a High Court is received either by the Chief Justice of that High Court or by the Chief Justice of India (CJI). Sometimes such a complaint is made to the President of India. The complaints that are received by the President of India are generally forwarded to the CJI. The Committee suggests the following procedure for dealing with such complaints:

(1) *Where the complaint is received against a Judge of a High Court by the Chief Justice of that High Court, he shall examine it. If it is found by him that it is frivolous or directly related to the merits of a substantive decision in a judicial matter or does not involve any serious complaint of misconduct or impropriety, he shall file the complaint and inform the CJI accordingly. If it is found by him that the complaint is of a serious nature involving misconduct or impropriety, he shall ask for the response thereto of the Judge concerned. If on a consideration of the allegations in the complaint in the light of the response of the Judge concerned, the Chief Justice of the High Court is satisfied that no further action is necessary he shall file complaint and inform the CJI accordingly. If the Chief Justice of the High Court is of the opinion that the allegations contained in the complaint need a deeper probe, he shall forward to the CJI the complaint and the response of the Judge concerned along with his comments.*

(2) *When the complaint is received by the CJI directly or it is forwarded to him by the President of India the CJI will examine it. If it is found by him that it is either frivolous or directly related to the merits of a substantive decision in a judicial matter or does not involve any serious complaint of misconduct or impropriety, he shall file it. In other cases the complaint shall be sent by the CJI to the Chief Justice of the High Court concerned for his comments. On the*

receipt of the complaint from CJI the Chief Justice of the High Court concerned shall ask for the response of the Judge concerned. If on a consideration of the allegations in the complaint in the light of the response of the Judge concerned the Chief Justice of the High Court is satisfied that no further action is necessary or if he is of the opinion that the allegations contained in the complaint need a deeper probe, he shall return the complaint to the CJI along with a statement of the response of the Judge concerned and his comments.

(3) *After considering the complaint in the light of the response of the Judge concerned and the comments of the Chief Justice of the High Court, the CJI, if he is of the opinion that a deeper probe is required into the allegations contained in the complaint, shall constitute a three-member Committee consisting of two Chief Justices of High Courts other than the High Court to which the Judge belongs and one High Court Judge. The said Committee shall hold an inquiry into the allegations contained in the complaint. The inquiry shall be in the nature of a fact-finding inquiry wherein the Judge concerned would be entitled to appear and have his say. But it would not be a formal judicial inquiry involving the examination and cross-examination of witnesses and representation by lawyers.*

(4) *For conducting the inquiry the Committee shall devise its own procedure consistent with the principles of natural justice.*

(5) *(i) After such inquiry the Committee may conclude and report to the CJI that (a) there is no substance in the allegations contained in the complaint, or (b) there is sufficient substance in the allegations contained in the complaint and the misconduct disclosed is so serious that it calls for initiation of proceedings for removal of the Judge, or (c) there is substance in the allegations contained in the complaint but the misconduct disclosed is not of such a serious nature as to call for initiation of proceedings for removal of the Judge.*

(ii) A copy of the report shall be furnished to the Judge concerned by the Committee.

(6) *In a case where the Committee finds that there is no substance in the allegations contained in the complaint, the complaint shall be filed by the CJI.*

(7) *If the Committee finds that there is substance in the allegations contained in the complaint and misconduct disclosed in the allegations is such that it calls for initiation of proceedings for removal of the Judge, the CJI shall adopt the following course:*

(i) the Judge concerned should be advised to resign his office or seek voluntary retirement;

(ii) In a case the Judge expresses his unwillingness to resign or seek voluntary retirement, the Chief Justice of the High Court concerned should be advised by the CJI not to allocate any judicial work to the Judge concerned

and the President of India and the Prime Minister shall be intimated that this has been done because allegations against the Judge had been found by the Committee to be so serious as to warrant the initiation of proceedings for removal and the copy of the report of the Committee may be enclosed.

(8) *If the Committee finds that there is substance in the allegations but the misconduct disclosed is not so serious as to call for initiation of proceedings for removal of the Judge, the CJI shall call the Judge concerned and advise him accordingly and may also direct that the report of the Committee be placed on record."*

34. *Next in sequence, we may advert to the letter dated 4-8-2008 written by the then Chief Justice of India, Mr Justice K.G. Balakrishnan, to the then Prime Minister Mr Manmohan Singh, recommending the removal of Mr Justice Soumitra Sen, then a sitting Judge of the Calcutta High Court. A relevant extract of the above letter is placed below:*

"The text of the letter written by Chief Justice of India, K.G. Balakrishnan to Prime Minister Manmohan Singh recommending removal of Mr Justice Soumitra Sen, Judge of the Calcutta High Court.

Dated: 4-8-2008

Dear Prime Minister,

I write this to recommend that the proceedings contemplated by Article 217(1) read with Article 124(4) of

the Constitution be initiated for removal of Mr Justice Soumitra Sen, Judge, Calcutta High Court.

*2-8. ****

9. Reports appeared in newspapers concerning the conduct of Justice Soumitra Sen in the abovenoted matter. The then Chief Justice of Calcutta High Court withdrew judicial work from him and wrote a letter dated 25-11-2006 to my learned predecessor bringing the matter to his notice for appropriate action.

10. On 1-7-2007 I sought a comprehensive report from the Chief Justice of the Calcutta High Court along with his views about Justice Soumitra Sen. On 12-7-2007 Justice Soumitra Sen called on me, on advice of his Chief Justice and verbally explained his conduct. He sent his report to me on 20-8-2007.

*11. ****

12. On 10-9-2007 I had asked Justice Soumitra Sen to furnish his fresh and final response to the judicial observations made against him. After seeking more time for this purpose he furnished his response on 28-9-2007 requesting that he may be allowed to resume duties in view of the order of the Division Bench of the Calcutta High Court.

13. Since I felt that a deeper probe was required to be made into the allegations made against Justice Soumitra Sen, to bring the matter to a logical conclusion, I constituted a three-member Committee consisting of Justice A.P. Shah (Chief Justice, Madras High Court),

Justice A.K. Patnaik (Chief Justice, High Court of Madhya Pradesh) and Justice R.M. Lodha (Judge, Rajasthan High Court), as envisaged in the 'In-House Procedure' adopted by the Supreme Court and various High Courts, to conduct a fact-finding enquiry, wherein the Judge concerned would be entitled to appear and have his say in the proceedings.

14. The Committee submitted its report dated 1-2-2008, after calling for relevant records and considering the submission made by Justice Soumitra Sen, who appeared in-person before the Committee. The Committee inter alia concluded that:

(a) Shri Soumitra Sen did not have honest intention right from the year 1993 since he mixed the money received as a Receiver and his personal money and converted Receiver's money to his own use.

(b) There has been misappropriation (at least temporary) of the sale proceeds since:

(i) he received Rs 24,57,000 between 25-2-1993 to 10-1-1995 but the balance in Account No. 01SLPO632800 on 28-2-1995 was only Rs 8,83,963.05.

(ii) a sum of Rs 22,83,000 was transferred by him from that account to Account No. 01SLPO813400 and, thereafter, almost entire amount was withdrawn in a couple of months reducing the balance to the bare minimum of Rs 811.56, thus, diverting the entire sale proceeds for his own use and with dishonest intention.

(c) He gave false explanation to the Court that an amount of Rs 25,00,000 was invested from the account where the sale proceeds were kept, whereas, in fact, the amount of Rs 25,00,000 was withdrawn from Special Officer's Account No. 01SLPO813400 and not from 01SLPO632800, in which the sale proceeds were deposited.

(d) Mere monetary recompense under the compulsion of judicial order does not obliterate breach of trust and misappropriation of Receiver's funds for his personal gain;

(e) The conduct of Shri Soumitra Sen had brought disrepute to the high judicial office and dishonour to the institution of judiciary, undermining the faith and confidence reposed by the public in the administration of justice.

In the opinion of the Committee misconduct disclosed is so serious that it calls for initiation of proceedings for his removal.

15. A copy of the report dated 6-2-2008 of the Committee was forwarded by me to Justice Soumitra Sen and in terms of the In-House Procedure, he was advised to resign or seek voluntary retirement. Thereupon, Justice Soumitra Sen made a detailed representation dated 25-2-2008 seeking reconsideration of the decision of his removal and sought a personal hearing. On 16-3-2008 a Collegium consisting of myself, Justice B.N. Agrawal and Justice Ashok Bhan (senior most Judges of Supreme

Court) gave a hearing to Justice Soumitra Sen and reiterated the advice given to him to submit his resignation or seek voluntary retirement on or before 2-4-2008. However, vide his letter dated 26-3-2008 Justice Soumitra Sen expressed his inability to tender resignation or seek voluntary retirement.

In view of the foregoing, it is requested that proceedings for removal of Justice Soumitra Sen be initiated in accordance with the procedure prescribed in the Constitution.

With warm regards,

Yours sincerely

sd/-

(K.G. Balakrishnan)

Hon'ble Dr Manmohan Singh,

Prime Minister of India,

7, Race Course Road,

New Delhi 110 011."

Based on the communication addressed by the Chief Justice of India, impeachment proceedings were actually initiated against Mr Justice Soumitra Sen, under Article 124 of the Constitution of India. Consequent upon his resignation, during the course of deliberation on the impeachment proceedings in Parliament, the impeachment proceedings were dropped as having been abated.

***35.** It is, therefore, apparent that the seeds of the "In-House Procedure" came to be sown in the judgment rendered by this Court in C. Ravichandran Iyer case [C. Ravichandran*

Iyer v. Justice A.M. Bhattacharjee, (1995) 5 SCC 457 : 1995 SCC (Cri) 953] . It is also apparent, that actions have been initiated under the "In-House Procedure", which has the approval of the Full Court of the Supreme Court of India. And, based on the aforestated "In-House Procedure", impeachment proceedings were actually initiated by Parliament under Article 124 of the Constitution of India. There can therefore be no doubt whatsoever, that in the above situation, the "In-House Procedure" is firmly in place, and its adoption for dealing with matters expressed by this Court in C. Ravichandran Iyer case [C. Ravichandran Iyer v. Justice A.M. Bhattacharjee, (1995) 5 SCC 457 : 1995 SCC (Cri) 953] is now a reality.

53. *In view of the consideration and the findings recorded hereinabove, we may record our general conclusions as under:*

(i) The "in-house procedure" framed by this Court, consequent upon the decision rendered in C. Ravichandran Iyer's case (supra) ***can be adopted, to examine allegations levelled against Judges of High Courts, Chief Justices of High Courts and Judges of the Supreme Court of India.***

(ii) The investigative process under the "in-house procedure" takes into consideration the rights of the complainant, and that of the concerned judge, by adopting a fair procedure, to determine the veracity of allegations levelled against a sitting Judge. At the same time, it safeguards the integrity of the judicial institution.

(iii) Even though the said procedure, should ordinarily be followed in letter and spirit, the Chief Justice of India, would have the authority to mould the same, in the facts and circumstances of a given case, to ensure that the investigative process affords safeguards, against favouritism, prejudice or bias.

(iv) In view of the importance of the "in-house procedure", it is essential to bring it into public domain. The Registry of the Supreme Court of India, is accordingly directed, to place the same on the official website of the Supreme Court of India.

54. *In the facts and circumstances of the present case, our conclusions are as under:*

(i) With reference to the "in-house procedure" pertaining to a judge of a High Court, the limited authority of the Chief Justice of the concerned High Court, is to determine whether or not a deeper probe is required. The said determination is a part of stage-one (comprising of the first three steps) of the "in-house procedure" (elucidated in paragraph 37, hereinabove). The Chief Justice of the High Court, in the present case, traveled beyond the determinative authority vested in him, under stage-one of the "in-house procedure".

(ii) The Chief Justice of the High Court, by constituting a "two-Judge Committee", commenced an in-depth probe, into the allegations levelled by the Petitioner. The procedure adopted by the Chief Justice of the High Court, forms a part of the second stage (contemplated under steps four to seven-elucidated in paragraph 37, hereinabove). The second stage

of the "in-house procedure" is to be carried out, under the authority of the Chief Justice of India. The Chief Justice of the High Court by constituting a "two-Judge Committee" clearly traversed beyond his jurisdictional authority, under the "in-house procedure".

(iii) In order to ensure, that the investigative process is fair and just, it is imperative to divest the concerned judge (against whom allegations have been levelled), of his administrative and supervisory authority and control over witnesses, to be produced either on behalf of the complainant, or on behalf of the concerned judge himself. The Chief Justice of the High Court is accordingly directed to divest Respondent No. 3-Justice 'A', of the administrative and supervisory control vested in him, to the extent expressed above.

*(iv) The Chief Justice of the High Court, having assumed a firm position, in respect of certain facts contained in the complaint filed by the Petitioner, ought not to be associated with the "in-house procedure" in the present case. In the above view of the matter, the Chief Justice of India may reinitiate the investigative process, under the "in-house procedure", by vesting the authority required to be discharged by the Chief Justice of the concerned High Court, to a Chief Justice of some other High Court, or alternatively, the Chief Justice of India may himself assume the said role.***"**

27. CASE LAWS ON PROOFS REQUIRED FOR AND PROSECUTION OF JUDGE IN CHARGES OF CONSPIRACY UNDER SECTION 120 (B) OF INDIAN PENAL CODE.:-

27.1. In **Raman Lal Vs State 2001 Cri.L.J. 800** it is ruled as under;

> ***"A] Cri. P.C. Sec. 197 – Sanction for prosecution of High Court Judge – Accused are Additional High Court Judge, Superintendent of Police Sanjeev Bhatt and others – The accused hatched conspiracy to falsely implicate a shop owner in a case under N.D.P.S. Act and when shop owner submitted to their demands he was discharged – Complaint u.s. 120-B, 195, 196, 342, 347, 357, 368, 388, 458, 482, I.P.c. and Sec. 17, 58 (1), (2) of NDPS Act – Held – there is no connection between official duty and offence – No sanction is required for prosecution – Registration of F.I.R. and investigation legal and proper.***
>
> ***B] Cri. P.C. Sec. 156 – Investigation against accused Addl. High Court Judge – Whether prior consultation with Chief Justice is necessary prior filling of F.I.R. against a High Court Judge as has been laid down by Supreme Court in K. Veerswami's case (1991) (3) SCC 655) – Held – In K. Veerswami's case Supreme Court observed that the Judges are liable to be dealt with just the same as any other person in respect of criminal offence and only in offence regarding corruption the sanction for criminal prosecution is required – the directions issued by Hon'ble Supreme Court are not applicable in instant case.***
>
> ***C] The applicant – Ram Lal Addl. High Court Judge hatched criminal conspiracy – The Bar Association submitted a representation to Hon'ble Chief Justice of India on 11-09-1997 requesting to not to confirm Raman Lal as***

Judge of the High Court – Later on he was transferred to Principal Judge of city Civil and Sessions Court at Ahmedabad – S.P. (C.I.D.) Jaipur sent a questionnaire through the registrar, Gujrat High Court to accused Addl. High Court Judge – Chief Justice granted permission to I.O. to interrogate – Later on I.O. sent letter to applicant to remain present before Chief Judicial Magistrate at the time of filing the charge-sheet – Applicant filed petition before High Court challenging it – Petition of applicant was rejected by High Court and Supreme Court in limine – No relief is required to be granted to petitioner in view of the facts of the case.

D] Conspiracy – I.P.C. Sec. 120 (B) – Apex court made it clear that an inference of conspiracy has to be drawn on the basis of circumstantial evidence only because it becomes difficult to get direct evidence on such issue – The offence can only be proved largely from the inference drawn from acts or illegal ommission committed by them in furtherance of a common design – Once such a conspiracy is proved, act of one conspirator becomes the act of the others – A Co-conspirator who joins subsequently and commits overt acts in furtherance of the conspiracy must also be held liable – Proceeding against accused cannot be quashed.

E] Jurisdiction – Continuing offence – Held – Where complainants allegations are of stinking magnitude and the authority which ought to have redressed it have closed its eyes and not even trid to find out the real offender and the clues for illegal arrest and harassment are not enquired then

he can not be let at the mercy of such law enforcing agencies who adopted an entirely indifferent attitude – Legal maxim Necessiatas sub lege Non contineture Quia Qua Quad Alias Non Est Lictum Necessitas facit Lictum, Means necessity is not restrained by laws – Since what otherwise is not lawful necessity makes it lawful – Proceeding proper cannot be quashed."

27.2. Hon'ble Bombay High Court in the case of **CBI Vs. Bhupendra Champaklal Dalal 2019 SCC OnLine Bom 140,** it is ruled as under;

CHARGE FOR THE OFFENCE OF CRIMINAL BREACH OF TRUST :-

Hon'ble Apex Court in the case of ***Ram Narain Poply Vs. Central Bureau of Investigation, AIR 2003 SC 2748,*** *wherein the Hon'ble Apex Court has, at length, dealt with the charge of criminal conspiracy, in the backdrop of the similar allegations, in a case arising out of the decision of this Court in the matter of Harshad Mehta and others. While dealing with the essential ingredients of the offence of criminal conspiracy, punishable u/s. 120 B IPC, the* ***Hon'ble Court was, in paragraph No.349 of its Judgment, pleased to hold that, "349. Privacy and secrecy are more characteristics of a conspiracy, than of a loud discussion in an elevated place open to public view.*** *Direct evidence in proof of a conspiracy is seldom available, offence of conspiracy can be proved by either direct or circumstantial evidence. It is not always possible to give affirmative evidence about the date of the formation of the criminal conspiracy, about the persons who took part in the formation of the*

conspiracy, about the object, which the objectors set before themselves as the object of conspiracy, and about the manner in which the object of conspiracy is to be carried out, all this is necessarily a matter of inference."
[Emphasis Supplied]

177. This Court can also place reliance on another landmark decision of the Hon'ble Apex Court in the case of State of Maharashtra Vs. Som Nath Thapa, (1996) 4 SCC 659, wherein the Hon'ble Apex Court was pleased to observe as follows :-

> *"**24.** The aforesaid decisions, weighty as they are, lead us to conclude that to establish a charge of conspiracy knowledge about indulgence in either an illegal act or a legal act by illegal means is necessary. In some cases, intent of unlawful use being made of the goods or services in question may be inferred from the knowledge itself. This apart, the prosecution has not to establish that a particular unlawful use was intended, so long as the goods or service in question could not be put to any lawful use. Finally, when the ultimate offence consists of a chain of actions, it would not be necessary for the prosecution to establish, to bring home the charge of conspiracy, that each of the conspirators had the knowledge of what the collaborator would do, so long as it is known that the collaborator would put the goods or service to an unlawful use." [See State of Kerala v. P. Sugathan, (2000) 8 SCC 203, SCC p. 212, para 14]".*

[Emphasis Supplied]

178. *While dealing with the offence of criminal conspiracy in respect of the financial frauds, the Hon'ble Apex Court in the case of Ram Narain Poply (supra), in paragraph No.344, was pleased to observe that,*

> *"**344.** ..... The law making conspiracy a crime, is designed to curb immoderate power to do mischief, which is gained by a combination of the means. The encouragement and support which co-conspirators give to one another rendering enterprises possible which, if left to individual effort, would have been impossible, furnish the ground for visiting conspirators and abettors with condign punishment. The conspiracy is held to be continued and renewed as to all its members wherever and whenever any member of the conspiracy acts in furtherance of the common design."*

[Emphasis Supplied]

179. In the context of Section 10 of the Indian Evidence Act, it was held by the Hon'ble Apex Court, in paragraph No.348, that, the expression "in furtherance to their common intention" in Section 10 is very comprehensive and appears to have been designedly used to give it a wider scope than the words "in furtherance of" used in the English Law : with the result anything said, done or written by co- conspirator after the conspiracy was formed, will be evidence against the other before he entered the field of conspiracy or after he left it. Anything said, done or written is a relevant fact only.

186. The Hon'ble Apex Court has further quoted with approval in paragraph No.101, the observations made in the case of State (NCT of Delhi) Vs. Navjot Sandhu @ Afsan Guru, (2005) 11 SCC 600, wherein it was held that, "The cumulative effect of the proved circumstances should be taken into account in determining the guilt of the accused rather than adopting an isolated approach to each of the circumstances."

28. FAILURE OF THE CJI RAMANNA'S ASSIGNED BENCH WHO ARE CO - CONSPIRATOR JUDGES TO GRANT INTERIM RELIEF TO STOP JEOPARADISED THE LIFE AND LIBERTY OF CITIZEN AND MAKE ACCUSED JUDGE LIABLE FOR PROSECUTION UNDER CHARGES OF ABETTING MURDER OF PEOPLE WHO DIED DUE TO FORCED VACCINATION OR SIMILAR OTHER SERIOUS OFFENCES.:-

28.1 That, the record available and law applicable in India make it clear that, the forced vaccination is not permissible in India.

When the said legal position was brought to the notice of accused Judges, then it was their duty to immediately stop the said illegality and to protect the fundamental and constitutional rights of the citizens.

But they deliberately adopted the lackadaisical approach and acted in most irresponsible manner and cavalier fashion thereby allowing the law violators to continue with their unlawful and unconstitutional activities and also allowing the common man with allergies and other problems to die due to side effects of said vaccines. All illegalities was done by misusing and misappropriating the property of Supreme Court i.e. public.

This makes both the accused Judges responsible for offences punishable under **Section 302, 304, 115, 109, 218, 409, r/w 120 (B) & 34 of Indian Penal Code.**

28.2. Needless to mention that, the vaccines in India are only experimental vaccines and its use is allowed under emergency use authorization.

In a similar case the United Sates Court in the case between **John Doe Vs. Donald H. Rumsfeld Civil Action No. 03-707 (EGS)** in the year 2004 **has granted injunction against forced vaccination.** But accused Judges failed to consider said ratio but tried their level best to discovery the victim and whistle-blower.

It is observed the under **United States Court** as under;

> *"On October 27, 2004, this Court issued an order permanently enjoining the military's anthrax vaccine program. Specifically, the Court held,* ***"Unless and until FDA classifies AVA as a safe and effective drug for its intended use, an injunction shall remain in effect prohibiting defendants' use of AVA on the basis that the vaccine is either a drug unapproved for its intended use or an investigational new drug within the meaning of 10 U.S.C. § 1107. Accordingly, the involuntary anthrax vaccine program, as applied to all persons, is rendered illegal absent informed consent or a Presidential waiver."***
>
> *Defendants have now filed an Emergency Motion to Modify the Injunction, seeking clarification that there exists a third option – an alternative to informed*

consent or a Presidential waiver - by which defendants can administer AVA to service members even in the absence of FDA approval of the drug: that is, pursuant to an Emergency Use Authorization ("EUA") under the Project BioShield Act of 2004, 21 U.S.C.A. § 360bbb-3.

In enacting the EVA provision, Congress appears to have authorized the use of unapproved drugs or the unapproved use of approved drugs based on a declaration of emergency by the Secretary of Health and Human Services, which in turn is based on "a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to United States military forces of attack with a specified biological, chemical, radiological or nuclear agent or agents." 21 U.S.C.A. § 360bbb3 (b) (1) (B).

Without ruling on the lawfulness or merits of any EUA, upon consideration of the defendants' motion, the opposition and replies thereto, the amicus curiae brief, the arguments heard in open court on March 21, 2005, and the draft language jointly submitted by the parties in this case, it is hereby

***ORDERED** that the defendants' Motion to Modify the Injunction is **GRANTED;** it is further*

***ORDERED** that the Court's injunction of October 27, 2004, is modified by the addition of the following*

language: "This injunction, however, shall not preclude defendants from administering AVA, on a voluntary basis, pursuant to the terms of a lawful emergency use authorization ("EVA") pursuant to section 564 of the Federal Food, Drug, and Cosmetic Act, without prejudice to a future challenge to the validity of any such EVA.

The Court expressly makes no findings as to the lawfulness of any specific EUA that has been or may be approved by the Department of Health and Human Services."

28.3. But the accused Judges failed to perform their duties.

28.4. That, in a case of similar nature Hon'ble Supreme Court in the case of **Re: M. P. Dwivedi (1996) 4 SCC 152,** has ruled that, such Judge also liable to be punished under contempt. It is ruled as under;

"A) VIOLATION OF GUIDELINES LAID DOWN BY SUPREME COURT JUDGE – THEY ARE GUILTY OF CONTEMPT.

Contemner No.7, B. K. Nigam, was posted as Judicial Magistrate First Class – ***contemner Judge was completely insensitive about the serious violations of the human rights of accused - This is a serious lapse on the part of the contemner in the discharge of his duties as a judicial officer who is expected to ensure that the basic human rights of the citizens are not violated -*** *Keeping in view that the contemner is a*

young Judicial Officer, we refrain from imposing punishment on him. We, however, record our strong disapproval of his conduct and direct that a note of this disapproval by this Court shall be kept in the personal file of the contemner.

Held, The contemner Judicial Magistrate has tendered his unconditional and unqualified apology for the lapse on his part - The contemner has submitted that he is a young Judicial Officer and that the lapse was not intentional. But the contemner, being a judicial officer is expected to be aware of law laid down by this Court - It appears that the contemner was completely insensitive about the serious violations of the human rights of the undertrial prisoners in the matter of their handcuffing in as much as when the prisoners were produced before him in Court in handcuffs, he did not think it necessary to take any action for the removal of handcuffs or against the escort party for bringing them to the Court in handcuffs and taking them away in the handcuffs without his authorisation. This is a serious lapse on the part of the contemner in the discharge of his duties as a judicial officer who is expected to ensure that the basic human rights of the citizens are not violated. Keeping in view that the contemner is a young Judicial Officer, we refrain from imposing punishment on him. We, however, record our strong disapproval of his conduct and direct that a note of this disapproval

by this Court shall be kept in the personal file of the contemner.

We also feel that judicial officers should be made aware from time to time of the law laid down by this Court and the High Court, more especially in connection with protection of basic human rights of the people and, for that purpose, short refresher courses may be conducted at regular intervals so that judicial officers are made aware about the developments in the law in the field."

29. PROOF OF EARLIER ATTEMPT OF PHARMA MAFIA IN CONSPIRACY WITH OFFICIALS OF WORLD HEALTH ORGANISATION (WHO) TO DECLARE FALSE PANDEMIC ARE EXPOSED IN EUROPEANS UNION'S ENQUIRY.:-

[a] Earlier attempt by accused who official to declare false pandemic:

[b] The H1N1 swine flu pandemic was "fake," and its threat to human health was hyped, and that who's policies were influenced by vaccine manufacturers who benefited from the pandemic virus:

29.1. Swine flu, Bird flu 'never happened': Probe into H1N1 'false pandemic'

Link:-https://youtu.be/3haectEvDq0

29.2. Dr. BM Hegde has said that H1N1 pandemic was a health scare, a myth created by big Pharma to sell the drug Tamiflu and the H1N1 lab test. He says that the Dr. Auster Hoss who created this pandemic scare for a mere USD 10000 and was known as Dr Flu who was criminally prosecuted and was in jail. He also said that the WHO Chief had connived with the big pharma.

There is indeed a European commission investigation into this, but most of the related news seem to have been removed, except a few official TV news channels.

Refer the article titled “European Parliament to Investigate WHO and **"Pandemic" Scandal by F. William Engdahl”**

Link:-https://healthcare-in-europe.com/en/news/european-parliament-to-investigate-who-pandemic-scandal.html

29.3. The Council of Europe member states will launch an inquiry in January 2010 on the influence of the pharmaceutical companies on the global swine flu campaign, focusing especially on extent of the pharma's industry's influence on WHO. The Health Committee of the EU Parliament has unanimously passed a resolution calling for the inquiry.

29.4. The step is a long overdue move to public transparency of a "Golden Triangle" of drug corruption between the WHO, the Pharma industry and academic scientists that has permanently damaged the lives of millions and even caused deaths.

29.5. The parliament motion was introduced by Dr. Wolfgang Wodarg, former SPD Member of the German Bundestag and now chairman of the Health Committee of PACE (Parliamentary Assembly of the Council of Europe). Dr. Wodarg is a medical doctor and epidemiologist, a specialist in lung disease and environmental medicine, who considers the current "pandemic" Swine Flu campaign of the WHO to be "one of the greatest medicine scandals of the Century."1][1]

29.6. The text of the resolution just passed by a sufficient number in the Council of Europe Parliament says among other things, "In order to promote their patented drugs and vaccines against flu, pharmaceutical companies influenced scientists

and official agencies, responsible for public health standards to alarm governments worldwide and make them squander tight health resources for inefficient vaccine strategies and needlessly expose millions of healthy people to the risk of an unknown amount of side-effects of insufficiently tested vaccines. The "bird-flu" campaign (2005/06) combined with the "swine-flu" campaign seem to have caused a great deal of damage not only to some vaccinated patients and to public health budgets, but also to the credibility and accountability of important international health agencies."

29.7. The Parliamentary inquiry will look into the issue of "false pandemic" that was declared by WHO in June 2009 on the advice of its group of academic experts, SAGE, many of these members have been documented to have intense financial ties to the same pharmaceutical giants such as GlaxoSmithKline, Roche, Novartis, who benefit from the production of drugs and untested H1N1 vaccines. They will investigate the influence of the pharma industry in creation of a worldwide campaign against the so-called H5N1 "Avian Flu" and H1N1 Swine Flu. The inquiry will be given "urgent" priority in the general assembly of the parliament.

29.8. In his official statement to the Committee, Dr. Wodarg criticized the influence of the pharma industry on scientists and officials of WHO, stating that it has led to the situation where "unnecessarily millions of healthy people are exposed to the risk of poorly tested vaccines," and that, for a flu strain that is "vastly less harmful" than all previous flu epidemics.

29.9. Wodarg says the role of the WHO and its pandemic emergency declaration in June needs to be the special focus of the European Parliamentary inquiry. For the first time, the WHO criteria for a pandemic was changed in April 2009 as the first Mexico cases were reported, to consider not the number of cases of the disease and not the actual risk of a disease, as the basis to declare "Pandemic."

By classifying the swine flu as pandemic, nations were compelled to implement pandemic plans and also the purchase swine flu vaccines. Because WHO is not subject to any parliamentary control, Wodarg argues it is necessary for governments to insist on accountability. The inquiry will also to look at the role of the two critical agencies in Germany issuing guidelines on the pandemic, the Paul-Ehrlich and the Robert-Koch Institute.

29.10. William Engdahl is author of Full Spectrum Dominance: Totalitarian Democracy in the New World Order.

He may be contacted through his website

www.engdahl.oilgeopolitics.net

29.11. William Engdahl is a frequent contributor to Global Research (Global Research Articles by F. William Engdahl)

Link: https://www.globalresearch.ca/author/f-william-engdahl

30. EVIDENCE PROVING THE COMPLETE CONSPIRACY OF THE VACCINE SYNDICATE IS ALREADY BEEN INVESTIGATED AND EXPOSED MANY TIMES.:-

72nd Parliamentary Report exposed the murder of 8 female children by committed by Vaccine Mafia and toxic philanthropist's **'Bill& Milanda Gates Foundation' in** connivance with the officials of ICMR and DGHS. Said report's evidentiary value is upheld by the Constitution Bench of the Supreme Court in the case of **Kalpna Mehta Vs. UOI (2018) 7 SCC 1.**

31. EARLIER CORRUPTION BY TWO SUPREME COURT JUDGES TO HELP VACCINE MAFIA 'BILL GATES' AND HIS ORGANIZED CRIME SYNDICATE.:-

31.1.1. That, the parliamentary committee in its **72th** report gave clear and specific findings about the serious offences of murder of **8 female children** and

recommended investigation and prosecution of office bearers of Bill &Milinda Gates foundation along with official of ICMR and other government officials involved in the conspiracy.

31.1.2. As per said report dated **30.08.2013** investigating agency and other government departments were about to take action.

But the Bench of Justice **Deepak Mishra** in order to help the powerful & rich accused and frustrate the rights of the poor victims and their family members without having any jurisdiction framed the questions in a case pending under **Article 32** of the Constitution of India.

The questions framed in the matter between **Kalpana Mehta Vs. Union of India WP No. 558/2012** vide its order dated **12.08.2014 (see: (2017) 7 SCC 295)** are as under;

> *"**(i)** Whether before the drug was accepted to be used as a vaccine in India, the Drugs Controller General of India and ICMR had followed the procedure for said introduction?*
>
> ***(ii)** What is the action taken after the Parliamentary Committee had submitted the 72nd Report on 30-8-2013?*
>
> ***(iii)** What are the reasons for choosing certain places in Gujarat and Andhra Pradesh?*
>
> ***(iv)** What has actually caused the deaths and other ailments who had been administered the said vaccine?*
>
> ***(v)** Assuming this vaccine has been administered, regard being had to the nature of the vaccine, being not*

an ordinary one, what steps have been taken for monitoring the same by the competent authorities of the Union of India, who are concerned with health of the nation as well as the State Governments who have an equal role in this regard?

(vi) *The girls who were administered the vaccine, whether proper consent has been taken from their parents/guardians, as we have been apprised at the Bar that the young girls had not reached the age of majority?*

(vii) *What protocol is required to be observed/ followed, assuming this kind of vaccination is required to be carried out?"*

31.1.3. It is against the Constitution of India and it is also against the law laid down by the Hon'ble Supreme Court itself. The the disputed question of fact which needs investigation & trial cannot be decided in writ jurisdiction.

31.1.4. It is a clear case of usurping the jurisdiction of the investigation agency and also that of the trial criminal court by the Supreme Court Judge. It is not permissible for the Supreme Court in any Jurisdiction i.e. either under Article 32 or 142 of the Constitution of India **[Supreme Court Bar Associations' (1998) SCC 409, NidhiKaim(2017) 4 SCC 1]**

It is also an offence under contempt of court to not to follow the binding precedent. **(Subrata Roy Sahara Vs. UOI (2014) 8 SCC 470, In Re: C.S.Karnan (2017) 7 SCC 1)**

31.1.6. Former CJI Deepak Mishra is habitual in doing corruption to pass orders with ulterior motive to help accused and underserving persons. Following instances are sufficient to prove the same.

(i) Dying Declaration cum suicide Note of former Chief Minister Shri. Kalikha Pul.

Where it is clearly explained as to how bribes of more than Rupees 100 of Crores was demanded by the Chief Justice of India to stay the CBI investigation against the powerful accused and for passing orders.

(i) Rs. 77 Crores by former Chief Justice of India J. S. Khehar through his son.

(ii) Rs. 27 Crores by former Chief Justice of India Deepak Mishra through his brother.

(iii) Rs. 47 Crores by former Chief Justice of India H. L. Dattu.

The abovesaid allegations are never denied by all the accused Judges who were Chief Justice of India

31.1.7. Justice Deepak Mishra is also named as accused in an another related with an F.I.R regarding Medical Council case where Allahabad High Court Judge Shri. Narayan Shukla is charge - sheeted by C.B.I

31.1.8. In a reply affidavit filed by Sr. Adv. Prashant Bhushan before Hon'ble Supreme Court on **02.08.2020** in **Suo Moto Contempt (Crl.) No. 1 of 2020 Re: Prashant Bhushan** he made serious submissions against Chief Justice Dipak Misra. Said paras reads thus;

Medical College Bribery Case

"101. *The facts and circumstances relating to the prasad Education Trust case, suggest that chief Justice DipakMisra may have been involved in the conspiracy of paying illegal gratification in the case. The chief Justice of India, Justice DipakMisra presided over every Bench that heard the matter of this medical college which was the subject matter of the investigation in the FIR registered by the CBI. The facts and circumstances which raised reasonable apprehension about the role of Justice Dipak Mishra in prasad Education Trust matter were as follows:*

102. *By order dated 1.08.2017 the bench headed by Justice DipakMisra in the Prasad Education Trust petition ordered that the government consider afresh the materials on record pertaining to the issue of confirmation or otherwise of the letter of permission granted to the petitioner colleges/institutions and that the central Government would re-evaluate the recommendations of the MCI, Hearing committee, DGHS and the oversight Committee. This by itself was not extraordinary. A copy of the order dated 1.08.2017 is annexed as Annexure C21 (302-323)*

103. *on 24th August 2017, a Bench headed by Chief Justice DipakMisra, granted leave to the Prasad Education Trust to withdraw the said writ petition and to approach the Allahabad High Court. This was certainly unusual, given the fact that Justice DipakMisra was directly dealing with many other cases of similarly placed medical colleges to whom MCI had refused recognition. A copy of the order dated 24.08.2017 is annexed as Annexure C22 (324-331)*

104. *Then on the 25tr'of August 2017 itself, the Allahabad High Court granted an interim order to the Prasad Education Trust allowing them to proceed with counselling and directing the Medical Council of India not to encash their bank guarantee' Thereafter on 29th August 2017, in hearing the SLP filed by the Medical Council of India from the order of the Allahabad High Court granting relief to the Prasad Education Trust, the Bench headed by Chief Justice DipakMisra, directed that while the writ petition before the High Court shall be deemed to have been disposed of, liberty is granted to the Prasad Education Trust to again approach the Supreme Court under Article 32 of the Constitution of India. The granting of liberty to the college to approach the Supreme Court again in such circumstances was very unusual. This is compounded by the fact that the interim order of the High Court allowing counselling to continue and thereby admissions to continue, was not expressly set aside by this order disposing of the writ in the medical college in the High Court. A copy of the Allahabad High Court order dated 25.08.2017 is annexed as Annexure C23 (332) A copy of the order in the SLP dated 29.08.2017 is annexed as Annexure C24 (333-334)*

105. *Thereafter on 4th September 2017, Justice DipakMisra issued notice on the new writ petition filed by the Prasad Education Trust (writ petition no.797/2017). It was surprising that notice should have been issued on this fresh writ petition of the college if indeed the matter stood concluded by disposing of the writ petition of the college in the High court*

on the basis of Mr. MukulRohtagi's statement that he does not seek any relief other than no encashment of the bank guarantee. It was even more unusual because on lstSeptember 2017, the same bench had already given a judgment in the matter of a similar medical college namely Shri venkateshwara University (Writ petition no. 445/2017), by stating that,

> *"The renewal application that was submitted for the academic session 2017-2018 may be treated as the application for the academic session 2018-2019. The bank guarantee which has been deposited shall not be encashed and be kept alive".*

106. *This indeed became the basis of the final order in the prasad Education Trust writ petition which was shown to be dated 18th September 2017. If the matter had to be disposed off mechanically by following the judgment of 1st September 2017, in the other medical college case, where was the occasion for first giving liberty and then entertaining the fresh petition of the college on 4thseptember 2017 and keeping it alive till at least the 18th of September 2017?*

107. *It is also important to note that officials of Venkateshwara College are mentioned in the CBI FIR as under:*

> *"Information further revealed that shri B P Yadav got in touch with Shri I M Quddusi, Retd. Justice of the High Court of Odisha and Smt. Bhawana Pandey r/o N-7, G.K. -1, New Delhi*

through Sh. ShudirGiri of Venkateshwara Medical College in Meerut and entered into criminal conspiracy for getting the matter settled"

108. *The order dated 18th September 2017, was not uploaded on the Supreme Court website till the 21" of September evening as is clear from the date stamp on the 18tr' September 2017 order. The order was uploaded 2 days after the registration of FIR by the CBI. This puts a question mark on whether indeed the order was dictated in open court that day or whether it was kept pending and dictated after the registration of the FIR and the reporting of that in the media. Besides the order uploaded to the website has the date of 21st September 2017 stamped on it.*

Evidence avoiluble with the CBI

110. *The CBI lodged an FIR on the 19th of September 2017, in the matters relating to criminal conspiracy and taking gratification by corrupt or illegal means to influence the outcome of a case pending before the Supreme Court. The FIR reveals a nexus between middlemen, hawala dealers and senior public functionaries including the judiciary. The case in which the FIR had been filed involves a medical college set up by the Prasad Education Trust in Lucknow. As it appeared from the FIR lodged by the CBI, an attempt was being made to corruptly influence the outcome of the petition which was pending before the Supreme Court. The said petition was being heard by a bench headed by Justice DipakMisra.*

111. *The evidence with the CBI, before it registered this FIR, included several tapped conversations between the middleman Biswanath Agarwala, Shri I.M. Quddussi, Retd. Judge of the Orissa High Court and the Medical College officers. The transcripts of some of these conversations dated 3.09.2017 and 4.09.2017, had been received by the Campaign from reliable sources and may be verified from the CBI. A copy of the transcript of conversation tapped by the CBI on the 3.09.2017 in Hindi original and translated into English is annexed as Annexure C30 (348-351) A copy of the transcript of conversation tapped by the CBI on the 4.09.2017 in Hindi original and translated into English is annexed as Annexure C31 (352-359)*

112. *It is important to note that the tapped conversation on 3.09.2017 between Shri Quddusi and Biswanath Agarawala (middleman), indicate that negotiations were on to get the matter of the Prasad Education Trust Medical College settled in the Apex Court. It is relevant to note that the writ petition no. 797/2017 of the Prasad Education Trust was admitted a day later, on the 4.09.2017 by a Bench headed by the Chief Justice Dipak Misra, that issued notice on the new writ petition filed by the Prasad Education Trust. Reference had been made in the conversations to the "Captain" who would get the matter favourably settled on the payment of the bribes.*

113. *Further, the tapped conversation from 4.09.2017 between Biswanath Agarwala, Shri I.M. Quddussi and Mr. BP Yadav (of Prasad Education Trust), referred to the said petition under article 32 being filed on 4.09.2017 and that the*

next date for hearing given by the Court being "Monday". The Monday after 4.09.2017 is 11.09.2017 when the matter of Prasad Education Trust was indeed listed and again heard by a bench headed by the chief Justice of India that directed the matter to be further listed on the 18.09.2017.

114. *This evidence available with the CBI, of the tapped conversations between Shri Quddussi, middlemen and the medical college officials, revealed that a conspiracy, planning and preparation was underway to bribe the judge/judges who were dealing with the case of this medical college. It further revealed that negotiations regarding the amount of bribes to be paid were still on while the matter was listed before a Bench headed by Chief Justice Dipak Misra on 04.09.2017 and 11.09.2017. The references in the conversations between the middleman Biswanath Agarwala from Orissa and the officers of Prasad Education Trust to* ***"Captain... has all over India" and to "sir will sit for 10-15 months"*** *seem to be referring to the Chief Justice. In light of the convoluted course that the case followed and in light of these tapped telephonic conversations, this matter needed an independent investigation to ascertain the veracity of the claims being made in the conversations, of the plans to allegedly pay bribes to procure favourable order in the case of the Prasad Education Trust in the Supreme Court and to also clear the doubt about the role of the then Chief Justice of India.*

Denial of permission to the CBI to register an FIR against Justice Narayan Shukla of the Allahabad High court

115. *The most serious circumstance that emerged, which further strengthened the doubt regarding the role of the Chief Justice of India in the Prasad Education Trust matter, was his denial of permission to the CBI to register a regular FIR against Justice Shukla of the Allahabad High Court, who presided over the Bench that gave the interim order in favour of Prasad Education Trust. It was learnt from reliable sources that the CBI officers went to the Chief Justice of India on the 6th of September 2017, with the transcripts and other evidence recorded by them in the FIR and preliminary enquiry, showing almost conclusively the involvement of Justice Shukla in this conspiracy and his receiving gratification of at least one crore in the matter. The CBI Preliminary Enquiry report was registered on the 8th of September 2017 after the Chief Justice of India refused permission to register an FIR against Justice Shukla on the 6th of September 2017. Even after being made aware of this extremely important and virtually conclusive evidence against Justice Shukla in accepting gratification, the Chief Justice of India refused permission to the CBI for registering even a regular FIR against Justice Shukla, without which further investigation against him could not be done and he could not be charge-sheeted. It was also reliably learnt that the officers of the CBI had made a record of this denial of permission by the CJI in a note sheet. By preventing the registration of an FIR against Justice Shukla and later by dismissing the CJAR petition seeking a SIT probe into the allegation in the CBI FIR by a bench constituted by the Chief Justice, all investigation into the conspiracy to bribe judges for obtaining a favourable*

order had been virtually stalled. Ensuring that no further investigation was undertaken, into this serious charge of alleged judicial corruption, amounted to a seriously problematic use of power by the Chief Justice of India.

116. *It was however subsequently reported that Justice Dipak Misra had set up an in-house inquiry against Justice Narayan Shukla on the basis of some orders that he passed in another similar case of a Medical College. If this warranted an in-house inquiry, why was an in-house inquiry not ordered in the case of Prasad Education Trust where an identical interim order was passed by Justice Shukla and which came up before Chief Justice Dipak Misra well before this. Also if this was serious enough for in-house inquiry why was permission denied to CBI to register an FIR particularly when the CBI had presented documentary evidence in the case.*

117. *It was later reported that the In*house inquiry recommended removal of Justice Shukla on the basis of which a85 recommendation was sent to the government to initiate impeachment proceedings against him. This recommendation was reiterated by the next Chief Justice Mr. Ranjan Gogoi as well. Nonetheless, the government failed to take action as per the recommendation and Justice Shukla was allowed to retire on 17th July, 2020, with all the benefits of retirement. This shows a serious lack of accountability."*

31.1.9. JOINING OF CONSPIRACY BY JUSTICE ROHINTON FALI NARIMAN:-

31.1.10. **Justice Rohinton Fali Nariman is habitual in passing unlawful order to save the mighty accused**. His involvement in the conspiracy of offences of forgery of court records, theft of documents, outsourcing the order and then publishing it on the Supreme Court website, fabrication of false evidence in conspiracy with Justice (Retd.) Deepak Gupta, Justice Aniruddha Bose is proved from the information given by the office of Chief Justice of India. Already a contempt petition and perjury petition are filed by the victim and Chief Justice of India withdrawn the case from the bench of Justice Aniruddha Bose. Through the copy of petition is served upon the accused Judges, but they have neither disputed nor denied the serious allegations.

Link:-http://www.worldindianews.com/2021/04/Contempt-ma-filed-nilesh-ojha-supreme-court.html

31.1.11. Under these circumstances the act of framing of issue without jurisdiction to indirectly help the mastermind accused Bill Gates needs an investigation by the C.B.I.

32. BREACH OF OATH TAKEN AS A SUPREME COURT JUDGE BY ACTING PARTIALLY, WITH AFFECTION & ILL-WILL AND NOT UPHOLDING THE CONSTITUTION AND LAW.:-

32.1. That, In **Indirect Tax Association Vs. R.K.Jain (2010) 8 SCC 281**, it is ruled by Hon'ble Supreme Court that;

> *"Judge have their accountability to the society and their accountability must be judged by their conscience and oath of their office, that is to defend and uphold the Constitution and the laws without fear and favor with malice towards none, with charity for all, we strive to do the right."*

32.2. That, Every Judge when appointed has to take Oath as under;

The constitution of India **Schedule III Articles 75 (4), 99, 124 (6) 148 (2) 164 (3), 188 and 219** provides that forms of oaths or Affirmation No. VIII is as follows.

> ***" Form of oath or a affirmation to be made by the Judges of a Supreme Court."***
>
> *I, A.B., having been appointed Chief Justice (or a Judge) of the Supreme Court at (or of) ---------- do that I will bear true faith and allegiance to the Constitution of India as by law established, [that I will uphold the sovereignty and integrity of India] that,* ***I will duly and faithfully and to the best of my ability, Knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws.***

32.3. But the CJI N.V. Ramanna breached the oath taken as a Judge and also breached the trust of 135 Crores citizen.

33. CONSTITUTIONAL DUTY OF EVERY CITIZEN TO EXPOSE CORRUPTION AND MALPRACTICES IN COURTS AND JUDICIARY.:-

33.1. That, I am filling this complaint in my personal capacity as a vigilant citizen and as my Constitutional duty towards nation as enschrigned under Article 51(A)(h) of the Constitution of India and acknowledged by Hon'ble Supreme Court & High Courts in the case of **Indirect Tax Practitioners Association Vs. R.K. Jain (2010) 8 SCC 281** & **Aniruddha Bahal Vs. State 2010 SCC OnLine Del 3365.**

33.2. Constitution Bench of Supreme Court in **Bathina Ramakrishna Reddy AIR 1952 SC 149** had read in **Para 12** as under;

*"**12. News published exposing corruption charges against a Judge**.....If the allegations were true obviously it would be to the benefit of the public to bring these matters in to light....."*

34. CJI SHRI N.V. RAMANNA IS BOUND TO RESIGN IN VIEW OF CONSTITUTIONAL BENCH JUDGMENT IN **K. VEERASWAMY VS. UNION OF INDIA AND OTHERS (1991)3 SCC 655.:-**

34.1. Constitution Bench in **K. Veeraswami Vs. Union of India (1991) 3 SCC 655** ruled as under;

*"**JUDGE SHOULD RESIGN HIMSELF :The judiciary has no power of the purse or the sword. It survives only by public confidence and it is important to the stability of the society that the confidence of the public is not shaken. The Judge whose character is clouded and whose standards of morality and rectitude are in doubt may not have the judicial independence and may not command confidence of the public. He must voluntarily withdraw from the judicial work and administration.***

***54.** The emphasis on this point should not appear superfluous. Prof. Jackson says "Misbehavior by a Judge, whether it takes place on the bench or off the bench, undermines public confidence in the administration of justice, and also damages public respect for the law of the land; **if nothing is seen to be done about it, the damage goes unrepaired. This a must be so when the judge commits a serious criminal offence and remains in office".** (Jackson's Machinery of Justice by J.R. Spencer, 8th Edn. pp. 369-70.*

35. <u>DECLARATION</u>:-

36.1. I, **Shri. Rashid Khan Pathan** the above-named Complainant residing at address **<u>Vasant Nagar, Pusad Dist. Yawatmal– 445303</u>,** presently at Mumbai, do hereby solemnly affirm and state on oath as under;

36.2. That, I am not concerned with the any of the Petitioners/parties or Advocates in the petition filed by anyone. I am not concerned with Hon'ble Chief Minister of A.P. Sh. Jagan Mohan Reddy who earlier filed complaint exposing corruption by CJI N.V. Ramanna. I am not concerned with the any of the parties or Advocates in the petition filed by Mr. Jacob Puliyal, Dr. Ajay Kumar Dixit etc. On the contrary. I am principally against Sr. Counsel Mr. Prashant Bhushan on many issues. I have openly criticized his support to anti-national elements like Adv. Fali Nariman, Retired Judge Deepak Gupta, etc. and even sought his prosecution.

36.3. I state that, this complaint is independently filed by me in my personal capacity and it has nothing to do with any of the organisations, any of the associations or any NGOs or any of the advocates. I have filed the complaint with full knowledge of facts, law and consequences. Whatever are the consequences is the sole responsibility of mine. I stand by the allegations in my complaint and I request that, my complaint be investigated. If my complaint is found to be false then action be taken against me. And if my complaint is found to be correct then CJI Shri. N. V. Ramanna and his co-conspirators who are the offenders of the entire humanity should be prosecuted and punished severely forthwith.

36. <u>PRAYER</u>: it is therefore humbly prayed for;

a) Immediate directions to C.B.I. to register F.I.R. and investigate the serious charges of corruption and misuse of power and breach of trust of **135 Crores** Indians under Section 218, 409 etc. of IPC and other provisions of penal law by CJI Shri. N.V. Ramanna for not disclosing his close relations with the Covaxin manufacturer company Bharat Biotech's M.D. and then unauthorizedly and unlawfully doing judicial and administrative acts which ultimately resulted in the **wrongful profit of thousands of crores to vaccine companies** and other related entities and wrongful losses and death causing side effects to common people.

b) Directions to the Attorney General for India to file Contempt Petition before Hon'ble Supreme Court as per law laid down in **Re: C.S. Karnan (2017) 7 SCC 1, Barakanta Mishra (1974) 1 SCC 374,** against Shri. CJI N.V. Ramanna for his wilful & deliberate disregard and defiance of Supreme Court binding precedents and thereby bringing the majesty & dignity of the Supreme Court in to disrepute.

c) Direction as to CJI Sh. N.V. Ramanna to resign forthwith as per guidelines, direction and law laid by Constitution Bench in **K. Veeraswami Vs. Union of India (1991) 3 SCC 655,** as his misconduct, breach of oath and trust and offences against administration of justice are much much grave and ex-facie proved,

which is unbecoming of a Judge of any Court and his continuance as CJI for a moment will be a further contempt of the Supreme Court.

DATE: 09.09.2021

PLACE: MUMBAI

Complainant

Rashid Khan Pathan

VERIFICATION

That, the abovenamed do hereby solemnly declare that, what is stated in complaint on affidavit and foregoing **paragraphs number 1 to 37** is true to my knowledge and based on information I believe to be true. I have affirmed the same.

Solemnly declared at Mumbai **)**

Dated 9th Day of September, 2020 **)**

Identified by Me, Before Me

Complainant