

BEFORE THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM

W.P.(c) No: 15905 of 2009

Panikkaveetil Kottilungal Jabir : Writ Petitioner

- Versus -

State of Kerala and others : Respondents

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BEFORE THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM

W.P.(c) No. 19905 of 2009

Panikkaveetil Kottilungal Jabir : Writ Petitioner

- Versus -

State of Kerala and others : Respondents

SYNOPSIS

The petitioner had been engaged in business activities of electrical contract installations and maintenance of Central AC etc. in UAE since 1979. The value of the petitioner's business as on 1995 was worth more than 30 million UAE Dirham (approximately 30 crores INR).

In 1995 there arose a civil dispute regarding contract between the petitioner and a local man who was connected to the ruling family of UAE. On legal advise the petitioner filed a Civil Suit against him. Infuriated by the above action the said person in collusion with police officials trespassed into the petitioner's office and threatened him to withdraw the Civil Suit. The petitioner refused the above demand and as a result he was taken to the jail and charged with a false case. The petitioner had to undergo most inhuman physical and mental torture during the imprisonment. The Trial Court of UAE acquitted the petitioner of all charges and ordered an enquiry against the illegal and high handed act of the police officials. The above judgment was affirmed by the Appellate Court.

During the imprisonment of the petitioner he executed the power of attorney in favour of his brother (4th respondent) who was employed by him in one of his establishments (Ext.P3).

Eventhough the petitioner was acquitted by both the Courts, he was deported to India on 28.9.1996. Since the petitioner was unable to return to UAE, the entire management of

his business was entrusted with the 4th respondent. The 4th respondent ensured the petitioner that, everything was going on well. But he never tendered statement of accounts or details of the various transactions. During the above period, the 4th respondent made secret visits to India and to his entire family to UAE. In the year 2004, the petitioner came to understand that, the 4th respondent was siphoning the funds of the petitioner's business for his personal gain.

Therefore 6.5.2004 the petitioner cancelled the Power of Attorney granted in favour of the 4th respondent and executed another one in the name of one Mr.Mohammed Sherif and sent him to Abu Dhabi to settle the accounts. But the 4th respondent refused to furnish the accounts or settle the matter. The petitioner was constrained a lawyer notice to the 4th respondent. In June 2008, when the petitioner learnt that, the 4th respondent had landed in India he submitted a complaint before the 2nd respondent. Since he did not act on the same the petitioner moved a private complaint before JFCM, Chavakkad being No.Cri.M.P.No.6066/2008 (Ext.P7). Crime No.437/2008 has been registered under Section 420 on the basis of Ext.P7 complaint (Ext.P8). The 2nd respondent had not taken any action so far on the above crime presumably at the instance and influence of the 4th respondent. The 2nd respondent has not taken any positive efforts to ensure the presence of the 4th respondent in the country. Ext.P8 crime requires to be investigated by the 5th respondent CBI in the light of the facts of the case and also since the investigation requires collection of facts from India as well as UAE, given the lukewarm attitude of the 2nd respondent. Hence writ petition.

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BEFORE THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM

W.P.(c)No. 15905 of 2009

PETITIONER:

Panikkaveetil Kottilungal Jabir,
Panikkaveetil Kottilungal House,
Ovungal, Chavakkad, Thrissur District.

- Versus -

RESPONDENTS

1. State of Kerala,
rep. by Secretary to Government,
Department of Home Affairs,
Government Secretariat,
Trivandrum.
2. The Sub Inspector of Police,
Guruvayur Police Station, Guruvayur.
3. The Superintendent of Police,
Office of the Superintendent of Police,
Thrissur District.
4. Panikkaveetil Kottilungal Abdul Jaleel,
Kottilungal House, Chavakkad,
Thrissur District.
5. The Central Bureau of Investigation (CBI),
rep. by Superintendent,
Office of the CBI, Ernakulam.
6. The Union of India,
rep. by Secretary to Government,
Department of External Affairs,
Central Secretariat, New Delhi.

PETITIONER FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

I) Address for service of all notices and process on the petitioner is that of his counsel M/s. Sukumaran & Usha Advocates, 'Aswathy', Kannachanthodu Road, Kochi-18.

II) Address for service of all notices on the respondents are as shown above or that of their counsel, if any, engaged in the case.

The above named petitioner begs to submit the following:

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1. The petitioner is a citizen of India who went to UAE on 1.6.1979. The petitioner had been doing business for a period of about 18 years in Abudabi the capital of United Arab Emirates. In the year 1983 the petitioner obtained trade licence in the name and style **"RAJLA ELECTRO-MECHANICAL ESTABLISHMENT"** and was engaged in the activities of electrical contracting, installations and maintenance of central AC, elevators, fire and safety, demolishing etc.

2. In the year 1987 the petitioner started a building material trading and was issued with a licence in the name and style **"SUMMER POOL BUILDING MATERIALS TRADING ESTABLISHMENT"** under the sponsorship of Ishammad Hassan Jafar. Apart from the same on 15.5.1990 the petitioner entered into general contracts with another licensee under the sponsorship of same Ishahammad Hassan Jafar in the name and style **"PREMIER GENERAL CONTRACTING AND MAINTENANCE ESTABLISHMENT"**. It was registered in onshore and offshore, oil and gas sectors, PWD, other Government and semi Government Companies in UAE. The petitioner was flying high in the field of business and was having a very good reputation across UAE.

3. The value of the 1st establishment of the petitioner was worth 15 million UAE Dirham. (15 crores INR and the earning from the same per annum crossed more than 2.5 million UAE Dirham (2.5 crores INR.) The said establishment was having an office cum warehouse block with an open yard and compound wall with the extent of 3000 sq.meters. The same was close to a prime property of ruling family Shaikh Saif Bin Mohammad Al Nahyan. The 2nd establishment of the petitioner was worth 2.5 million UAE Dirham in the year 1985 and the average earnings per year was more than 45 lakhs INR. The 3rd establishment of the petitioner was worth

more than 10 million UAE Dirham (10 crores INR) and average annual earning was more than 2 Million UAE Dirham (2 crores INR).

4. Apart from the above said assets the petitioner is also having bank accounts with National Bank of Abu Dhabi, the British Bank of Middle East and an amount of 8 lakhs Dirham (80 lakhs INR approx.) was lying with the bank along with cash and cheques in the office shelf. Thus, altogether as on 1995 the assets of the petitioner was worth more than 30 million UAE Dirham (30 crores INR approximate) with an annual earning of 4.95 million UAE Dirham (4.95 crores INR approximately).

5. In the year 1995 on behalf of the 3rd establishment of the petitioner, 24 Nos. of flats in a building was decided to be rented out on a total contract value of 540000 UAE Dirham and in the said deal a dispute arose with a local man who is a citizen of UAE by name Hassan Saeed and the lawyer of the petitioner advised him to institute a civil suit and the same was instituted by the petitioner. **Infuriated by the filing of the civil suit on 26.10.1995 the aforesaid Hassan Saeed in collusion with the police officials trespassed into the office of the petitioner and threatened the petitioner to withdraw the civil suit.** The petitioner refused to accede to the illegal and unjust demand of the said Hassan and consequently the said Hassan came with police and subjected the petitioner to the most inhuman treatment with painful physical injuries and otherwise. The petitioner was taken to the jail then and there and was cut off from the world and was kept in prison. A fake case was registered against the petitioner 4 months after his arrest and detention on 11.2.1996. The petitioner was kept in custody as under trial prisoner. The petitioner underwent the pain of imprisonment and illegal detention but still wanted to fight it out through the court of law as the petitioner is a law abiding citizen.

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6. The Trial Court of UAE acquitted the petitioner of all the charges and even ordered enquiry against the illegal and high handed act of the police officials. A true copy of the order of the court of Abu Dhabi is produced herewith and marked as **Exhibit-P1** for identification.

7. Though the prosecution preferred an appeal against the order of acquittal of the trial court, the Appellate Court also found the petitioner innocent and it also repeated the condemnation of the prosecutor and the appellate Court declined to interfere with Ext.P1 and dismissed the appeal upholding the acquittal by the trial court. A true copy of the order of the Appellate Court is produced herewith and marked as **Exhibit-P2** for identification.

8. As the petitioner was in prison, on 03-08-1996 he executed a power of attorney in favour of the 4th respondent who is the brother of the petitioner who was employed by the petitioner in one of the establishments with a salary of 1500 UAE Dirham. A true copy of the power of attorney executed by the petitioner in favour of the 4th respondent dated 3.8.1996 is produced herewith and marked as **Exhibit-P3** for identification. As per Ext.P3, the 4th respondent was given all powers to manage the entire establishment of the petitioner as his agent on behalf of him.

9. Though by Ext.P2 the petitioner was found innocent by the appellate court, the petitioner was continued on detention. It is traumatic for the petitioner to undergo as an under trial prisoner and he was brought to the court more than 27 occasions and on all occasions he was brought to the court putting hand cuff and chain lock on the legs. **ON 28.9.1996 THE PETITIONER WAS DEPORTED TO INDIA BY ORDERING NO ENTRY TO UAE.** A true copy of the passport showing the endorsement is produced herewith and

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marked as ~~Exhibit-P4~~ for identification. The petitioner was directly taken to the airport from the jail for deporting. No reason was assigned to the petitioner for ordering No Entry. On reaching India, the petitioner submitted his complaint on the atrocities meted out by him to almost all authorities in India, but of no consequences so far.

10. After reaching India petitioner having entrusted the management of the entire assets with the 4th respondent, kept all trust in him and believed him with bonafides that the assets will be properly managed and protected. The 4th respondent always communicated to the petitioner and made him believe that the establishment of the petitioner is properly managed. But the 4th respondent never tendered statement of accounts or the details of transaction at any point of time. The 4th respondent has been deliberately keeping secret visits to India and always made it appear that he has not returned to India from UAE and for his convenience he took all his family members to UAE.

11. In the year 2004 the petitioner came to understand that the 4th respondent is siphoning the funds of the petitioner establishment for his personal gain and creating fake accounts. As the 4th respondent wilfully refused to return to India for about a decade and therefore the petitioner was unable to initiate any legal proceedings against him.

12. On 6.5.2004 the petitioner cancelled the power of attorney in favour of the 4th respondent and executed a new power of attorney in the name of one M.Mohammed Sheriff and sent him to Abu Dhabi to settle the accounts of the assets of the petitioner amicably. A true copy of the power of attorney dated 6.5.2004 revoking the power of attorney in favour of the 4th respondent is produced herewith and marked as ~~Exhibit-P5~~ for identification. Though the new power of attorney holder met the 4th respondent in

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Abu Dhabi, the 4th respondent refused to furnish the accounts nor permitted the new power of attorney holder to take stock of the assets of the petitioner. In the above circumstances, the petitioner issued a lawyer notice dated 12.3.2005 to the 4th respondent. A true copy of the lawyer notice dated 12.3.2005 issued on behalf of the petitioner to the 4th respondent is produced herewith and marked as ~~Exhibit-P6~~ for identification. Though Ext.P6 was received no action has been taken by the 4th respondent nor did he issue a reply for the same.

13. Recently the petitioner understands that the 4th respondent is siphoning the funds of the petitioner by selling most of his assets and purchased landed property with house at Guruvayur having an extent of ~~35 cents~~ and landed property of ~~31 cents~~ in a prime location at Mammiyur and another ~~11 cents~~ of landed property in Guruvayur and invested in commercial concerns in Abudabi, USE. He has also opened fixed deposits and shares with Indian Overseas Bank and other banks at Chavakkad and United Arab Emirates.

14. In June 2008, coming to know that, the 4th respondent had landed in India, petitioner submitted a complaint before the 2nd respondent and as he did not act on the complaint, the petitioner moved the Judicial First Class Magistrate, Chavakkad by way of Criminal MP No.6066/2008. A true copy of the complaint in Criminal MP No.6066/2008 is produced herewith and marked as ~~Exhibit-P7~~ for identification. On Ext.P7, a crime has been registered for offence under Section 420 IPC, as crime No.437 of 2008 and a true copy of the FIR in crime No.437/2008 is produced herewith and marked as ~~Exhibit-P8~~ for identification.

15. Though Ext.P8 has been registered the 2nd respondent is sitting on the same and has not taken any action so far,

~~presumably, at the instance and influence of the 4th respondent~~
~~who is having financial liquidity to influence the 2nd~~
~~respondent.~~ The attitude of the 2nd respondent, as the petitioner understands that, in view of the fact that the offence is committed outside India, no investigation can be conducted.

16. The case of the petitioner is a hard case and also heart throbbing case and requires investigations by a competent agency other than the 2nd respondent to ensure justice. Apart from the total amount of 30 million UAE Dirham, valuable infrastructure with 4.95 million UAE Dirham, annual earning from 1996 onwards is misappropriated by the 4th respondent acting as an agent of the petitioner. Over and above the aforesaid amount, a further sum of 740000 UAE Dirham deposited before the Court of Abudabi and the amount involved in the civil suit Rs.5400000 UAE Dirham was also taken by the 4th respondent without the concurrence of the petitioner and misappropriated the same for his personal gain and siphoned the said funds and a portion of the same is seen utilized for the purpose of purchasing property in Guruvayur and in Abudabi, United Arab Emirates, and various vehicles including costly premium cars has also been taken away by the 4th respondent.

17. Without providing the accounts, the 4th respondent with an intention to make it clear that assets are properly managed, a monthly cheque for a sum of Rs.20,000/- was send to the petitioner during the period 2003 - 2004. Prior to that, an amount of INR 8 lakhs was send in 1997 - 1998 and 7 lakhs during 2002. The said act of the 4th respondent is a preplanned ill motivated with an ulterior intention to create an impression that the management of the petitioner's establishment are done in a proper manner. The petitioner understand that the ~~4th respondent~~

has sold assets of the petitioner worth more than 30 crores and thereby committed criminal breach of trust and the petitioner was constrained to revoke the power of attorney in favour of the 4th respondent as per Ext.P5.

18. The case on hand is a serious case and requires investigation in India as well as abroad and is a fit case to be investigated by the CBI especially in the light of the fact that the persons who are acting behind the fourth respondent or who are aiding him are residing abroad and the investigation part requires detailed inspection of the assets of the petitioner and accounts in UAE and it is beyond the scope of the investigation by local police. Apart from the same, the investigation area involves the Emigration Departments, Embassy and other offices related thereon especially in view of the fact that the petitioner is debarred from entering UAE.

19. The 2nd respondent has also not so far taken any positive efforts to ensure that the presence of the 4th respondent is assured in the country. No steps have been taken for an arrest or surrender of the passport of the 4th respondent. Ext.P8 crime requires to be investigated by the 5th respondent CBI in the light of the fact that the investigation requires collection of facts from India as well as UAE and also in the light of the gravity of the offence involved and also on the lukewarm attitude of the 2nd respondent. The petitioner has no other alternative and efficacious remedy than to approach this Hon'ble Court under Article 226 of the Constitution of India on the following among other

G R O U N D S

A) It is submitted that the following principles could be taken as regulating the exercise of Court's discretion in transferring a case from one institutional agency to another.

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1) The involvement of very huge stakes in the matter under investigation.

2) The international character of the case for which the local police has inherent limitations in effectively handling the investigation.

3) Complicated legal questions which may arise and which could be beyond the competence of the local police authorities to tackle.

4) The existence of circumstances where the local police could be amenable to illegitimate influences including bribery.

In the present case, a transfer of investigation is fully justified on the basis of all the above considerations.

1) The stakes involved, as indicated above, would be over Rs.30 crores.

2) The subject matter of the investigation is so massive as to make or mark the fate of the citizen.

3) The anguish resultant from the deprivation of such a huge sum of money earned only through untiring personal efforts, causes mental depression which will virtually make the life only one of vegetable existence.

B) The properties about which the Criminal Complaint relate are situate in Gulf countries and in India. The local Police itself has expressed helplessness in getting information from the various official agencies and institutions and establishments functioning in Abu Dhabi and other Gulf countries. The details of the properties are made available to the local police. They are however, not in a position to deal with the materials in a meaningful and effective manner for a successful culmination of the investigation. Only an agency like CBI can deal with agencies like the Consulate in Dubai, the External Affairs Ministry in Central Govt. and if need be the Interpol.

The petitioner has been struggling hard for the last two decades, making appeals and approaches to all the Administrative and Legal Authorities. No relief whatever has been obtained despite all the efforts taken for obtaining justice.

C) There are strong indications of undue illegitimate influence operating over the offices and men of the local police. Though the petitioner appeared on numerous occasions on the direction of the police officials, a visibly hostile attitude was adopted by them. Virtually, the petitioner was treated as if he was the accused and not a complainant. Thus the materials available on the records, it is submitted will make out a case for the exercise of discretion by this Hon'ble Court for transferring the investigation to a powerful and superior investigating agency like the CBI.

D) The principles and precedents wherein such transfer of investigating agency had been made within the State itself, would justify the grant of the prayers of the petitioner who has been brought to a very desperate situation. The petitioner is now in a desperate situation, without any compensation for the illegal and unjust acts to which he had been subjected to. A situation of urgent desperation of life and liberty as guaranteed under Article 21 of the Constitution has thus arisen in the case. It is respectfully submitted that in such circumstances of grave and calculated abdication of duty of the Police Officials, Courts have intervened to ensure the protection of the innocent citizen's right and to render justice to the innocent citizen. In Munna's case for example, inordinate delay and the circumstances were taken note of by a learned Judge of this Hon'ble Court for ordering investigation by C.B.I. in the judgment rendered in D.P.15974/1992. This Hon'ble Court directed investigation by the CBI, having regard to the various circumstances enumerated in the judgment. It is submitted that

the present one is a case where such direction from this Hon'ble Court may be issued in the interest of justice.

E) The petitioner has been suffering all through ever since he had been deported without any asset whatever to India. The 3rd respondent made a meagre payment of Rs.20,000.00 for a short period. After selling many of the assets of the petitioner in UAE, the 3rd respondent remitted a very meager portion of the real value of those assets. The entire balance assets and facilities and business contacts have been brought to his personal possession and enjoyment, despite an obligation to render accounts to the petitioner, in proper discharge of the authority he had been given and the trust which had been reposed in him. The criminal actions are solid evidence by a perusal of the documents already furnished to the 2nd respondent. The 2nd respondent has therefore no justification whatever to further delay the investigation and discharge his official duties.

F) The petitioner is deprived of all his assets and personal gains earned by his continuous and dedicated activities for over a long period, has now put to severest difficulties and hardships in the present situation. The criminal intention of the 3rd respondent is self evident in the circumstances. Justice demands that the action is pursued properly, diligently and honestly by the 2nd respondent so as to assist the Court before which the Crime is pending.

G) The 2nd respondent is bound to investigate the Crime honestly and legally. Much more than reasonable time required in that behalf has already expired. The delay is totally unjustifiable in the circumstances, particularly when documentary evidence had been furnished to the 2nd respondent to justify a finding of the commission of crime by the 3rd respondent. In such a situation, the 2nd respondent has no justification in further prolonging the investigation of the Crime.

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H) Judicial decisions have repeatedly emphasized the necessity for effective and speedy investigation of crimes. This is based on the wholesome principle that "justice delayed is justice denied". Permitting a law breaker to retain with him the assets and funds belonging to another person is a grave omission on the part of the official. It has been held that the properties so retained are in the form of trust and could be pursued in spite of the change of hands or transfer across the country where the crime was initially committed. When the illegally amassed funds are invested in a country, that will also furnish a cause of action. The cause of action would arise partly in Mammiyoor and Guruvayoor where as stated earlier, the 4th respondent has invested the illegally secreted assets of the petitioner. The 1st respondent State is also under a legal and Constitutional duty that, the crimes to be investigated by the Police Officials are so investigated effectively, honestly and expeditiously so as to mete out justice to the aggrieved citizen.

I) A total inaction and a complete silence on the part of the 2nd respondent; it is submitted, is a violation of the basic principles of the Rule of Law and Constitutional function. Such inaction of Constitutional duties are liable to be corrected by this Hon'ble Court by appropriate writ, order or direction.

J) Involvement of substantial stake in the Crime to be investigated is a factor which has to be taken note of entrusting the investigation to a specialized and expert agency like the CBI. When important legal issues are involved, an Agency like the 2nd respondent may not be in a position to grasp the implications of important legal principles like obligations of an agent under the Law, the arising of cause of action in various places including places where the unjust causes are investigated or consulted, about competence of the cause of action arises within its jurisdiction, the obligation of a person to disgorge

unjust benefits derived by him and right of the person unjustly deprived of his assets, to have restoration of the same, and the like. On these grounds as well, it is essential that the investigation is not conducted by the 2nd respondent, who has by itself conducted, demonstrated its inability to investigate the crime with efficiency and efficacy and with the importance assigned to the expedient investigation of crime under Criminal Jurisprudence.

K) Having regard to the past conduct of the 2nd respondent, the petitioner apprehends that he may not get justice from the 2nd respondent. Consequently, it is just and necessary that the investigation is entrusted with another official agency, so as to make it effective and impartial.

L) It is respectfully submitted that having regard to the circumstances of the case, particularly the agony already suffered by the petitioner for the last 12 years, an effective investigating agency like the CBI should be entrusted with the further investigation of the case. That will facilitate contacting various authorities like the officials of the foreign country and the various Central Govt. Institutions in the State and outside. The extra ordinary circumstances, it is submitted, justifies such a prayer.

M) The act of the 2nd respondent in not conducting any investigation on Ext.P8 crime though the same has been registered on 12.06.2008 is illegal, arbitrary and is a naked violation of petitioner's Fundamental Rights under Article 21 of the Constitution of India.

N) The 2nd respondent ought to have considered the gravity of the offence committed by the 4th respondent and ought to have immediately taken action at least to ensure the presence of the accused in the country. There is every chance that the 4th

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respondent accused in Ext.P8 crime may move out of the jurisdiction of the country as he managed the same for about a decade after defrauding the petitioner by committing criminal breach of trust. It is specifically pointed out in Ext.P7 complaint that the 4th respondent has siphoned the funds from the petitioner's establishment in UAE and has purchased properties utilizing the said funds in Suruvayur, Mammiyur and UAE.

D) The 2nd respondent is duty bound to investigate on Ext.P8 crime though the offence alleged is committed in UAE. It is submitted that, the Hon'ble Supreme Court in **Fathima Bibi Vs State of Gujarat 2008** (2) KLT 907 SC held that, even if the offence is committed outside India he is subject to jurisdiction of Courts in India. The 2nd respondent has not cared to take any earnest effort for an investigation in Ext.P8 irrespective of the above legal position as declared by the Hon'ble Supreme Court.

P) In **Rajan Vs. State of Kerala (2003 (1) KLT 9650)** this Hon'ble Court held that sanction of the Central Govt. is not a pre-requisite for investigation under Section 188 Cr.P.C. Similar view has also been taken by the Full Bench of this Hon'ble Court as reported in 1999 (2) KLT 794. (**Sagaruddin V. Assistant Director**). In **Oman National Dairy Products Company Ltd. Vs Director General of Police**, (reported in 2003 (2) KLT S.N.20) this Hon'ble Court considered the scope of Sections 4, 188 and 154 of Cr.P.C. and held that Kerala Police has jurisdiction to investigate an offence even if committed outside India by an Indian citizen and further held that no previous sanction of the Central Govt. is necessary.

Q) Considering the nature of Ext.P8 crime and the gravity of the issue, it is highly just and necessary that the same be investigated by another competent agency like the 5th respondent CBI. The 2nd respondent by his conduct from the date on which Ext.P8 has been registered, proved that he is incompetent and is

deliberately observing silence without taking any action though several years have lapsed from the date on which the Ext.P8 crime has been registered. It appears to the petitioner that huge amounts have been taken away from the petitioner's establishment and the 4th respondent is influencing the 2nd respondent as well. The petitioner though requested the 3rd respondent the same has not resulted in any positive action in the matter of investigation in Ext.P8.

R) The case on hand is a serious case and requires investigation in India as well as abroad and is a fit case to be investigated by the CBI especially in the light of the fact that the persons who are acting behind the 4th respondent or who are aiding him are residing abroad and the investigation part requires detailed inspection of the assets of the petitioner and accounts in UAE and it is beyond the scope of the investigation by local police. Apart from the same, the investigation area involves the Emigration Departments, Embassy and other offices related thereon especially in view of the fact that the petitioner is debarred from entering UAE. The nature of the offence also warrants the investigation of the case by the 5th respondent CBI. The petitioner is entitled to prosecute the 4th respondent for the offence committed in UAE. A huge amount to the tune of more than 50 crores has been looted from the petitioner's establishment in UAE by acting on the basis of a power of attorney as an agent on behalf of the petitioner.

17. The petitioner has no other effective alternate remedy in the above circumstances than to approach this Hon'ble Court under Article 226 of the Constitution of India. It is therefore most humbly prayed that this Hon'ble Court may be pleased:

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- a) to issue a writ of mandamus or other appropriate writ order or direction directing the 5th respondent CBI or any other Official Agency, other than the 2nd respondent, to investigate Ext.PB crime and report about it to this Hon'ble Court;
- b) to issue a writ of mandamus or other appropriate writ, order or direction directing the 2nd respondent to conduct the investigation on Crime No.437 of 2008 (Ext.PB) and to complete the same within a specified time limit as stipulated by this Hon'ble Court;
- c) to issue a writ of mandamus or other appropriate writ, order or direction directing the 4th respondent to appear before the 2nd respondent so as to enable the 2nd respondent to expeditiously investigate Ext.PB crime;
a n d
- d) to pass such other and further orders as are deemed just and necessary in the facts and circumstances of the case.

INTERIM RELIEF: This Hon'ble Court may be pleased to pass an order directing the 5th respondent to investigate Ext.PB crime, pending decision in W.P.(c).

Dated this the 7th day of June, 2009.