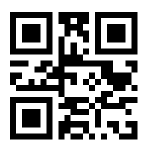


2026:DHC:2901-DB

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 17.03.2026
Pronounced on: 08.04.2026

\+ W.P.(CRL) 3868/2025

CHRISTIAN MICHEL JAMES .....Petitioner
Through: Mr.Aljo K.Joseph, Adv.

versus

UNION OF INDIA AND ORS. .....Respondents
Through: Mr.Satya Ranjan Swain, CGSC with Mr.Kautilya Birat, GP for R-1 & 2.
Mr.D.P. Singh, ASG/Special Counsel with Mr.Manu Mishra, Mr.Iman Khera, Ms.Garima Saxena, Advs. for R-3 & 4.

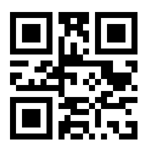
CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

NAVIN CHAWLA, J.

1. This petition has been filed by the petitioner praying for the following reliefs:

> *"a) Issue writ, order or direction in the nature of declaration that that the Article 17 of Indian UAE Extradition Treaty is ultra-virus Article 21, 245 and 253 of the Constitution of India to the extent the expression in Article 17 of the treaty "anything connected there with" gives liberty to the prosecution to read other offences and sections into the chargesheet filed against a fugitive Extradited from UAE, Ultra virus of Section 21 of the Extradition Act 1962.*



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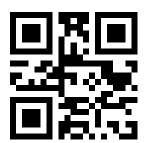
> *b) Issue appropriate Writ order direction declaring that non application of the Section 21 of the Extradition Act and considering the provisions of treaty above the law made by Parliament under Article 245 of the Constitution of India violate the Fundamental Rights of the petitioner under Article 21 of the Constitution.*
>
> *c) Issue appropriate writ order direction, in the nature of writ of Certiorari quashing the order dated 07.08.2025 passed by the Hon'ble CBI Court and declare that the order passed by the CBI court Annexure P-15 is illegal and violative of Section 21 of the Extradition Act consequently declare that the prolonged incarceration of the petitioner is illegal and direct the Trial Court to comply with the provisions of 436 A Cr.P.C."*

BRIEF FACTS:

2. A brief background of facts giving rise to the present petition is that the Central Bureau of Investigation ('***CBI***'), (respondent no.4 herein) registered RC No. 217-2013-A-0003 dated 12.03.2013 under Section 120B read with Section 420 of the Indian Penal Code, 1860 (hereinafter referred to '***IPC***') and Sections 7, 8, 9, 12, 13(2) and 13(1)(d) of the Prevention of Corruption Act, 1988 alleging therein that Air Headquarters of the Indian Air Force, after obtaining approval from Raksha Mantri, issued Request for Proposal (hereinafter referred as '***RFP***') in March, 2002 to 11 vendors for procurement of eight helicopters for VVIPs thereby replacing the then existing MI-8 helicopters. Amongst others, Air HQ prescribed a mandatory altitude requirement of 6000 meters for such helicopters. Only four firms responded to the RFP, and three helicopters, namely MI-172, EC-225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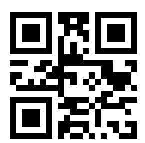
and EH-101 (subsequently known as AW-101) were selected by the Technical Evaluation Committee for a flight evaluation. Out of the three, only MI-172 and EC-225 were flight evaluated as EH-101 (AW-101) could not be evaluated in view of the vendor stating that the helicopter was certified to fly upto an altitude of 4572 meters (15000 feet) only, as against the mandatory requirement of 6000 meters. Though makers of EH-101(AW-101) promised to produce certification to the effect that helicopter is capable of flying upto 6000 meters, they could not submit the same. As a consequence, two helicopters, namely MI-172 and EC-225, underwent flight trial. Out of these two, MI-172 did not conform to several mandatory parameters, however, EC-225 helicopters qualified under all the parameters during Field Evaluation Trial (hereinafter referred as '***FET***'). The FET report was then sent to Ministry of Defence (hereinafter referred to as '***MoD***') in May, 2003 for approval.

3. It was further alleged that in June 2003, the Technical Manager (Air) in MoD asked Air HQ to reassess the EC-225 and also obtain the opinion of the Prime Minister's Office (hereinafter referred to as '***PMO***') with regard to the suitability of cabin height. In a meeting convened by the PMO on 19.11.2003 with representatives of MoD, Air HQ and Special Protection Group (SPG), the PMO observed that framing of mandatory requirements had effectively led to a single vendor situation and this problem would not have arisen if the option of the mandatory requirement for operational altitude at 4500 meter and the higher flying ceiling limit of 6000 meters with a cabin height

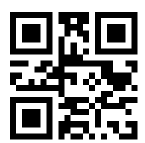


of 1.8 meter had been made as desirable instead of being mandatory. Thereafter, the said matter was deliberated at several levels in 2004 amongst different departments. However, the Indian Air Force had held its consistent and persistent stand for not reducing the flying altitude limit of 6000 meters due to security constraints and other related issues.

4. It is alleged that Mr. S.P. Tyagi was appointed as Chief of Air Staff (hereinafter referred to as '***CAS***') on 30.10.2004 and in the month of March, 2005, he approved the request to reduce the ceiling limit of VVIP helicopters from 6000 metres to 4500 metres as desirable rather than mandatory. It is alleged that Mr. Guido Haschke and Mr. Carlo Gerosa, in conspiracy with Mr. Bruno Spagnolini, CEO of M/s AgustaWestland International Ltd., had paid Euro 326,000/- to Mr. S.P. Tyagi as kickbacks in order to subvert the mandatory flying altitude of 6000 metres to 4500 metres of the VVIP helipcopters so as to make M/s AgustaWestland eligible to bid for the aforesaid deal. It is further alleged that the petitioner was acting as a middleman for the said deal to be awarded to M/s AgustaWestland.

5. A Charge Sheet was thereafter filed by the CBI in the said case on 31.08.2017, alongside seeking permission for further investigation, naming the petitioner as one of the accused persons involved.

6. As the petitioner was based in Dubai, the Investigating Agency started the process of the extradition of the petitioner to India from Dubai. The same resulted in the Extradition Decree dated 02.09.2018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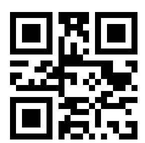
allowing the said request. The petitioner was extradited to India on 04.12.2018.

7. The petitioner states that the issue of his extradition and detention was considered by the United Nations Working Group on Arbitrary Detention (UN WGAD), and in the recommendations passed by the Human Rights Council Working Group on Arbitrary Detention on its eighty-ninth session, held on 23-27 November 2020 in Opinion No. 88/2020, it was opined that great human rights violations had been committed by the Government of India in rendition and continuation of the custody and custodial torture of the petitioner.

8. A Supplementary Charge- sheet was also filed by the CBI on 17.09.2020 and thereafter on 15.03.2022.

9. Respondent No. 4, that is, CBI, in its chargesheet, had stated that, from the investigation conducted it was revealed that the petitioner had been running two firms and was acting as a middlemen for facilitating the award of the contract for the supply of 12 VVIP helicopters by the Government of India as he was having contacts in the MoD and the Indian Air Force. It is alleged that the petitioner, through these contacts, had procured confidential documents belonging to the IAF and MoD and then had sent the same to Mr. Bruno Spagnolini and other persons. It was further alleged that, *vide* a Service Agreement dated 01.03.2010, M/s Global Services FZE, Dubai was engaged to assist and advise M/s Agusta Westland International Ltd in implementing performance of contract for supply of the said VVIP helicopters.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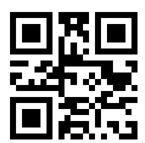
10. The petitioner filed an application seeking bail before the CBI Court, however, the same was dismissed *vide* order dated 18.06.2021. The petitioner then filed an application seeking bail before this Court, being Bail Appln. 2586/2021. The same, however, also stood dismissed by this Court *vide* order dated 11.03.2022. The petitioner challenged the said order before the Supreme Court by way of a Special Leave Petition (Crl.) 4145/2022, which also came to be dismissed *vide* the order dated 07.02.2023.

11. The petitioner then filed an application for release before the learned Special Judge, CBI Court, claiming therein that he was in custody for more than five years and three months which is longer than the period prescribed for any of the offences charged against him. The said application, however, was dismissed by the learned Special Judge *vide* order dated 23.02.2024.

12. The petitioner then filed a Writ Petition being W.P.(Crl.) 140/2024 before the Supreme Court seeking his immediate release. The Supreme Court, however, *vide* order dated 18.03.2024, declined to entertain the same under Article 32 of the Constitution of India.

13. The petitioner also filed another application before this Court seeking bail, being Bail Appln. 1338/2024, which again came to be dismissed by this Court *vide* its order dated 25.09.2024. The petitioner challenged the said order before the Supreme Court by way of SLP (Crl) 17016/2024, wherein, *vide* an order dated 18.02.2025, the Supreme Court directed the petitioner to be released on bail. As



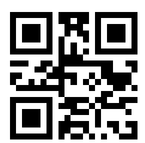
the petitioner has not complied with the condition for release on bail, he continues to be in jail.

14. The petitioner again made a submission before the learned Special Judge, CBI Court that he has already undergone the maximum sentence prescribed for the offences with which he has been extradited from Dubai and therefore, deserves to be released. However, the learned Special Judge, *vide* order dated 07.08.2025, rejected the said submission and the prayer made by the petitioner to be released. Aggrieved whereof the petitioner has filed the present petition.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER:

15. Mr.Aljo K. Joseph, the learned counsel for the petitioner, submits that *vide* the Extradition Decree dated 02.09.2018 passed by the Dubai Court, the petitioner had been extradited to India to face trial for the offences under Sections 420 and 415 of the IPC and Section 8 of the Prevention of Corruption Act only. Relying upon Section 21 of the Extradition Act, 1962, the learned counsel for the petitioner submits that the trial of the petitioner for the offence under Section 467 of the IPC was, therefore, not maintainable.

16. He submits that the reliance of the respondents on the Extradition Treaty dated 25.10.1999 published on 20.07.2000 (hereinafter referred to '**Treaty**') between India and UAE, and more particularly Article 17 thereof, is ill-founded inasmuch as the use of the word "*offences connected therewith*" cannot be read to include the

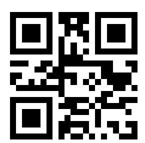


offence for which accused has not been extradited from a foreign country. He submits that to read it otherwise would be contrary to the mandate of Section 21 of the Extradition Act, making the provision of Treaty *ultra vires* Section 21 of the Extradition Act, as being contrary to the Municipal Law. In support of his plea, he also placed reliance on the judgment of the Supreme Court in ***Daya Singh Lahoria vs. Union of India & Ors.*** (2001) 4 SCC 516.

17. Placing reliance on the judgments of the Supreme Court in ***Gramophone Company of India Ltd. vs. Birendra Bahadur Pandey and Ors.*** (1984) 2 SCC 534; and ***Commissioner of Customs, Bangalore vs.* G.M. *Exports and Others*** (2016) 1 SCC 91, he submits that as it is a well accepted international law that a person who has been extradited cannot, without the consent of the Requested State, be tried for offences other than the one for which he has been extradited, the same should guide this Court even for interpreting not only Section 21 of the Extradition Act but also Article 17 of the Treaty.

SUBMISSIONS OF MR. D.P. SINGH, LEARNED ASG, APPEARING FOR RESPONDENT NOS.3 AND 4:

18. On the other hand, Mr.D. P. Singh, the learned ASG, appearing for the respondent nos.3 and 4 submits that the petitioner is guilty of raising the same issue over and over again. Referring to the order dated 11.03.2022 of this Court and the order dated 07.03.2023 of the Supreme Court, he submits that the same issue was raised by the petitioner, but was rejected by the Supreme Court stating that the same can be considered only at the final stage of the trial, and the petitioner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cannot today contend that he cannot be prosecuted for an offence under Section 467 of the IPC.

19. He further submits that Article 17 of the Treaty expressly provides that a person extradited can be tried for not only the offences for which he has been extradited but also for the offences connected therewith. He submits that Section 467 of the IPC is an offence connected with the offences for which the petitioner was extradited, as the Extradition Order itself records that the petitioner was being sought to be extradited for "misuse of occupation or position, money laundering, collusion, fraud, misappropriation and offering illegal gratification". He submits that, therefore, there is no merit in the present challenge.

SUBMISSIONS OF MR.SATYA RANJAN SWAIN, LEARNED CGSC FOR RESPONDENT NOS.1 AND 2.

20. Mr.Swain, the learned CGSC, appearing for the respondent nos.1 and 2, while adopting the submissions of Mr.D. P. Singh, the learned ASG, further submits that the expression "*offences connected therewith*" appears not only in the Treaty with UAE, but also in the Treaty between India and Oman and between India and Kuwait. The very purpose of introducing the said expression in Article 17 of the Treaty was to allow for the offence forming part of the same cause of action to be tried. He submits that the Treaty, being *Lex Speciali*s, recognizes that complex transnational crimes often reveal deeper levels of criminality as the trial progresses. The clause ensures that a fugitive does not receive "technical immunity" for the offences.

21. He submits that the Treaty is in conformity with Article 224 read with Article 253 of the Constitution of India and is not in any manner *ultra vires* Section 21 of the Extradition Act. He submits that the Treaty has also been notified in terms of Section 3(3) of the Extradition Act.

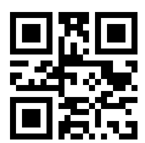
ANALYSIS AND FINDINGS:

22. We have considered the submissions made by the learned counsels for the parties.

23. Albeit for the purpose of deciding on the application filed by the petitioner seeking bail, this Court, in its order dated 11.03.2022, passed in Bail Appln. 2586/2021, on the same plea of the petitioner, observed as under:

> *"16. Notably, the charge sheet against the applicant has been filed for offences under Section 120B read with Section 420 IPC and Sections 7/8/9/12/13(2) read with Section 13(l)(d) of the PC Act. On a plain reading of the judgment passed by the Dubai Supreme Court; the Extradition Treaty signed between UAE and the Republic of India; and the authorities cited on, the issue by the parties, this Court, prima facie, finds no merit in the submission made on behalf of the applicant. Even otherwise, the said submission would be open to test at the time of framing of Charge/trial."*

24. Aggrieved by the above, the petitioner had filed Special Leave Petition, being SLP (Crl) 4145/2022, which came to be dismissed by the Supreme Court *vide* order dated 07.02.2023, observing as under: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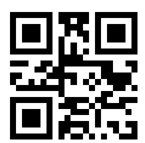
"7. Article 17 of the Extradition Treaty between India and the UAE contains the following provision:

> *"1. The person to be extradited shall not be tried or punished in the requesting State except for the offence for which his extradition is sought or for offences connected therewith, or offences committed after his extradition, If the characterisation of the offence is modified during the proceedings taken against the person extradited, he shall not be charged or tried, unless the ingredients of the offence in its new characterisation, permit extradition in conformity with the provisions of this Agreement.*
> *2. If the person extradited had the liberty and means to leave the territory of the State to which he was extradited, and he did not leave within thirty days subsequent to his final release or left during that period, but voluntarily returned, he may be tried for the other offences."*

8. From the above extract, it is evident that the person to be extradited shall not be tried or punished in the requesting State except for the offences for which his extradition is sought or for offences connected therewith.

9. Section 21 of the Extradition Act 1962 is in the following terms:
"21. Accused or convicted person surrendered or returned by foreign State not to be tried for certain offences.—Whenever any person accused or convicted of an offence, which, if committed in India would be an extradition offence, is surrendered or returned by a foreign State, such person shall not, until he has been restored or has had an opportunity of

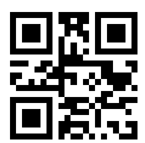


returning to that State, be tried in India for an offence other than—
(a) the extradition offence in relation to which he was surrendered or returned; or
(b) any lesser offence disclosed by the facts proved for the purposes of securing his surrender or return other than an offence in relation to which an order for his surrender or return could not be lawfully made; or (c) the offence in respect of which the foreign State has given its consent."

10. In the present case, the extradition offences in relation to which the petitioner was returned appears from the text of the extradition decree of the Dubai authorities, which has been extracted earlier. The extradition decree has to be read together with the provisions of Article 17 of the India-UAE Extradition Treaty.

11. The CBI initially registered a regular case on 12 March 2013. The charge-sheet was submitted on 31 August 2017. The CBI has filed a supplementary charge-sheet on 17 September 2020. Further investigation under Section 173(8) is stated to be in progress.

12. In the backdrop of the above discussion, it has emerged before the Court that the fundamental basis on which the petitioner has sought bail, namely, under the provisions of Section 436A, cannot be accepted as valid. Besides the provisions of Sections 415 and 420 read with Section 120B IPC and Section 8 of the PC Act, the petitioner is alleged to have committed offences under Section 467 IPC which is punishable with upto life imprisonment. In this backdrop, the provisions of Section 436A would not stand attracted in the present case."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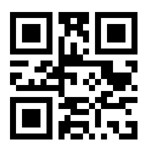
25. Therefore, the petitioner is merely trying to re-agitate the same issue, which at least on *prima facie* basis stands considered by the Supreme Court. The same may not be permissible.

26. Be that as it may, we have considered the submissions made by the learned counsel for the petitioner.

27. Article 17 of the Treaty reads as under:

> *"**Article 17***
>
> *1. The person to be extradited shall not be tried or punished in the requesting State except for the offence for which his extradition is sought* ***or for offences connected therewith****, or offences committed after his extradition. If the characterization of the offence is modified during the proceedings taken against the person extradited, he shall not be charged or tried, unless the ingredients of the offence in its new characterization, permit extradition in conformity with the provisions of this Agreement.*
>
> *2. If the person extradited had the liberty and means to leave the territory of the State to which he was extradited, and he did not leave within thirty days subsequent to his final release or left during that period, but voluritarily returned, he may be tried for the other offences."*
>
> *(Emphasis supplied)*

28. A plain reading of the above Article would show that the person to be extradited can be tried for the offence for which his extradition is sought "*or for the offence connected therewith*". Therefore, Article 17 of the Treaty permits the prosecution of a person extradited, for the

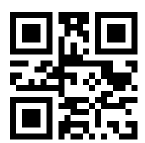


offence which may be made out against such person from the same factual background asserted against the said person and on the basis of which his extradition has been permitted by the other State or an offence connected therewith.

29. Section 21 of the Extradition Act, reads as under:

> *"21. Accused or convicted person surrendered or returned by foreign State not to be tried for certain offences.—Whenever any person accused or convicted of an offence, which, if committed in India would be an extradition offence, is surrendered or returned by a foreign State, such person shall not, until he has been restored or has had an opportunity of returning to that State, be tried in India for an offence other than—*
> *(a) the extradition offence in relation to which he was surrendered or returned; or*
> *(b) any lesser offence disclosed by the facts proved for the purposes of securing his surrender or return other than an offence in relation to which an order for his surrender or return could not be lawfully made; or*
> *(c) the offence in respect of which the foreign State has given its consent."*

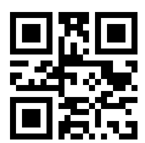
30. A reading of the above provision would show that a person extradited cannot, until he has been restored or has had an opportunity of returning to the State from which he was extradited, be tried in India for the offences other than (i) extradition offences in relation to which he was surrendered or returned; or (ii) any lesser offence disclosed by the facts proved for the purpose of securing his surrender or return; or (iii) the offence in respect of which the foreign State has given its consent.



31. In view of the above, once Article 17 of the Treaty permits the trial of the person extradited even for offences connected with the offences for which extradition has been sought, permission of the State from which he has been extradited, that is UAE, for the person extradited to be tried for such offence, is inbuilt. The Extradition Decree has to be, therefore, read in conformity with Article 17 of the Treaty. There is also no conflict between Article 17 of the Treaty and Section 21 of the Extradition Act inasmuch as Article 17 of the Treaty would have to be read in conformity with Section 21(c) of the Extradition Act, implying consent of the State from which the petitioner has been extradited.

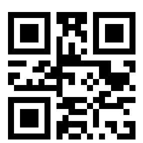
32. In ***Daya Singh Lahoria*** (supra), the Supreme Court considered Article 7 of the Extradition Treaty therein, which reads as under:

> *"7. A person surrendered can in no case be kept in custody or be brought to trial in the territories of the High Contracting Party to whom the surrender has been made for any other crime or offence, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or has had an opportunity of returning, to the territories of the High Contracting Party by whom he has been surrendered.*
>
> *This stipulation does not apply to crimes or offences committed after the extradition."*

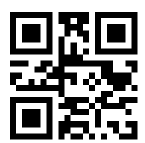


33. Considering the said term of the Treaty and Section 21 of the Extradition Act, the Supreme Court held as under:

> *"3.....The provision of the aforesaid section places restrictions on the trial of the person extradited and it operates as a bar to the trial of the fugitive criminal for any other offence until the condition of restoration or opportunity to return is satisfied. Under the amended Act of 1993, therefore, a fugitive could be tried for any lesser offence, disclosed by the facts proved or even for the offence in respect of which the foreign State has given its consent. It thus enables to try the fugitive for a lesser offence, without restoring him to the State or for any other offence, if the State concerned gives its consent. In other words, it may be open for our authorities to obtain consent of the foreign State to try the fugitive for any other offence which the extradition decree might not have mentioned, but without obtaining such consent, it is not possible to try for any other offence, other than the offence for which the extradition decree has been obtained. The Extradition Treaty contains several articles of which Article 7 is rather significant for our purpose, which may be quoted hereinbelow in extenso:*
>
> *xxxx*
>
> *……The aforesaid article unequivocally indicates that the person concerned cannot be tried for any other crime or offence than those for which the extradition shall have taken place until he has been restored or has had the opportunity of returning to the territories of the High Contracting Party by whom he has been surrendered. The provisions of Section 21 of the Extradition Act are in consonance with the aforesaid article of the Extradition Treaty. In the modern world interdependence of States is natural and essential and*

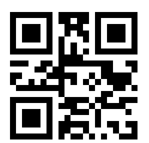


consequently the importance of extradition and problems of extradition would arise. It has become so easy for a fugitive to escape from the law of the land and if law has to take its course and pursue the offender, extradition proceedings are a necessary instrument to secure the return of the offender to the altar of law. Laxity in the extradition efforts would only increase the offender's appetite to commit crimes with impunity by fleeing to a foreign territory where he cannot be touched except through extradition. There is a natural tendency on the part of the State of asylum to facilitate the surrender of the fugitive. But extradition of a fugitive is not that smooth as one thinks. The liberty of an individual being an inalienable right, many States, particularly the United States of America and the United Kingdom, prescribe that no fugitive will be extradited in the absence of an extradition treaty between the two countries. But extradition is always necessary and no fugitive should be given the impression that he can commit an offence and flee from the country by taking shelter in a foreign country. At the same time surrender must be preceded by proper precautions to the effect that nobody is denied the due process of law and nobody is being made a victim of political vindictiveness. Extradition is practised among nations essentially for two reasons. Firstly, to warn criminals that they cannot escape punishment by fleeing to a foreign territory and secondly, it is in the interest of the territorial State that a criminal who has fled from another territory after having committed crime, and taken refuge within its territory, should not be left free, because he may again commit a crime and run away to some other State. Extradition is a great step towards international cooperation in the suppression of crime……."



34. There was, therefore, a complete embargo on the extradited person being tried for offences other than the one for which he had been extradited. The Court emphasised the independence of the States in considering the matters of extradition. In the present case, the Treaty in question, is in clear departure from the one considered by the Supreme Court. UAE and India, as sovereign countries, have decided the principles that would govern the extradition requests and have in-built consent for such person to be tried even for offences connected with the ones for which such person has been extradited. The same is in conformity and not in derogation of Section 21 of the Extradition Act.

35. In view of the above, the scope of prosecution of the petitioner must be understood in light of the extradition decree and the underlying factual basis considered by the extraditing court. In the present case, the petitioner asserts that his extradition was only for the purpose of facing trial for the offences under Sections 420 and 415 of the IPC and Section 8 of the Prevention of Corruption Act. A reading of the Extradition Decree passed by the Dubai Court, however, does not support this submission. The Extradition Decree is based on the factual scenario placed before the Dubai Court. It states that the offences for which the petitioner is wanted are of deceit and criminal conspiracy, punishable by the laws of both the States. Though it then discusses Section 120B, 415 and 420 of the IPC and Section 8 of the Prevention of Corruption Act, it also discusses Articles 237, 399 and 423 of the Federal Penal Law No. 2 of 1987 and its amendment of



2016 applicable in UAE. It is evident from the extradition decree passed by the Dubai Court that the petitioner was extradited for facing trial for offences which are directly arising from the factual background in the present case, thereby indicating that the prosecution of the petitioner falls within the scope of Article 17 of the Treaty.

36. As we find no conflict between Section 21 of the Extradition Act and Article 17 of the Treaty, the judgments of the Supreme Court in ***Gramophone Company of India Ltd*** (supra) and ***Commissioner of Customs, Bangalore vs.*** **G.M.** ***Exports and Others*** (supra) shall have no bearing on the facts of the present case.

37. We find no merit in the present petition. The same is, accordingly, dismissed.

38. There shall be no order as to costs.

NAVIN CHAWLA, J.

RAVINDER DUDEJA, J.

APRIL 8, 2026/Arya/as