

'MD's arrest violated apex court guidelines'

Legal Opinion Says 'No Material In The Case'

KP.Saikiran
@timesgroup.com

Thiruvananthapuram:

The arrest of Malabar Cements Ltd former managing director K Padmakumar by the vigilance and anti-corruption bureau was a blatant violation of Supreme Court's rulings on arrest by police officials, the legal opinion given to the government by the law secretary is learnt to have said.

MALABAR CEMENTS GRAFT CASE

The report of vigilance director Jacob Thomas on Malabar Cements corruption case, in which the former managing director was arrested by the agency and subsequently removed from the post, is now currently before chief minister Pinarayi Vijayan.

Padmakumar was arrested by the vigilance on September 5, on charges of corruption and alleged irregularities in awarding the dealership that had led to a financial loss of Rs 2.7 crore to the company. He was subsequently granted bail by the vigilance court on September 9.

The law secretary B G Harindranath is also learnt



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to have remarked that there was no material in the case to charge the accused under sections 409 and 420 of the Indian Penal Code.

While 409 is slapped for criminal breach of trust, and would invite a penalty of a sentence of minimum 10 years, the section 420 deals with cheating and thereby dishonestly inducing the person deceived to deliver any property to any person, or to make, alter or destroy a valuable security that can award a penalty of an imprisonment up to seven years.

Neither of these charges, except the sections under the prevention of corruption act would hold good in the Malabar Cements graft case, the legal opinion is learnt to have said. Further, the legal opinion is also learnt to have quoted the judgment of the Supreme Court on July 2, 2014, in Arunesh Kumar vs State of Bihar case, to substantiate that the arrest only served

the purpose of humiliating the individual.

"Arrest brings humiliation, curtails freedom and cast scars forever. Law makers know it so also the police. There is a battle between the law makers and the police and it seems that police has not learnt its lesson; the lesson implicit and embodied in the Cr.PC. It has not come out of its colonial image despite six decades of independence, it is largely considered as a tool of harassment, oppression and surely not considered a friend of public... Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive," the law secretary is learnt to have quoted from the judgment delivered by Chandramauli Kumar Prasad and Pinnaki Chandra Ghose.