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Crl.A.No.3 of 2009

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Reserved on : 20.06.2023

Pronounced on : 17.07.2023

CORAM :

**THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN**

Crl.A.No.3 of 2009

and

Crl.MP.No.660 of 2022

1. D.Balasankaralingam.  
S/o.Durairaj.

2. B.Jayalakshmi,  
W/o.Balasankaralingam.

... Appellants

**/versus/**

State by Inspector of Police,  
Central Bureau of Investigation,  
SPE/CBI/ACB, Chennai.  
(RC 11(A)/1997).

... Respondents

**PRAYER :** Criminal Appeal has been filed under section 374 (2) of Criminal Procedure Code, against the judgment of the learned Additional Special Judge for CBI Cases, Chennai in CC.No.38 of 1999 dated 30.12.2008 convicting the Accused No.1/Appellant herein for the offence under Section 13(2) r/w 13(1)(d) of P.C.Act 1988 and sentencing him to undergo five years R.I and to pay a fine of Rs.1,00,000/- and in default of payment of fine to undergo imprisonment for a period of one year and convicting Accused No.2/Appellant herein for the offence under Section 109 IPC r/w Section 13(2) r/w Section 13(1)(e) of P.C.Act 1988 and sentencing to undergo a period of 3 years and a fine of Rs.10,000/- in default to undergo imprisonment for a period of three months.

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Crl.A.No.3 of 2007

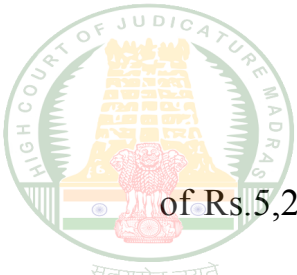
For Appellants : Mr. N.R.Elango,  
Senior Counsel for  
Mr.S.Haja Mohideen Gisthi

For Respondent : Mr.R.Sudeve Kumar  
Senior Public Prosecutor (C.B.I)

### **J U D G M E N T**

This Criminal Appeal has been filed against CC.No.38 of 1999 on the file of learned Additional Special Judge, CBI Cases, Chennai.

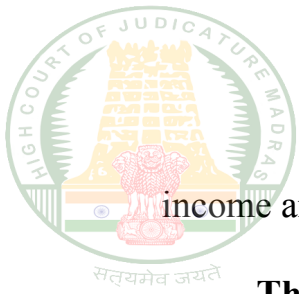
2. The appellants Balasankaralingam and Jayalakshmi are husband and wife. The first appellant Balasankaralingam is a public servant who joined the Customs Department as Preventive Officer in the year 1977. While he was serving as Superintendent (Preventive) of Customs prosecuted for possession of assets disproportionate to the known source of income.His wife Jayalakshmi was prosecuted for abetting him to commit the said offence. The Criminal law was set into motion after the residential premises of the first appellant Balasankaralingam was searched on 19.02.1997. During the search, liquid cash of Rs.8,81,540/- was recovered from his residence. Search of two bank lockers operated in the name of his wife Jayalakshmi/ the second accused/second appellant led to further recovery



of Rs.5,25,000/- and Rs.25,00,000/- respectively. The search also led to recovery of cash bills, invoices, share certificates, FD receipts, sale deeds, LIC Policies, UTI Units and other incriminating materials.

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3. The investigation had brought to light that Balasankaralingam who joined service on 08.12.1977 was terminated from service on 08.01.1980 pursuant to departmental enquiry. Later, he was reinstated in service as Preventive Officer on 15.12.1987 based on the orders passed by Central Administrative Tribunal. He was promoted as Superintendent with effect from 09.11.1994. He was not in service for substantial period of time and he had no other income other than his salary. While so, the investigation has unravelled, he and his family members were maintaining several bank accounts and lockers. He had invested in movables and immovables for which, the sources are unknown. Most of the properties were acquired after the accused got reinstated in service. Taking the period from 15.12.1987 to 20.02.1997 as check period, the prosecution has collected materials which *prima facie* satisfied that the accused has acquired assets value of Rs.1,10,50,128.22/- disproportionate to his known source of income. Final report filed with details of assets held at the beginning of the check period and assets acquired during the check period, the assets held at the end of check period, the



income and expenditure shown as :-

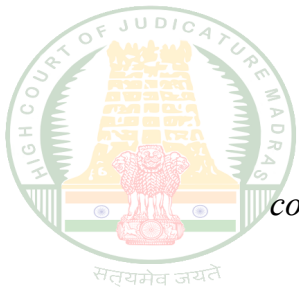
**The abstract of the assets details:**

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A	Assets at the beginning of the check period	Rs. 4,14,233.00
B	Assets at the end of the check period	Rs.1,44,32,287.08
C	Assets acquired during the check period (B-A)	Rs.1,40,18,054.08
D	Income earned during the check period	Rs. 44,56,416.32
E	Expenditure incurred during the check period	Rs. 14,88,490.46
F	Likely Savings during the check period (D-E)	Rs. 29,67,925.86
G	Disproportionate Assets during the check period (C-F)	Rs.1,10,50,128.22

4. The Trial Court, based on the materials placed by the prosecution which they collected during the course of investigation and as reflected in the final report, framed the following charges:-

**Charge No.1:-** “Firstly, that you A1 being a public servant employed as Preventive Officer and Superintendent of Customs Department during the period between 15.12.1987 and 20.02.1997 at Chennai and other places acquired assets which were disproportionate to your known sources of income and on or about 20.02.1997 you had been in possession of pecuniary resources of property in your name, in the name of your wife Smt.B.Jayalakshmi, A2 and in the name of your Children viz., Miss.B.Subhashini, Miss.B.Sasirekha and B.Sugitha to the tune of Rs.1,10,50,128.22 which were disproportionate to your known sources of income and for which you could not satisfactorily account and thereby you A1 committed an offence punishable under Section 13(2) r/w 13(1)(1)(e) of PC Act, 1988 and within my



cognizance.



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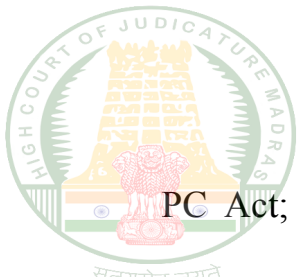
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**Charge No.2:-** *Secondly, that you A2 during the period between 15.12.1987 and 20.02.1997 at Chennai and other places abetted the commission of offences of criminal misconduct by your husband viz., Shri D.Balasankaralingam who was working as public servant in the capacity of Preventive Officer or pecuniary resources to the tune of Rs.1,10,50,128.22 p in your name and your children as mentioned in the previous charge which offence was committed by your abetment and that you have thereby committed an offence punishable under Section 109 IPC r/w 13(2) r/w 13(1)(e) of PC Act, 1988 and within my cognizance”.*

5. To prove the charges, the prosecution has examined 91 witnesses (P.W.1 to P.W.91) and marked 456 exhibits (Ex.P.1 to Ex.P.453). On the side of the accused, 35 exhibits (Ex.D.1 to Ex.D.35) were marked.

6. The trial Court, on considering the documents and materials held A1 guilty of offence punishable under Section 13(2) r/w 13(1)(1)(e) of PC Act, 1988 and A2 held guilty of for abetting him, an offence punishable under Section 109 IPC r/w 13(2) r/w 13(1)(e) of PC Act, 1988. A1 was convicted to undergo five years Rigorous Imprisonment and to pay a fine of Rs.1,00,000/- and in default one year Rigorous Imprisonment for the offence under Section 13(2) r/w 13(1)(e) of

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PC Act; and A2 was convicted and sentenced to undergo 3 years Rigorous Imprisonment and a fine of Rs.10,000/- in default three months Rigorous Imprisonment for the offence under Section 109 IPC r/w 13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988.

7. That apart, the trial court directed to confiscate the assets worth about Rs.1,05,74,000/- acquired disproportionate to the known source of income.

The properties to be confiscated and its value are given below:-

**CONFISCATION OF PROPERTIES WITH VALUE**

Ex.P.437	Deposit in Indian Bank High Court Campus, F.D.R.No.34302	Rs. 38,73,000
Ex.P.243	Property	Rs. 14,35,000
Ex.P.248	Property	Rs. 3,25,000
Ex.P.249	Property	Rs. 1,95,000
Ex.P.250	Property	Rs. 7,20,000
Ex.P.256	Property	Rs. 25,00,000
Ex.P.93	Deposit	Rs. 1,00,000
Ex.P.108	Deposit	Rs. 1,50,000
Ex.P.143	60 Certificates Deposit	Rs. 60,000
Ex.P.67	Deposit	Rs. 2,00,000
Ex.P.89	Deposit	Rs. 5,00,000
Ex.P.238	Property	Rs. 5,02,148
	Total	Rs.1,05,60,148

8. Aggrieved by the conviction and sentence, the appellants have preferred the criminal appeal under Section 374 of Cr.P.C before this Court.



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9. The learned Senior Counsel appearing for the appellants made a plea that in the light of amendment to the Prevention of Corruption Act, 1988 in the year 2018, particularly, the expressions used in Section 13(1)(e) of the Old Act and the corresponding provision in the New Act, submitted that the concept of satisfactorily accounting the property which is disproportionate to the known source of income has been drastically changed. The expression “satisfactorily” of resources and the explanation for the “known source of income” found in the Act 1988 was amended in the year 2018. The amendment brought in should be given retrospective effect and being a provision providing liberal meaning for the term 'known source of income' the spirit behind the amendment to be read into while considering the appeal.

10. The learned Senior Counsel submitted that the accused had lawful source of income and they gave explanation before the Investigating Officer and marshalled exhibits before the Court disclosing the source of income. However, the same has been rejected by the Investigating Officer as well as the Court. . Referring the parliament debate and the standing committee recommendation before passing the bill for amending the provisions of Prevention of Corruption

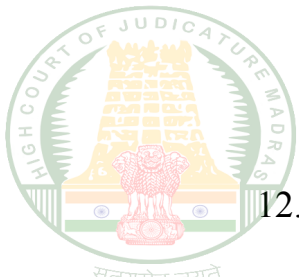


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Act, the learned Senior Counsel made a persuasive argument that the amendment was brought forth after the resolution of United Nations Conventions against the corruption with a laudable intention to bring a comprehensive set of standards, measures and rules that all countries can apply in order to strengthen their legal and regulatory regimes to fight corruption. The Prevention of Corruption Act in 2018 in a sense not an amendment to the existing Act 1988, but substitution to the old Act, 1988 as it could be seen from the amended provisions. Therefore, it has to be given retrospective effect.

11. The learned Senior Counsel to buttress his submission, rely upon the Judgment of the Hon'ble Supreme Court rendered in **2001 (4) SCC 236** in the case of **Ramkan Ali Colliery of BCCL -vs- Workmen by Secy., Rashtriya Colliery Mazdoor Sangh and Another**. According to the Counsel, If in the light of new Act and the materials placed before the Court are considered, then the explanation given by the accused for the source of property held by them will be lawful *san* intimation in accordance with the provisions of law, rule or order applicable to a public servant. Then, it will not attract offence under Section 13(1)(e) of the Prevention of Corruption Act.





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12. Be it as it may, The question about whether the appellants to be punished under Section 13(1)(e) of P.C Act in view of the change of law subsequent to the date of judgement, will arise .only if the sources are lawful, but he failed to intimate the authorities namely the Customs Department in which he was employed or to the Income Tax Department, where he was expected to disclose the income for paying Tax, Therefore, it is necessary to look into the facts of the case, to first ascertain, whether the accused held assets disproportionate to the source of income and if so, whether for the failure to intimate about the income to his higher officials as per service rules will attract provisions under PC Act.

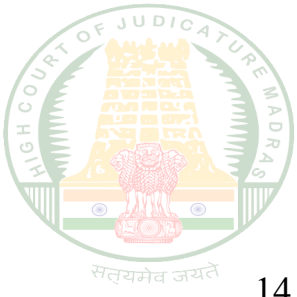
13. On facts, the Learned Senior Counsel appearing for the appellants, made entry wise comment about the error in the assessment made by the trial court. The contention of the learned Senior Counsel appearing for the appellants is capsulized as below:-

“ During the relevant point of time, while A1 serving as Superintendent of Customs, Chennai his wife/A2 was carrying on money lending business, tailoring and agriculture. She had multiple sources of income, she and her three daughters are income tax assesses, since 1988- 1989. All the family members of the first accused had their own independent source of income and were assessed to income



tax separately. Therefore, they should be treated as separate legal entity and the property ought not to have been mulcted with the property of the first accused to boost up the value and to project as if he had amassed wealth disproportionate to the source of his income.

While the accused A1 and A2 have multiple sources of income and same well established through documents, the trial court had consistently erred in holding A2 as house wife without any independent source of income. This observation /impression of the trial court, is much contrary to the documentary evidence relied on by the accused. The Income Tax returns filed by the family members and statements of assets, the accounts submitted by the first accused to his department were not properly considered by the trial court. There is no legal necessity on the part of the Government Servant to intimate the assets acquired by the family members, particularly his wife acaquired from out of her independent source. The Central Civil Service (Conduct Rules) Rule 18 say, those assets in the name of family members of the accused earned out of his or her own funds, alone necessary for the public servant to intimate to the department. Only the assets which stands in the name of the accused has to be intimated to the department. As far as the income of the wife and his daughters who are separate entity, it is sufficient for them to intimate the income tax department and pay the tax levied.



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14. The learned counsels contention is that, when most of the documents were marked by consent during trial in exercise of power under Section 294 of Cr.P.C. the trial court ought not to have disbelieved those documents just because they are not convenient to the case of the prosecution. The income tax returns which were collected by the prosecution during the search of the accused house and marked as Exs. P.267 to P.290 by consent and the Income Tax returns Ex.D13 and D31 which sufficiently explains the source ought not to have been disbelieved by the trial Court.

15. Further, the learned Senior Counsel submitted that regarding the income tax returns filed and the commissioner's enquiry conducted by Income Tax Department in connection with seizure of Rs.8.82 lakhs from the residence of the accused culminated in exonerating the accused after collecting the tax and penalty for income undisclosed.

16. The prosecution case right from inception was defective and FIR was registered without following the procedures. No preliminary enquiry was



conducted before registering the FIR against the first accused for the offence under Section 13(1)(e) of PC Act. The Investigating Officer examined as P.W.91 has admitted that the CBI manual directs Investigating Officer to conduct careful preliminary verification before registering the case against a public servant for disproportionate asset. Whereas, in this case Investigating Officer admittedly not conducted preliminary enquiry.

17. The Learned Senior Counsel made an extensively argued regarding each items shown in the Annexures A to E, to impress that the trial Court erred in arriving the disproportionality. The gist of the argument regarding the objectionable inclusion/exclusion of items shown in Annexure A to E are as under:-

(a) the prosecution failed to take note of the bank balance held by the accused at the beginning of the check period. The assets declared by the accused to the income tax department prior to the check period and sold during the check period were not included in the list of assets held at the beginning of check period.

(b) Under the Annexure, 'Asset at the end of the check period', properties which were already sold, investments made prior to the check period, property



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purchased in lieu of re-payment of loan advanced prior to the check period, excessive estimation of the construction cost of the house are the deliberate inclusion to exaggerate the value of the assets under the Annexure 'Asset at the end of check period;

(c) Under the income category, the rental income, the dividend income from UTI, advance received towards sale consideration of the properties from Alagar Rajan, JKK Trust, J.Jamal were all not purposefully included under the head of income ;

(d) Regarding the statement in the Annexure under the heading 'expenditure', domestic expenses for the family inflated. The fuel expenses, telephone Bills, and expenditure towards maintenance of the car and spare parts were not incurred by the accused, however, same has been added to show as if the accused and his family had no savings at all during the check period to acquire the properties.

18. For easy reference, the Learned Senior Counsel had extracted the omissions and additions under the respective heads.

### **ANNEXURE-A**



Omission of the following assets held by the accused family at the beginning of the check period as on 15.12.1987:-

S.No.	DESCRIPTION	AMOUNT
1.	Assets bought before check period but sold during check period must be added	Rs. 75,000
2.	Bank Balance at the beginning of check period is omitted	Rs.1,89,892
3.	Assets accrued before check period and declared in IT Returns	Rs.13,42,646
	Total	Rs.16,07,538

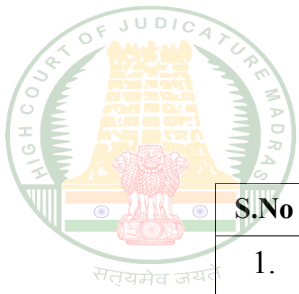
**ANNEXURE-B**

Erroneous inclusion of the following assets at the end of the check period as on 20.02.1997:-

S.No	DESCRIPTION	AMOUNT
1.	Kodai Property bought before Check Period and sold during Check Period	(-) Rs. 5,050
2.	Investment made in Central Cooperative Bank before check period	(-) Rs. 40,000
3.	Investment made with Unit Trust India calculated in excess	(-)Rs. 1,63,404
4.	Land registered, as sale deed in lieu, of repayment of loan given by A2	(-)Rs. 20,000
5.	Cost of Construction of house constructed at Anna Nagar calculated in excess	(-) Rs.15,24,303
6.	Initial Deposit for telephone	(-) Rs. 20,000
7.	Special Term deposit with SBI-amounts not remitted by A2	(-) Rs. 2,00,000
	Total	(-) Rs.19,72,757

**ANNEXURE-D**

Omission to include the following Income earned by Shri Balasankaralingam and his family members during the check period:-



S.No	DESCRIPTION	AMOUNT
1.	Rental advance and Rent received from March 1990 to February 1991 from Madurai house not included.	Rs. 23,500
2.	Dividend earned from UTI from 10 Share Certificates	Rs. 1,99,599
3.	Advance received from Alagar Rajan towards sale agreement	Rs. 9,00,000
4.	Advance from JKK Trust towards sale agreement	Rs. 12,00,000
5.	Advance from S.Jamal towards sale agreement	Rs.13,00,000
6.	Rental Advance received from Shop Leasing	Rs. 5,00,000
7.	Amount received by way of gift by A2 and her daughters (i.e, from the year 1987 to 1997)	Rs. 14,19,963
8.	Interest earned by way of money lending by A2	Rs. 24,48,079
9.	Income from Agriculture	Rs. 17,58,721
10.	Rental Income from House at Andalpuram for 5 years	Rs. 1,80,000
11.	Interest obtained from Pioneer Overseas Finance Ltd.,	Rs. 30,000
12.	Income earned by sale of Kodaikanal Property	Rs. 1,80,000
13.	Loan received by A2 from her Aunt.Smt.Saraswathi Ammal	Rs. 3,50,000
14.	Rental Income of Rs.65,000/- received from Ramamurthy	Rs. 65,000
15.	Income earned by A1 by operating a tourist taxi bearing number TCV -1005	Rs. 2,18,000
16.	Omission about income from IGGI Resort by renting out during the season	Rs. 48,000
	<b>Total</b>	<b>Rs. 1,08,20,862</b>

### ANNEXURE-E

Expenditure incurred by Shri D.Balasanakaralingam and his family members during the check period shown excessive:-



Sl.Nos	DESCRIPTION	AMOUNT
1.	Domestic expenses incurred by A1 and his family members wrongly calculated by Directorate of Economics and Statistics	(-) Rs. 2,57,089
2.	Expenditure towards Car A/C repair and other spare part fixing	(-) Rs.31,640
3.	Expenditure incurred in Fuel Charges	(-) Rs.36,756
4.	Expenditure towards telephone charges	(-) Rs.95,218
		(-) Rs.4,20,703

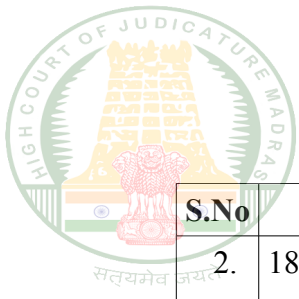
19. Apart from the above submissions, it was also argued that the sanction to prosecute is defective without application of mind. Many incriminating materials were not put to A1 and A2 during Section 313 Cr.P.C., questioning.

20. The appellants, on 21.01.2022 had filed Crl.M.P.No.660 of 2022 under Section 391 Cr.P.C., to accept 12 documents which are related to documents connected with Income Tax Department proceedings taken place pending trial.

The list of the 12 documents with dates are:-

S.No	Dates	Particulars
1.	29.03.2001	ACIT assessment order for assessment year 1997-1998





S.No	Dates	Particulars
2.	18.12.2007	ITAT appeal order for assessment year 1992-93, 1993-94, 1994-95 vide Order No.ITA No.2271, 2272 &2273/Mds/2007
3.	15.05.2008	ITAT appeal order for assessment year 1995-96 vide Order No.2274/Mds/07
4.	27.02.2017	CIT (A) Appeal Order for the assessment year 1997-98 vide Order No.ITA.No.28/2012-13
5.	20.09.2007	ACIT Order giving effect to CIT (A)'s Order in the case of Balasankaralingam for A/y.1992-93, 1993-94, 1994-95, 1995-96, 1996-97
6.	08.12.2005	Certified copy of the counter filed by A-1 in O.S.No.703 of 2005
7.	11.03.2010	Certified true copy of Judgment passed in O.S.No.703 of 2005 by Principal District Civil Judge, Madurai
8.	19.03.2010	Certified true copy of petition filed by Alagarajan before Taluk Legal Service Committee, Virudhunagar
9.	31.03.2010	Certified true copy of the reply filed by A1 before the Legal Service Committee, Virudhunagar
10.	15.04.2010	Certified true copy of the petition filed by Alagarajan for transferring his dispute to Lok Adalath
11.	11.06.2010 to 30.07.2010	Certified true copy of the proceedings of LokAdalat
12.	30.07.2010	Certified true copy of Award passed by LokAdalath in LAP.No.42/10

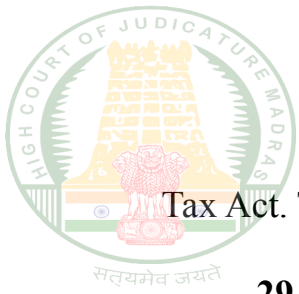
21. For disposal of the above petition, the following dates and events are

relevant:-

**17.02.1997** : FIR in Cr.No.(RC 11(A)/1997) registered against A-1 by CBI

**19.02.1997** : The residence of the first appellant searched by CBI and cash of Rs.8,73,000/- seized.

**02.03.1999** : On receiving information about the seizure, IT Department has caused notice dated 02.03.1999 to the first appellant under Section 148 of Income



Tax Act. The Income Tax Department conducted enquiry.

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**29.03.2001** : Assessment Order passed by Additional Commissioner of Income Tax holding the cash seized from the residence of A1 and from the locker of A2 are unexplained/undisclosed money deemed to be income for assessment under Section 69 of IT Act. Reserving right to initiate penalty proceedings under Section 271(1)(e) of IT Act separately.

**02.02.2000**: Final report filed by CBI on completion of investigation before Special Court and taken on file in CC.No.38/1999.

**02.06.2003**: Charges framed and the accused denied the charges and claimed to be tried.

**30.12.2008**: Judgment delivered in C.C.No.38 of 1999.

**05.01.2009**: CA.No.3 of 2009 filed before the High Court. The appellants were granted suspension of sentence on 09.01.2009.

22. After 13 years from the date of appeal, the appellants seek leave of the Court to receive the documents listed above which were well within their knowledge and possession before and soon after trial.

23. The learned Senior Counsel for the petitioners/appellants submitted that these documents are relevant to consider the explanation for the source of income. The accused were not able to mark it during trial since the listed witness



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Vivekanandan from IT Department not examined.

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24. The learned Senior Public Prosecutor for CBI, submitted that the petition to receive documents is not maintainable as they are all subsequent to registration of FIR. Also the assessment orders, appeal and review arising out of Income Tax Act is only in respect of rate of tax to be levied and under which category the income to be classified. The opinion of income authorities about the nature of income for the purpose of levying tax is irrelevant for the criminal prosecution which was laid much prior to the assessment proceedings. In fact, court may draw adverse inference from these documents that the accused having caught with huge currencies and properties unable to explain forthwith the legal source, to wash the tainted money had disclosed the income belatedly and volunteer to pay tax and penalty.

**25. Submission of the Special Public Prosecutor for C.B.I on the grounds of Appeal:-**

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The learned Special Public Prosecutor submitted that the submission of the appellants' counsel that Section 13 of Prevention of Corruption Act as amended in 2018 to be given retrospective effect though a wrong proposition of law, besides it will not be of any advantage to the accused/appellant, even if accepted, since the possession of pecuniary resources of property which is found to be disproportionate not been satisfactorily accounted by him and unlike the post amendment provision of Section 13(1) (e) there is a statutory presumption that the public servant had intentionally enriched himself illicitly. The appellants under the new provision, the burden is on him. The reverse burden will fall on him if Section 13(1)(e) of Prevention of Corruption Act of 1988 and Sections 13(1) and (2) as amended by Act 16 of 2018 are read in juxtaposition. The Learned Senior Counsel appearing for CBI cases submitted that Section 13 not been substituted by Act 16 of 2008, but it was amended by the legislatures being conscious of the difference between 'substitution' and 'amendment'. If the amended Act 16 of 2018 examined dispassionately, the parliament has **amended** Sections 4, 11, 13 and 19 and **substituted** Sections 7, 8, 9, 10 and 14. Consequential amendments were carried out in other related sections. Section 17 A and Chapter 5 A inserted. Therefore, PC Act which is both a substantive and procedural law, had undergone change but the amendment now shift the burden on the accused to prove his



innocence. In any event, the trial court has considered the evidence on both sides and concluded the appellants were not able to satisfactorily explain the source of income from which the confiscated. Whenever penal provisions are amended, the Rule is it shall have only prospective effect.

26. The first appellant Balasankaralingam, Preventive Officer in the Customs Department is a Public Servant. His wife, the second appellant/Jayalakshmi is a non-earning member of the family. Though the appellants had contended that the second appellant hails from an affluent family and was given 250 sovereigns of jewels during marriage and she had her own source of income and business, the materials relied by the appellants not produced during the investigation or what produced belatedly are fabricated documents with ante-dates. The documents relied on by the defence to make believe that property acquired and possessed were from true lawful source, were not really genuine source. The trial Court has assigned reasons why the documents relied on by the defence are not genuine. The second accused and her three school going minor daughters were only name lenders for the first appellant to spread his ill gotten money. The phrase “known source of income” refers to the sources which are made known to the prosecution during the investigation of the case. In this case,



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all the materials collected and furnished by the appellants in the course of investigation were taken into consideration and enlisted under the respective heads. It is fallacious to contend that known source of income means and includes even the income from undisclosed sources exclusively known to the accused. The accused cannot take his own time to produce the documents that too which have only a semblance of source. In this case, documents which were found in the possession of the appellants during the search were recovered and forms part of the search list. That apart, the accused had furnished certain documents during the examination of witnesses and marked as Ex D-1 to Ex D- 35. Most of the prosecution side documents were marked by consent under Section 294 of Cr.P.C. The trial Court, on due consideration of the documents on either side, had analysed each and every property and the relevant documents before arriving the conclusion that the appellants possess disproportionate assets beyond their known source of income worth Rs.1,05,74,000/-. No doubt, certain documents were marked by consent in exercise of Section 294 of Cr.P.C but it does not mean that they are substantive evidence regarding its content.

27. During the search conducted at the residence of the first appellant, cash of Rs.8,73,000/- was seized and about 75 incriminating documents such as fixed deposit receipts, investment etc., were seized. The explanation of the first



appellant was that the day before search i.e., on 18.02.1997, he received Rs.9,00,000/- pursuant to agreement of sale, he entered with Alagu Rajan in respect of the property bearing No.10 D.Ramalinga Nagar, Madurai, for a total consideration of Rs.15,00,000/- This agreement was not found in his residence, when search conducted. It was not produced by the first appellant soon after the search. The said Alagu Rajan was examined by the prosecution as P.W.84. The sale agreement marked as Ex.P.14 disbelieved by the trial Court rightly since the testimony of Alagu Rajan that he carried money with him from his village at Virudhunagar and gave it to Balasankaralingam, the first appellant at Chennai could not able to explain the source of Rs.9,00,000/- cash. The specific performance suit filed by Alagu Rajan against the appellants is a collusive suit.

28. Further, the contentions of the second appellant that she was carrying money lending business not supported by any document such as Account Book or licence to do finance business. Similarly, for total cash about 30 lakhs found in her 2 lockers, A2 had introduced Ex.P.312 the Sale agreement between her and Ramamoorthy on 24.08.1996 and Ex.P.315, Sale agreement with JKK Rangammal Charitable Trust dated 11.02.1997 for the receipt of Rs.12,00,000/- as advance. And Ex.P.17, the Sale agreement with S.Jamal for the receipt of Rs.13,00,000/- as



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advance. Ex.P.319 Lease Agreement dated 23.09.1994 with one Dhanushkodi, in respect of her agriculture property and to the very same Dhanushkodi she leasing a commercial property at Anna Nagar and receipt of Rs.5,00,000/- as advance. None of these documents were in the possession of the appellants, when their residence was searched. These documents were ante dated and created to overcome the situation of recovery of huge cash and acquisition of properties in his name, his wife's name and his three minor children. With a limited source of income and limited estate, huge assets amassed by the appellants, should have the exclusive knowledge about the source. He had failed to place before the trial Court the material to explain satisfactorily the source. After 15 years, the attempt is made to introduce documents which on the face of it goes to show that after search and seizure, the appellants have approached the Income Tax Department by filing returns belatedly declaring income to the taxing authority. This declaration, not proof that the source of income is legal in respect of assets possessed by the appellants at the end of check period.

29. The Learned Senior Counsel for CBI submitted that conceivable income of the first appellant as well as the second appellant through salary, incomes from property and investments does not match the value of the property held by them





and invested in the name of their minor children. The property held by the appellants indicates that it is the gain of graft.

30. Regarding the alleged inclusions and exaggerations under the head of property at the end of check period, the learned Special Public Prosecutor for CBI Cases submitted that the nine cents of land purchased by A1 from Kodaikanal Co-operative Housing Society been shown as a property held by him at the beginning of check period as well as at the end of the check period. The first appellant claims that under Ex.P.57 general power of attorney Ex.D.17 executed to one Jayaraman, sold it for Rs.1,80,000/-. Neither the power of attorney nor the sale agreement alleged to have entered into between Jayaraman and D.Sridharan, (the brother of A1) who has entered into the agreement are sufficient proof under law to hold the ownership of the property changed hand. Therefore, the property is rightly shown as the property held by the accused at the end of check period. No doubt Exs.D.17 and D.18 which are power of attorney deed and sale agreement between Sridharan and Jayaraman were recovered during search and they form part of Ex.357. Nonetheless, in the absence of evidence that pursuant to these documents properties got transferred and accused has received the sale consideration and same declared in income tax returns for capital gains, it cannot be presumed that

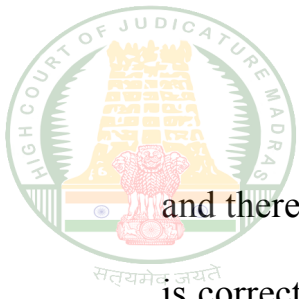


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the accused had alienated the property during the check period. Regarding the investment of Rs.20,00,000/- in the name of their daughters Subhashini and Sasi Rekha at Central Co-operative Bank, Anna Nagar, Chennai, the claim of the appellants that it is a investment made prior to the check period between 1987 and 1997 is incorrect as per documents. The deposits of these two amounts in the name of their daughters are on 01.07.1992. There is no proof that this amount is the investment made prior to the check period.

31. The investment made in UTI, the claim of the appellants that they purchased the units for the face value of Rs.3,28,800/- whereas the prosecution has valued it at Rs.4,91,404/- which is Rs.1,63,404/- in excess. referring Ex.P426 and Exs.P.88 to P.425, the Learned Special Public Prosecutor submitted that, the appellants have not purchased those units for face value, but at higher price and the money invested for purchase of those units has been rightly calculated based on the above said exhibits.

32. Regarding the cost of construction in respect of the building constructed by the appellants at Anna Nagar, the learned special public prosecutor submitted that the valuation report Ex.256 as spoken by PW29 is based on CPW Guidelines



and there is no error in the valuation. The property was inspected on 24.09.1998. It is correct that, inspection of the property was not done soon after the registration of FIR, but that will not be the reason to presume that the valuation report given by experts is over estimated or inflated since planning permission for construction was issued only on 07.02.1995. The appellants claims that they were paying rent for the Syndicate Colony House till August 1997 cannot be a fact relevant to presume the building at Plot No.195, 15<sup>th</sup> Street 3<sup>rd</sup> Avenue, Anna Nagar West Extension in the name of the second appellant was under construction till the end of check period.

33. The second appellant under Ex.P.250 had purchased the Anna Nagar property from P.W.27 Tmt.K.Meenakshi on 27.01.1994. She had obtained the planning permission on 07.02.1995 and constructed building on it. The costs of the construction had been assessed as Rs.34,16,160/-. It is not correct to say that it is the value of the building on the date of inspection and not the costs of the construction. Further, the valuation certificate for the building given by the valuer Mr.Surya Narayana Rao which is marked as Ex.D35 is the valuation for the purpose of availing loan from Home Trust Housing Finance, this valuation done prior to the construction for availing loan for construction. The valuation



certificate given by Surya Narayana Rao is in the year 1995. Prior to the new construction, he has assessed the building as Rs.13,14,386. The opinion given by two different valuers at two different periods before and after construction cannot be compared to doubt the valuation given by P.W.29.

34. In so far as the assets held at opening of check period, the learned Special Public Prosecutor submitted that there is no prejudice caused to the appellants for not recording two properties purchased prior to check period and sold during the check period. Items 2 and 3 which are shown as properties at the beginning of the check period found to have been sold during the check period. However, in the statement of income during the check period, in serial No: 17 and 18, the sale proceeds shown as Rs.80,100/- and Rs.65,000/- respectively. Therefore, these two properties mentioned as assets held at the beginning of check period and sold during the check period deriving income been rightly taken into account and there is no error in it. Regarding the bank balance of Rs.1,89,892/- which the appellants claimed to have been in their account before the check period, the learned Special Public Prosecutor submitted that if at all there was any omission regarding Bank accounts, it is not the fault of the investigating agency but fault of the accused, who had not produced the bank accounts details for



consideration.

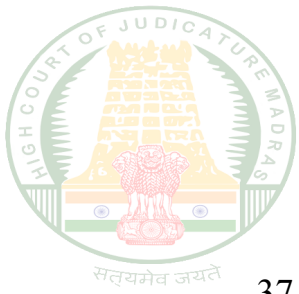
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35. Regarding the allegation of non inclusion of income received as rent and advances from the properties, Special Public Prosecutor stated that, the rental receipts supported by documents and produced were accepted. The subsequent documents antedated to boost up the income from properties were rightly rejected.

36. The appellants' case that they entered into sale agreements in respect of 3 properties stood in their name and received advance in cash Rs.9 lakhs, Rs.12 lakhs and Rs.13 lakhs respectively from Alagarrajan, JKK Trust and S.Jamal and were keeping it with them is highly unbelievable. The deeds of sale agreements surfaced belatedly and to make these transactions as genuine, pending investigation and trial but after registration of the case, civil suits were filed for specific performance by the so called buyers. They are all records created subsequent to the search and seizures. The buyers who claim that they paid advance to the appellants in cash, have not produced any document to believe they had source to pay the advance. Several lakhs of rupees in cash, received as advance and kept idle in the bank lockers without any accounting or disclosure to the authorities is a story hard to accept by any man of prudence.



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37. The Learned Special Public Prosecutor submitted that the trial Court has rightly rejected the belated explanations regarding the source for possessing liquid case of totally, Rs.38,81,560/- out of which 30 lakhs found in the two bank lockers operated in the name of the second appellant. That apart, in the bank accounts of the appellants and their daughters, more than Rs.5 lakhs was lying. Even if all the make believe records are accepted on its face value without testing, a public servant who had only around Rs.4.14 lakhs worth assets at the beginning of check period with a total net salary of Rs 3,52,832/- during the check period how could he amass wealth of such a huge magnitude is a fact especially within the knowledge of the appellants. The alleged income from money lending, tailoring and agriculture must have some basis to accept. The oral evidence, without acceptable documents cannot be a plausible explanation for source of income.

38. The land which the second appellant claims to have got in lease and cultivating through third parties proved to be false, since the survey numbers shown in the lease agreement does not belong to the leasee, who claims to be the owner of the property. The claim of income Rs 24.48 lakhs in money lending not supported by details like the source for lending money, to whom she lent the



money and how much she lent, the rate of interest she collected, how they paid the principal and the interest. Likewise, the first appellant claims that during the check period he was operating a tourist taxi and earned Rs 2,18,000/- is not a conceivable truth. He being a public servant, carrying on trade or business is impermissible. No documentary evidence to show the Ambassador car bearing TCV 1005 was plying as tourist taxi and was generating income during the ten years of the check period.

39. The Learned Senior Counsel for CBI cases, submitted that, the appellants admit the assets shown in Schedule B, except disputing the value. While the prosecution has assessed the value at Rs 1,44,32,287.08, the appellants claim that it is lesser by Rs.19,72,757/-. While the source for accumulation of these assets not been satisfactorily explained, the offence under Section 13(1)(e) of the Prevention of Corruption Act against the first appellant who is a public servant and offence under Section 109 r/w 13(1)(e) of PC Act, 1988 against the second appellant who is the spouse of the public servant squarely gets attracted.

40. **Point for consideration:-**

*Whether the trial Court erred in not accepting the documents and oral evidence relied by the appellants to*

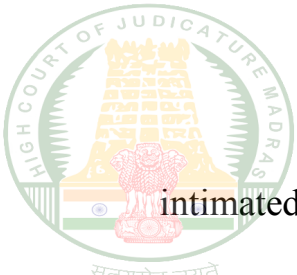


*explain the source of income ?*

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41. The first appellant a public servant, joined service in the Customs Department as Preventive Officer on 08/12/1977. He got married to the second appellant on 10/07/1979. The appellants are blessed with three daughters. While the first appellant was serving at Mumbai, he was terminated from service on 08/01/1980. Later, by virtue of the order passed by the Central Administrative Tribunal, he got reinstated in service on 15/12/1997. From the date of reinstatement till 20/02/1997 assets worth more than a crore rupees, found in their possession such as cash, movables, immovables and deposits invested in their names and their daughters names. The broad explanation given by the appellants regarding the source of income is that, during the marriage, the second appellant brought shridana of about 250 sovereigns of gold jewels and silver articles. Same was used as capital to do money lending business by A-2 along with the father of A-1, at Madurai with the assistance of one Bose. After the demise of A-1 father in the year 1992, they diverted the capital and started investing in properties in their names and in the name of their children. Substantial portion of the assets and cash belong to the second appellant a private person with independent source of income. Therefore, under the law, her source and assets are not necessary to be

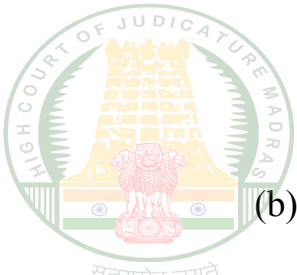




intimated to any authority. As an income tax assessee, her income been declared to the Income Tax Department. The assets in the name of their children are from her contribution and gifts received from relatives during the 10 years period. At times hand loans were obtained from known persons to tide over their financial commitments. As far as First appellant, he has disclosed his assets and liabilities to the Customs Department as required under the service Rules. He being an income tax assessee, he had filed returns disclosing his income. The assessments for the undisclosed income, appeals are filed and pending. Defence documents Ex D-1 to Ex D-35, testimony of Alagu Rajan. The income tax returns filed by A-1 and A-2, sale agreements, loan documents are relied by the appellants to explain the source for acquiring these properties.

42. The Trial Court after considering the evidence has ordered the following property to be confiscated. They being asset which has been possessed by the accused from unknown source, court has termed it as ill gotten wealth.

(a). Rs.38,73,000/- seized during the search operation dated 19.02.1997 and 20.02.1997.



(b). Property purchased by second appellant/Jayalakshmi on 13.11.1996 from Mariyam Beebi and others through their power agent Habibulla bearing Plot Nos.3, 5 and 6 in Survey No.24/1B3 Pellampatti Village.

(c). Property in the name of Jayalakshmi purchased from Mari Ammal on 20.04.1991 bearing Door.No.61 Thiruvengatapuram Choolaimedu, Chennai.

(d). Property purchased by the second appellant/Jayalakshmi from Kanniappan on 13.12.1991 bearing Door.No.62, Thiruvengatapuram Choolaimedu, Chennai.

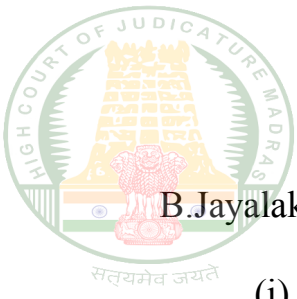
(e). Property purchased by the second appellant/Jayalakshmi from Meenakchi on 27.01.1994 bearing Plot.No.195, Padi Village measuring to an extent of 3600 sq.ft and the building constructed upon the said property.

(f). Deposit in the Indian Bank, Asiad Colony, Anna Nagar Branch for a sum of Rs.1,00,000/- in the name of Jayalakshmi under the re-investment plan.

(g). Deposit No.003200624 in the name of Jayalakshmi for a sum of Rs.1,50,000/- at Oms Sinduri Capital Investment Limited.

(h). IDBI deposits in the name of B.Jayalakshmi for value of Rs.60,000/-.  
Deposit in Pioneer Overseas Finance Limited for Rs.2,00,000/- in the joint name of B.Jayalakshmi and her daughter Sugitha.

(i). Deposit of Rs.5,00,000/- at Alwarpet Benefit Fund in the name of



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B.Jayalakshmi under Pensioners Pet Deposit scheme dated 08.02.1997.

(j). Property bearing No.51 FF, Commercial Complex, C.47 Anna Nagar Plaza.

43. The total worth of the above said properties both movable and valuable security been assessed at Rs.1,05,60,148/- they were ordered to be confiscated by the trial court on the premise that it is ill gotten wealth which the appellants unable to explain the source.

44. The cash of Rs.38,73,000/- seized during the search operation later been deposited the Indian Bank, High Court Branch in FDR No.34302 and the receipt is marked as Ex.P.437. The explanation for source of this cash as the advance received by the appellants towards the sale agreements which they entered with one Alagu Rajan, JKK Trust and S.Jamal. The appellants claim that the day before search he received Rs.9,00,000/- as advance from Alagarrajan pursuant to the agreement entered for the sale of property at No.10-D, Ramalingam Nagar, Madurai. The sale agreement document is an unregistered document which is marked as Ex.P.314. The said Alagu Rajan examined as P.W.84. He had deposed that in the year 1987, he entered into an agreement with A1 to purchase the



property at 10-D, Ramalingam Nagar, Madurai. He had source to pay the money by cash from out of Rs.40,00,000/-, he received as compensation for the land acquired by the Government from him. He paid Rs.9,00,000/- as advance by cash to the first accused in connection with the sale agreement. He had filed a suit before the Civil Court at Madurai for enforcement of the sale agreement and same is pending. The plaint copy of the said suit is marked as Ex.D.26.

45. The perusal of the plaint copy filed in O.S.No.703 of 2005 on the file of the learned District Munsif, Madurai, the copy marked as Ex.P.26, this Court finds that, it is a suit to create first charge over the property and to declare the plaintiff is entitled for the mense profit till the refund of advance received. The agreement. Ex.P.314 is dated 18.02.1997 and as per the terms of this sale agreement, the sale consideration is fixed at Rs.15,00,000/- and out of which, Rs.9,00,000/- received by cash and the balance Rs.6,00,000/- is to be paid. The time to complete the contract fixed as within a period of six months. While the terms of the contract indicates that the period for performance is fixed as six months, the suit O.S.No.703 of 2005 is filed after eight years for refund of advance money. In between the first accused has filed Income Tax Returns belatedly much after the search and registration of FIR, in which, A-1 had disclosed the advance money



received from Alagu Rajan in respect of the property bearing No.10-D, Ramalinga Nagar, Madurai. The Income Tax Department categorized the said amount as undisclosed income and levied the tax and penalty.

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46. The Learned Senior Counsel appearing for CBI submitted that the appellants to trace the source rely on documents produced by them before the Income Tax Department after initiating criminal proceedings. The assessment of the Income Tax Department regarding the income is sought to be accepted in the criminal prosecution under disproportionate assets, as legal source of income. The law on this point is well settled and reiterated sufficiently in catena of judgements of the Hon'ble Supreme Court. The latest among them is ***State Through Deputy Superintendent of Police -vs- R.Soundirarasu etc.***, reported in ***2022 SCC Online SC 1150***, wherein, the Hon'ble Supreme Court has relied upon the judgment rendered in J.Jayalalitha Case and other cases had clarified again, Income Tax Returns cannot be relied upon as conclusive proof to show that the income from a lawful source under the Prevention of Corruption Act. The relevant portion of the judgment is extracted herein under:-

*“58. On the other hand, it has been argued on behalf of the appellant that the documents relied upon by the respondents are not unimpeachable and have to be proved at*



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*the stage of trial. Hence, it was urged that the arguments made on the basis of these documents should not be accepted by this Court. The appellant has relied upon the judgment of a two Judge Bench of this Court in J. Jayalalitha (supra), where it has been held that documents such as Income Tax Returns cannot be relied upon as conclusive proof to show that the income is from a lawful source under the PC Act. Justice P C Ghose held thus:*

*“191. Though considerable exchanges had been made in course of the arguments, centering around Section 43 of the Evidence Act, 1872, we are of the comprehension that those need not be expatiated in details. Suffice it to state that even assuming that the income tax returns, the proceedings in connection therewith and the decisions rendered therein are relevant and admissible in evidence as well, nothing as such, turns thereon definitively as those do not furnish any guarantee or authentication of the lawfulness of the source(s) of income, the pith of the charge levelled against the respondents. It is the plea of the defence that the income tax returns and orders, while proved by the accused persons had not been objected to by the prosecution and further it (prosecution) as well had called in evidence the income tax returns/orders and thus, it cannot object to the admissibility of the records produced by the defence. To reiterate, even if such returns and orders are admissible, the probative value would depend on the nature of the information furnished, the findings recorded in the orders and having a bearing on the*



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charge levelled. In any view of the matter, however, such returns and orders would not ipso facto either conclusively prove or disprove the charge and can at best be pieces of evidence which have to be evaluated along with the other materials on record. Noticeably, none of the respondents has been examined on oath in the case in hand. Further, the income tax returns relied upon by the defence as well as the orders passed in the proceedings pertaining thereto have been filed/passed after the charge sheet had been submitted. Significantly, there is a charge of conspiracy and abetment against the accused persons. In the overall perspective therefore neither the income tax returns nor the orders passed in the proceedings relatable thereto, either definitively attest the lawfulness of the sources of income of the accused persons or are of any avail to them to satisfactorily account the disproportionateness of their pecuniary resources and properties as mandated by Section 13(1)(e) of the Act. In *Vishwanath Chaturvedi (3)v.Union of India [Vishwanath Chaturvedi (3)v.Union of India, (2007) 4 SCC 380 : (2007) 2 SCC (Cri) 302]*, a writ petition was filed under Article 32 of the Constitution of India seeking an appropriate writ for directing the Union of India to take appropriate action to prosecute R-2 to R-5 under the 1988 Act for having amassed assets disproportionate to the known sources of income by misusing their power and authority. The respondents were the then sitting Chief Minister of U.P. and his relatives. Having noticed that the basic issue was with regard to alleged



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*investments and sources of such investments, Respondents 2 to 5 were ordered by this Court to file copies of income tax and wealth tax returns of the relevant assessment years which was done. It was pointed out on behalf of the petitioner that the net assets of the family though were Rs. 9,22,72,000, as per the calculation made by the official valuer, the then value of the net assets came to be Rs. 24 crores. It was pleaded on behalf of the respondents that income tax returns had already been filed and the matters were pending before the authorities concerned and all the payments were made by cheques, and thus the allegation levelled against them were baseless. It was observed that the minuteness of the details furnished by the parties and the income tax returns and assessment orders, sale deeds, etc. were necessary to be carefully looked into and analyzed only by an independent agency with the assistance of chartered accountants and other accredited engineers and valuers of the property. It was observed that the Income Tax Department was concerned only with the source of income and whether the tax was paid or not and, therefore, only an independent agency or CBI could, on court direction, determine the question of disproportionate assets. CBI was thus directed to conduct a preliminary enquiry into the assets of all the respondents and to take further action in the matter after scrutinizing as to whether a case was made out or not. This decision is to emphasize that submission of income tax returns and the assessments orders passed thereon, would not constitute a foolproof defence against a charge of*





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acquisition of assets disproportionate to the known lawful sources of income as contemplated under the PC Act and that further scrutiny/analysis thereof is imperative to determine as to whether the offence as contemplated by the PC Act is made out or not.

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60. At the very outset, we must categorically hold that the documents which have been relied upon by the respondents cannot form the basis of quashing the FIR. The value and weight to be ascribed to the documents is a matter of trial. Both the parties have cited previous decisions of two Judge Benches of this Court in order to support their submissions. There is no clash between the decisions in *Kedari Lal (supra)* and *J. Jayalalitha (supra)* for two reasons : (i) the judgment in *J. Jayalalitha (supra)* notes that a document like the Income Tax Return, by itself, would not be definitive evidence in providing if the “source of one's income was lawful since the Income Tax Department is not responsible for investigating that, while the facts in the judgment in *Kedari Lal (supra)* were such that the “source of the income was not in question at all and hence, the Income Tax Returns were relied upon conclusively; and (ii) in any case, the decision in *Kedari Lal (supra)* was delivered while considering a criminal appeal challenging a conviction under the PC Act, while the present matter is at the stage of quashing of an FIR.



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*61. In the present case, the appellant is challenging the very “source of the respondents' income and the questioning the assets acquired by them based on such income. Hence, at the stage of quashing of an FIR where the Court only has to ascertain whether the FIR prima facie makes out the commission of a cognizable offence, reliance on the documents produced by the respondents to quash the FIR would be contrary to fundamental principles of law. The High Court has gone far beyond the ambit of its jurisdiction by virtually conducting a trial in an effort to absolve the respondents.”*

*(Emphasis supplied)*

47. Similar to the plea of A1, the second accused Jayalakshmi also claims that she agreed to sell her property at Door No.61, Thiruvengatapuram Choolaimedu, Chennai for a sum of Rs.20,00,000/- to JKK Rangammal Charitable Trust. The sale agreement was entered on 20.11.1996 and she has received totally a sum of Rs.12,00,000/- by cash on various dates till 03.02.1997 and made an endorsement on the backside of the document. It is an unregistered agreement and payments were made in cash. The period for performance of contract is mentioned as six months from the date of agreement i.e., 27.11.1996. To give authentication to these documents, the appellants rely upon the entry found in the search list marked as Ex.P.438. This is a document in connection with the search conducted



at Trust Office of M/s.JKK Rangammal Charitable Trust, Salem Main Road,

Kumarapalayam and the said search was conducted on 10.09.1999. During the search, the three documents pertaining to Income Tax files of M/s.JKK Rangammal Charitable Trust have been seized. The files pertaining to the accounting year 1995-1996, 1996-1997 and 1997-1998. The day book ledger of the relevant period seized along with the original agreement for sale dated 20.11.1996 entered between the trust and B.Jayalakshmi. This property has been purchased by the second accused on 24.04.1991 from one Mari Ammal and 22 others for consideration of Rs.3,25,000/- and for Stamp Duty and Registration Fees, she has spent Rs.56,700/- (+) Rs.4,369/- respectively. The said facts been spoken by P.W.26, the Sub Registrar of Kodambakkam who registered the documents. The purchase been done in the name of the second accused during the check period. It is contended by the second accused, she agreed to sell the property to JKK Rangammal Trust for a sum of Rs.20,00,000/-, received Rs.12,00,000/- advance and pursuant to the suit compromised, the decree passed in that suit before the High Court, sale deed has been executed. Since the sale agreement dated 20.11.1996 is not a new document introduced by the accused subsequent to the search and seizure but it was part of the record seized by the Investigating Officer from search of JKK Trust Premises on 10.09.1999 the



document is reliable and the contention of the prosecution that the sale agreement prepared subsequent to the search cannot sustained.

48. However, the second accused is bound to explain her source for purchasing this property during the check period. From the testimony of Ex.P.326, it is clear that for purchasing this property, the second accused has invested a sum of Rs.3,25,000/- towards cost and for Stamp Duty and Registration Fees, she has spent Rs.56,700/- (+) Rs.4,369/- respectively. Total sum of Rs.3,86,199/- spent in this property.

49. Under Ex.P.315 Covering Letter of Jayalakshmi addressed to the Inspector of Police enclosing two documents i.e., the sale agreement dated 20.11.1996 in favour of M/s.JKK Rangammal Charitable Trust and the sale agreement dated 27.11.1996 in favour of J.Jamal. Ex.P.317 are sent. These two documents are unregistered sale agreement entered between second accused and Jamal in respect of vacant site situated at No.62, Thiruvengatapuram measuring about 1463 sq.ft. The second accused has agreed to sell the property to Jamal for a sum of Rs.15,00,000/- and she had made an endorsement indicating after receiving Rs.10,00,000/- in cash on the day of agreement with a specific term that the



contract will be completed within a period of three months. Thereafter, on 28.12.1996, she has received Rs.1,00,000/- in cash and on 26.01.1997 had received Rs.2,00,000/- in cash. Totally, Rs.13,00,000/-. The attention of the court is brought to fact that Rs.10 Stamp Paper for preparing the sale agreement was sold on 11.11.2006 by the stamp vendor and the stamp register entry vouchsafe the fact that the document Ex.P.13 came into existence prior to the search and it is not an antedated document. This property No.62 Thiruvengatapuram Choolaimedu extending 1469 sq.ft been purchased by the second accused from Kanniyappan and five others for a sum of Rs.1,95,000/-. She has spent Rs.30,021/- for purchase of stamp paper and paid Rs.2,204/-, totally she had invested Rs.2,27,225/- to purchase this property and this purchase has occurred during the check period.

50. It is the contention of the appellants that Jayalakshmi had enough source of income and her income been separately assessed. Therefore, her income and property cannot be mulcted with the income and property of the first accused. Regarding the other non-earning members of the family namely the three children, the gifts given by their relatives had shown as source.



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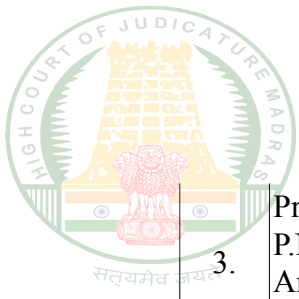
51. The first accused being a public servant supposed to disclose his assets and liability as well as his spouse assets and liability. Though he need not disclose the source of his spouse's property, the records show that the first appellant joined service in the year 1997 within three years, he was terminated, then after seven years got reinstated, the check period is from the date of his reinstatement till 20.09.1997 what was his income, assets, liability and the income assets and liability of his wife the second accused at the beginning of check period is relevant to appreciate the defence taken by the appellants that they both had difference source of income other than the salary of income of the first accused. To hold lawfully the properties mentioned in schedule "C".

52. According to the prosecution, the property statements is as below:-

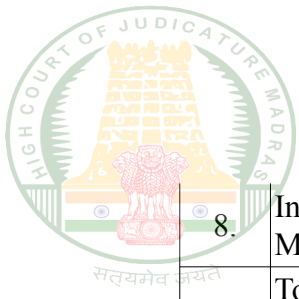
**Annexure A**

**Assets at the beginning of the Check period as on 15.12.1987:-**

Sl.No	Description	Amount
1.	Landed property in the name of Smt.B.Jayalakshmi W/o.D.Balasankaralingam at Survey No.203/4, Plot No.19 measuring 2400 sq. ft. at Thankamkulam Village, Madurai South Taluk, registered with Joint Sub-Registrar's office No.3, Madurai vide Doc. No.4360/83 dt.9.8.83 purchased from Shri A.S.S. Mani, No.25-A, South Shanmugapuram, M.K.Puram, Madurai-11.	Rs.1,100
2.	Landed property at Kodaikanal in the name of Shri D. Balasankaralingam at old survey No.1/6/3 (Plot No. A-11/1) measuring 9 cents purchased from Kodaikanal House Building Co-operative Society Ltd.. Kodaikanal purchased on 22.7.86.	Rs.5,050



3.	Property purchased by D. Balasankaralingam & D. Jayalakshmi from P.N. Narayanaswamy & 3 others vide Re-survey No.150/3, Door No.28, Andalpuram South Street, Madakulam Village, Madurai on 27.2.87 registered with Sub-Registrar office, Madurai	Rs.40,000
4.	Property purchased by D. Balasankaralingam & B. Jayalakshmi from P.N. Narayanaswamy & 3 others vide Re-survey No. 15013, Door No.28, Andalpuram South Street, Madakulam Village, Madurai on 2.3.87 registered with Sub-Registrar office, Madurai.	Rs.35,000
5.	Landed property at 10-D, Ramalingam Nagar, Madurai in the name of Shri D. Balasankaralingam purchased from (a) Smt. Jayamani for a sum of Rs.20,525/- on 11.12.85 at S.No.148/2, 148/1-29 ½ Cents. (b) Smt. G. Mariammal for a sum of Rs.12,345/- on 11.12.85 at S.No.148/2, 148/1 - 9 Cents and (c) Smt. R. Parvathi for a sum of Rs.12,000/- at S.No.148/2, 148/1 - 3 Cents Totalling	Rs.44,870
6.	House construed in the above said plot during the year 1986 excluding the value of land, electrical portion and furniture (Evaluation conducted by A.E. Civil, CPWD, Central Circle, Madurai - 14 and A.E. Electricals, CPWD, Madurai totalling Rs.3,24,000/- + Rs. 18,313/- respectively.	Rs.3,42,313
7.	Details of Inventory prepared in the residential premises of Shri D. Balasankaralingam at No.859, IInd Street, Syndicate Bank Colony, Anna Nagar West, Chennai-101 during the house search conducted on 19.2.97 in the presence of witnesses and the details are as follows:- (Items acquired prior to the check period only (15.12.87), gifts are not included). (a) One T.V. Stand (wooden) (b) One Sofa set (wooden) (c) Dining Table with 5 chairs (d) Iron Box (e) Air-conditioner (General High power) (f) Syscom Voltage Stabilizer (g) One condemned Sofa set	Rs.1,000 Rs.2,000 Rs.1,000 Rs.200 Rs.10,000 Rs.3,000 Rs.1,000
	(h) National Gas stove: (I) Wet grinder (J) Aqua Guard water purifier	Rs.500 Rs.500 Rs.700



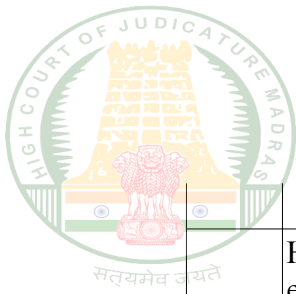
8.	Interest Free Deposit made with SBOA Higher Secondary School, Madurai vide Receipt No. 171 dt.8.6.87.	Rs.1,000
	Total assets held by Shri D. Balasankaralingam prior to check period as on 15.12.87.	Rs.4,89,233
	Item 3 and 4 were disposed of during the check period and their purchase value was deducted.	Rs.75,000
	<b>TOTAL</b>	<b>Rs.4,14,233</b>

### Annexure-B

#### Assets at the end of the check period as on 20.02.1997

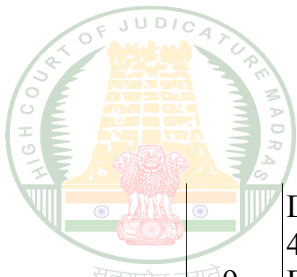
Sl.No.	Description	Amount
1.	Landed property in the name of Smt.B.Jayalakshmi W/o.D.Balasankaralingam at Survey No.203/4, Plot No.19 Village, Madurai South Taluk, Registered with joint Sub-Registrar's office No.3, Madurai vide Doc.No.4360/83 dated 09.08.83 purchased from Shri.A.S.S.Mani, No.25-A, South Shanmugapuram, M.K.puram, Madurai-11.	Rs.1,100
2.	Landed property at Kodaikanal in the name of Shri.D.Balasankaralingam At old survey No.1/6/3 (plot No.A-11/1) measuring 9 cents purchased from Kodaikanal House Building Co-operative Society Ltd. Kodaikanal purchased on 22.07.86.	Rs. 5,050
3.	Landed property at 10-D, Ramalingam Nagar, Madurai in the name of Shri D. Balasankaralingam purchased from  (a)Smt. Jayamani for a sum of Rs.20,525/- on 11.12.85 at S.No.148/1 -291/2 Cents  (b)Smt. G. Mariammal for a sum of Rs.12,345/- on 11.12.85 at S. No. 148/2, 148/1 - 9 Cents and  (c)Smt. R. Parvathi for a sum of Rs.12,000/- at S. No. 148/2, 148/1 - 3 Cents Totalling	Rs. 44,870





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4.	House constructed in the above said plot during the year 1986 excluding the value of land, electrical portion and furniture (Evaluation conducted by A.E., Civil, CPWD, Central Circle, Madurai-14 and A.E. Electricals, CPWD, Madurai totalling Rs.3,24,000/- + Rs. 18,313/- respectively.	Rs. 3,42,313
5.	Details of Inventory prepared in the residential premises of Shri.D.Balasankaralingam at No.859 2 <sup>nd</sup> Street, Syndicate Bank Colony, Anna Nagar West, Chennai-101 during the house search conducted on 19.02.97 in the presence of witnesses and on 19.02.97 in the presence of witnesses and the details are as follows:- (items acquired prior to the check period only (15.12.87), gifts are not included).  (a)One T.V. Stand (wooden) (b)One Sofa set (wooden) (c) Dining Table with 5 chairs (d) Iron Box (e) Air-conditioner (General High (f) Syscom Voltage Stabiliser (g)One condemned Sofa set (h)National Gas stove (i) Wet grinder (j) Aqua Guard water purifier	Rs.1,000 Rs.2,000 Rs.1,000 Rs. 200 Rs.10,000 Rs.3,000 Rs.1,000 Rs. 500 Rs. 500 Rs. 700
6.	Interest Free Deposit made with SBOA Higher Secondary School, Madurai Vide Receipt No.171 dated 08.06.87.	Rs. 1,000
7.	Investment made with M/s.City Tower Benefit Fund Ltd., G-38-C, 1 <sup>st</sup> Main Road, Anna Nagar East, Chennai-102 in the name of Smt.B.Jayalakshmi, W/o.D.Balasankaralingam invested on 17.02.95.	Rs. 19,000
8.	Investment made with Chennai Central, Co-operative Bank Ltd., Anna Nagar, Chennai-40 in the name of Smt.B.Jayalakshmi W/o.D.Balasankaralingam deposited on 02.08.95 under Cash Certificate No.112201 (Rs.11178)	Rs.1,00,000

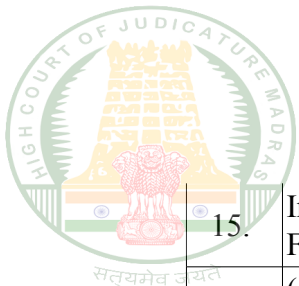


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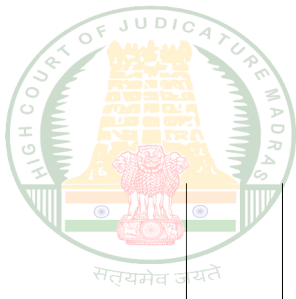


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9.	Deposits made with State Bank of India, Anna Nagar, Chennai-40, Towards Special Deposit Scheme during 90-94 vide Original Deposit Receipt Nos.881090, 881091, 881092, 800580, 245444, 245433, 347382, 347381, 347383, 347384, 881036 & 881027 totalling	Rs. 4,40,860
10.	Deposit made with RBF Nidhi Ltd., Gokhale Bhavan No.8, West cott Road, Royapettah on 24.01.96 vide Receipt No.D 42192 (Guardian Name D.Balasankaralingam)	Rs. 2,00,000
11.	Investment made with M/s. Pioneer Overseas Finance Ltd., Appaswamy Towers, T. Nagar, Chennai-17 towards Cumulative Deposit in the name of Smt. B.Jayalakshmi, W/o. D. Balasankaralingam vide Deposit Receipt No. CUMS 000767 dt. 05.07.95.	Rs.65,000
12.	Investment made with Mis. Pioneer Overseas Finance Ltd., Appaswamy Towers, T.Nagar, Chennai-17 towards Cumulative Deposit in the name of Smt.B.Jayalakshmi W/o.Shri.D.Balasankaralingam vide Receipt No.CUMS 000766 dated 05.07.95.	Rs. 35,000
13.	Details of Interest free deposit made with SBOA Higher Secondary School, Anna Nagar during the time of daughters admission:	
	(a)IFD Receipt No.1032 dated 08.06.89 in the name of B.Subashini.	Rs.1000
	(b)IFD Receipt No. 1033 dated 08.06.89 in the name of B.Sasirekha.	Rs.1000
	(c)IFD Receipt No.1050 dated 08.06.89 in the name of B.Subashini.	Rs.1000
	(d)IFD Receipt No. 1051 dated 08.06.89 in the name of B.Sasirekha.	Rs.1000
14.	(e)IFD Receipt No. 129 dated 17.12.92 in the name of B.Sasirekha.	Rs.2000
	Investment made with M/s. Nathella Sampathu Chetty Financiers & M/s. Nathella Sampathu Chetty Finance Corporation Ltd., No.122, NSC Bose Road, Chennai- 79 for 42 months in the following names:-	
	(a)Double Benefit Scheme Receipt No.290 dt.25.04.94 in the name of Ms. B. Subashini D/o.D.Balasankaralingam	Rs.5000
	(b)Double Benefit Scheme Receipt No.291 dt. 25.04.94 in the name of Ms. B. Sasirekha D/o.Shri D. Balasankaralingam	Rs.5000
	(c)Double Benefit Scheme Receipt No.1179 dt. 25.04.94 in the name of Ms.B. Sasirekha D/o, Shri D.Balasankaralingam	Rs.5,000
(d)Double Benefit Scheme Receipt No.1180 dt. 25.04.94 in the name of Ms.B.Sugitha D/o, Shri D. Balasankaralingam	Rs.5000	
(e)Double Benefit Scheme Receipt No.1181 dated 25.04.94 in the name of Ms.B. Subashini D/o, Shri.M/s.Balasankaralingam	Rs.5,000	



15.	Investment with Alwarpet Benefit Fund Ltd., Chennai- 18 towards Freedom Deposit Scheme Receipt No.94005052 dated 19.01.96	Rs.5,00,000
16.	(a).Investment made with Chennai Central Co- operative Bank Ltd. Anna Nagar, Chennai-40 in the name of Ms. B. Sasirekha D/o.D.Balasankaralingam Deposited on 01.07.92 under cash Certificate No. 061875.	Rs.20,000
	(b).Investment made with Chennai Central Co-operative Bank Ltd. Anna Nagar, Chennai-40 in the name of Ms.B.Subashini, D/o.D.Balasankaralingam deposited on 01.07.92 under cash Certificate No.061876	Rs.20,000
17.	Investment made with M/s. Pioneer Overseas Finance Ltd., Appaswamy Towers, T.Nagar, Chennai -17 towards Fixed Deposit in the name of Ms. B. Sugitha and Smt. B. Jayalakshmi, daughter and wife respectively of Shri.D.Balasankaralingam vide Receipt No.NCMS 001072 dated 20.01.09.	Rs.2,00,000
18.	Investment with M/s.Om Sndhoori Capital Investments Ltd., No.22, Greams Road Chennai-6 in the name of Smt.B.Jayalakshmi, W/o.D.Balasankaralingam invested, Rs. 1,30,000/- on 28.10.92 and - Rs.20,000/- on 05.08.93 by cash	Rs.1,50,000
19.	Kisan Vikas patras all dt. 27.07.94  <b><u>IN THE NAME OF B. SUBASHINI:</u></b>  (A)No. 12 EE 496652 for (B)No.27 AA 995137 for (C)No.27 AA 995138 for  <b><u>IN THE NAME OF B. SASIREKHA:</u></b>  (d)No.12. EE 496653 (e)No.27 AA 995139 (f)No.27 AA 995140  <b><u>IN THE NAME OF B. SUGITHA:</u></b>  (g)12 EE 496650 (h)27 AA 995133 (i)27 AA 995134	Rs.500 Rs.1,000 Rs.1,000  Rs.500 Rs.1,000 Rs.1,000  Rs.500 Rs.1,000 Rs.1,000



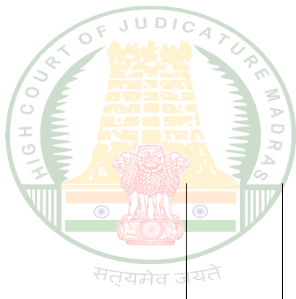
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**IN THE NAME OF B. PRAKASH:**

	(j)27 AA 995136 (k)27 AA 995135 (l) 12 EE 496651	Rs.1,000 Rs.1,000 Rs.500
	Totalling	Rs.10,000/-
20.	Investment made by Smt.B.Jayalakshmi, W/o.D.Balasankaralingam, with Indian Bank, Asiad Colony, Anna Nagar West, Chennai-101 on 16.09.94 vide Receipt No. 420751. (50,000 + 50,000)	Rs.1,00,000
21.	Investment made with IGGI Resorts International Ltd.No.47, Radhakrishnan Nagar Main Road, Thiruvanmiyur, Chennai-41, on 29.12.94 by Smt. B. Jayalakshmi.	Rs. 58,000
22.	Investment made by Smt.B.Jayalakshmi and Ms. B. Sugitha, Wife and daughter of D. Balasankaralingam respectively with Indian Bank, Asiad Colony, Anna Nagar West, Chennai-101, vide Cash Certificate Nos. 970595 & 970596 of Rs. 50,000-00 each.	Rs. 1,00,000
23.	Investment made with SBI Mutual Fund Magnum Triple Certificate Nos.09236436 to 09236445 and 09236446 to 09236455 - total 20 Nos. in the name Smt. Jayalakshmi Jointly with Shri.D.Balasankaralingam.	Rs.20,000
24.	Investment with State Bank of India, Shares & Bonds Department Central Office, Nariman point, State Bank Bhavan, Mumbai invested on 22.12.93 in the name of Smt.B.Jayalakshmi, W/o.D.Balasankaralingam.	Rs.15,000
25.	Investment made with Hindustan Petroleum Corporation, No.17, Jamshedji Road, Mumbai-20, on 17.02.91 for 200 shares in the name of Smt. B. Jayalakshmi.	Rs.68,000
26.	Investment with IDBI Mutual growing Init 95, Mumbai on 06.05.95 in the name of Smt. B. Jayalakshmi. vide Certificate No. 60507702 to 60507761.	Rs.60,000
27.	(a) Investment made with Unit Trust of India, Chennai with various schemes In the name of accused D.Balasankaralingam, his wife and in the name of his three minor Daughters vide share certificate Nos.300960010006310 – (1No.)  300950140000596 to 300950140000598 (3Nos) 300940012000169 & 300940012000170 (2Nos) 300940010004774 to 300940010004784 (11Nos) 300960010006305 to 300960010006309 (5Nos) 300950140000592 to 300950140000595 (4Nos)	Rs.4,91,404

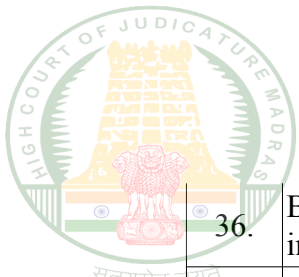


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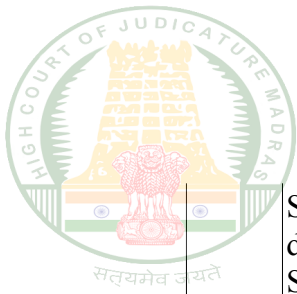
CrI.A.No.3 of 2007

	3940090021261,3940090051484,3940090051486, 39311201365, 39311207726, 39311207734, 39311501969 and 39311501970 Totalling 34 Nos.	
	(b). UT1 Monthly Income plan 1995 300951600007461 to at Rs.50,000 Each (4 Nos.) in the name of Smt.B.Jayalakshmi, Ms.B.Sugitha (minor), Ms. B. Sasirekha (minor), Ms.B.Subashini (minor) respectively.	Rs.2,00,000/-
	(c). 300951600007496 to 300951600007499 at Rs. 50,000/- each (4 Nos.) in the name of Ms. B. Subashini (minor), Ms.B.Sasirekha (minor) Ms.B.Sugitha (minor) and Smt. B. Jayalakshmi respectively.	Rs.2,00,000/-
28.	UTI Master Equity plan 1995 unit Certificate Nos.MEP-300-95 1590028905 & 906, MEP-300-95 1590027188 & 189, MEP-300-95 1590028903 at Rs.10,000/- (Total 5 Nos.) In the name of Ms. B. Sasirekha, Ms.B.Sugitha, Smt.B.Jayalakshmi and Smt.B.Jayalakshmi jointly with Shri D.Balasankaralingam respectively.	Rs.50,000/-
29.	UTI Senior Citizen Unit Plan Certificate No.SC 9430010000241 in the name of D. Balasankaralingam	Rs.10,600/-
30.	L.I.C Mutual Fund Dhanvarsha (6) Scheme No. 00037004 to 007 (4 Nos.), New Delhi in the name of Ms.B.Sugitha, Ms.B.Sasirekha, Ms.Subashini And Smt.B.Jayalakshmi daughters and wife of D/o.Balasankaralingam all dated 30.10.95.	Rs.1,00,000/-
31.	Investment with IDBI deep discount bond in the names of Ms.Sugitha, Subashini and Sasirekha vide Certificate Nos.797758/3047062, 797760/3047064 and 797759/3047061 respectively all dt. 12.03.96.	Rs. 31,800
32.	Investment with IDBI deep discount bond in the names of Ms.Subashini, Suganya, Sasirekha & Sugitha vide share certificate Nos. 418135 to 418138 invested during February 1992.	Rs.10,800/-
33.	Investment with IDBI in the name of Smt.B.Jayalakshmi and Shri.D.Balasankaralingam vide IDBI share Certificate Nos.810757 to 810762 invested during July 1995.	Rs.78,000/-
34.	IFCI Gift Bond Nos.5308 to 5313, 5315 and 5316 total 8 Nos. in the name of Subashini & Sasirekha with IFCI Ltd., IFCI Towers, No.61, Nehru Place, New Delhi - 9 dated 07.08.96.	Rs.40,000/-
35.	IFCI Millionaire Bond No. 25432 and 25433 (2 Nos.) in the name of Subashini & Sasirekha with IFCI Ltd., IFCI Towers, No.61, Nehru Place, New Delhi-9 both dated 07.08.96.	Rs.20,000/-



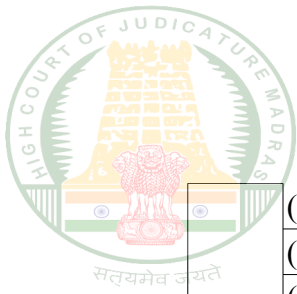
36.	Bank Balance as on 19.02.97 with Canara Bank, Anna Nagar, Chennai in the name of Shri SB NC. No. 1267.	Rs.1,25,908.24
37.	Bank Balance as on. 19.02.97 with canara Bank, Anna Nagar ,Chennai in the name of Smt.B.Jayalakshmi, W/o.D.Balasankaralingam vide SB A/c. No.1333.	Rs.1,29,144.94
38.	Bank Balance as on 19.02.97 with Canara Bank, Anna Nagar, Chennai in the name of Ms. B. Subashini, Div D. Balasankaralingam vide SB A/c. No.6852.	Rs. 95,669.22
39.	Bank Balance as on 19.02.97 with canara Bank, Anna Nagar, Chennai in the name of Ms.B. Sasirekha, D/o.D.Balasankaralingam vide SB A/c. No.5440	Rs.1,03,783.22
40.	Bank Balance as on 19.02.97 with Canara Bank, Anna Nagar, Chennai in the name of Ms. B. Sugitha, D/o.D.Balasankaralingam vide SB A/c. No.6853	Rs. 69,376.22
41.	Bank balance as on 19-02-1997 with State Bank of India, Anna Nagar, AG-1, Shanthi Colony, Chennai40 in the name of Smt. B. Jayalakshmi, W/o D. Balasankaralingam vide SB A/c No. 2998	Rs. 29,732.40
42.	Bank balance as on 19.02.1997 with Indian Bank, Asiad Colony, Anna Nagar West, Chennai -101 in the name of smt. B. Jayalakshmi, W/o. D. Balasankaralingam vide SB A/c. No.5241.	Rs. 2,471
43.	Shopping Complex at Shop No.51-FF, Commercial Complex,C-7, Annanagar Plaza in the name of Smt.B.Jayalakshmi, W/o.D. Balasankaralingam during March 1994	Rs. 5,02,148
44.	Maruthi Car 800 TK-white colour purchased from M/s. Union motors on 05.07.95 through M/s. Pioneer overseas Finance Ltd. Chennai vide cheque No. 491927 dt. 30.06.95 drawn on Bank of Madura, T. Nagar, Chennai -17	Rs. 2,42,785
45.	Landed property in the name of Smt.B.Jayalakshmi, W/o. D. Balasankaralingam at Survey No.22/2G, Plot Nos.10,11&12 measuring 16.177 cents at Pelampatti Village, registered with joint sub- Registrar's office, Virudhunagar vide Doc. No.2379/94 dt.10.11.94 purchased from Shri S.V. Shanmugam, No.20, Vallikutty Nadar Street, Virudhunagar	Rs.29,363
46.	Landed Property in the name of Smt.B.Jayalakshmi W/o.D.Balasankaralingam at Survey No.22/2G, Plot No.1 measuring 7.33 cents at Pelampatti Village, registered with joint sub-Registrar's Office, Virudhunagar vide Doc. No. 879/96 dt. 18.04.96 purchased from Shri Nagendran, No.11, Boologan Street, Virudhunagar.	Rs.20,000
47.	47.Landed property in the name of Smt. B. Jayalakshmi W/o. D.Balasankaralingam at Survey No.24/1B3, Plot Nos.3, 5 & 6 measuring 49.988 cents at Pelampatti Village, registered with joint	Rs.2,65,655





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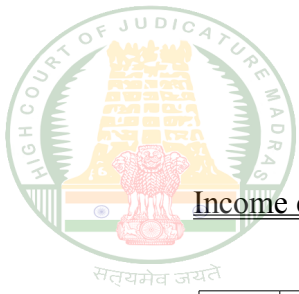
	Sub-Registrar's office, Virudhunagar vide Doc. No.2520196 dt.13.1.96 Purchased from Shri P.S.Habibullah, No.42, Parapatti Street Virudhunagar	
48.	Landed property in the name of Smt. B. Jayalakshmi W/o.D.Balasankaralingam at Survey No. 56/1, Block No.16 (Door No.61, Puliur Village, Choolaimedu, Thiruvengadapuram, Chennai-94) measuring 2,926 Sgt. registered with Sub-Registrar's Office, Kodambakkam, vide Doc. No.2053/91 dt. 29.05.91 purchased from Smt. Mariammal, W/o. Subban Swaminathan & 22 others	Rs.3,25,000
49.	Landed property in the name of Smt.B.Jayalakshmi W/o.D.Balasankaralingam at Old Survey No.56. Part, New T.S.No.55/1 &55/2, Block No.16, (Door No.62,Puliur Village,,Choolaimedu, Thiruvengadapuram, Chennai -94) measuring 1463 Sq.ft. registered with Sub- Registrar's Office, Kodambakkam, vide Doc. No.4801 dt.13.12.91 purchased from kanniappan & 5 others and Smt. B. Jayalakshmi.	Rs.1,95,000
50.	Landed property in the name of Smt. B. Jayalakshmi W/o. D.Balasankaralingam, at plot No.195, 15th Street, 111rd Avenue, Anna nagar West Extn., Padi Village, Chennai-101 measuring 3,.600 sq.ft registered at Sub-Registrar's office Villivakkam, Chennai Vide Doc. No.994 dt. 05.05.94 purchased from Smt. Meenakshi, W/o. Kannamani plot No.195, Anna Nagar West Extn. Chennai -101	Rs.7,20,000
51.	Value of the house constructed at the above said plot No.195, 15th Street, 111 rd Avenue, Anna Nagar West Extn., Chennai-101 (Evaluation conducted by A.E., (Civil) CPWD, O/o.S.E. Rajaji Bhavan, Besant Nagar, Chennai-90 and A.E (Elec.) CPWD, Sashtri Bhavan, Chennai-6, Rs.32,42,700 +1,73,460 respectively totalling	Rs. 34,16,160
52.	Initial deposit towards Telephone Handset, Simcard and Security Deposit made with M/s. RPG Cellular Services Ltd., 5th Floor, Spencer Plaza, No.769, Anna Salai, Chennai-6	Rs. 40,036
53.	Details of Inventory prepared in the residential premises of Shri D.Balasankaralingam at No.859, 11 nd Street, Syndicate Bank Colony, Anna Nagar West, Chennai-101 during the house search conducted on 19.02.97 in the presence of witnesses and the details are as follows:- (items acquired during the check period only, gifts are not included).	
	(a) Poineer VCR (CLDS 350)	Rs. 10,000
	(b)One Sofa set (wooden)	Rs. 3,000
	(c)Refrigerator (white westing house)	Rs. 5,000



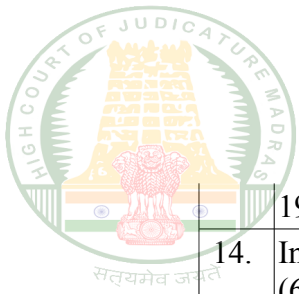
	(d)Nokia Cellular phone No.98410-32244-	Rs.20,000
	(e)Johny walker Black Label whisky (4 Nos) Valued	Rs.2,500
	(f)Singer Sewing machine	Rs. 3,500
	(g)Washing Machine (National)	Rs. 2,000
	(h)National oven	Rs. 3,000
	(i)Gold chain with 2 ear studs	Rs. 35,000
	j) Gold Chain with 2 rows	Rs. 30,000
	(k) Gold Bangles (2 Nos)	Rs. 12,000
	(l) Liquid cash found during the house search conducted in the residential premises of Shri. D. Balasankaralingam on 19.02.97 at No.859, 11nd Street, Syndicate Bank Colony, Anna Nagar, West, Chennai-101. (An amount of Rs. 8,560/- was returned to Shri D. Balasankaralingam for his day-to-day expenses and Rs.8,73,000/- was seized)	Rs. 8,81,560
54.	Cash seized from the Locker No.78, Canara Bank, Anna Nagar West Extn,. Branch, Chennai- 101 on 20.02.97 maintained in the name of Smt. B.Jayalakshmi, w/o. D., Balasankaralingam, in the presence of witnesses.	Rs.5,00,000
55.	Cash seized from the Locker No.J-2, Indian Bank, Asiad Colony, 1961-B, Vijaya Complex, Anna Nagar West Extn, Chennai — 101 on 20.02.97 maintained in the name of Smt. B. Jayalakshmi, W/o. D. Balasankaralingam, in the presence of witnesses.	Rs. 25,00,000
56.	Bank balance as on 19.02.1997 with Chennai Central Co-operative Bank Ltd. Anna Nagar, Chennai-40 in the name of Shri D. Balasankaralingam vide SB A/c.No.5131	Rs.745
57.	Balance as on 19.02.97 with SB. A/c. No.C-1381 of SB1, Palakarai, Trichy	Rs. 9,534.84
58.	Special Term Deposits with SBI, Palakarai on 26.07.94	Rs.2,00,000
59.	LIC premium paid towards LIC money back policy No. 711090196 maintained with LIC, city Branch No.16, Anna Nagar, Chennai-40 from 10.05.89 to 19.02.97	Rs. 22,728
60.	LIC premium paid towards LIC policy No.711346939 maintained with LIC Branch No.22, 128, Brick Kiln Road, Purasaiwakkam, Chennai-7 during the check period	Rs. 20,290
	<b>TOTAL</b>	<b>Rs.1,44,32,287.08</b>

**ANNEXURE-D**



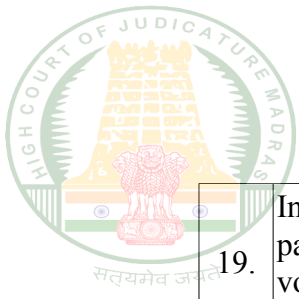
Income earned by Shri.Balasankaralingam and his family members during the check period:-

S.No	DESCRIPTION	AMOUNT
1.	Total net salary received by Shri.D.Balasankaralingam during the check period 15.12.87 to January 1997	Rs.3,52,832
2.	Rewards received during the check period	Rs. 34,900
3.	Income received from the Investments made M/s. RBF Nidhi Ltd. For Rs.2 lacks during the check period through interest warrant Nos. K.96F 032057 to K.96F032093 in the name of Smt. B.Jayalakshmi	Rs.34,197
4.	Income earned from the investment made with M/s.Alwarpet Benefit Fund Ltd, Anna Nagar, Chennai vide FDR No.94005052 dt.19.1.97	Rs. 92,244
5.	Income received from the investments made with State Bank of India, Shares & Bonds Department, Central Office, Nariman point, State Bank Bhavan, Mumbai invested on 22.12.93 in the name of,Smt.B. Jayalakshmi	Rs.4,577.12
6.	Income earned from the deposit made with M/s.Om Sindoori capital Investment Ltd, No.22, greams Road, Chennai-6.	Rs.93,412
7.	Interest earned from SB A/c. No.1267 of Canara Bank, Anna Nagar West, Chennai by Shri D. Balasankaralingam During the check period	Rs. 12,710.10
8.	Interest earned from SB A/c.No.1333 of Canara Bank, Anna Nagar West, Chennai by Smt.B.Jayalakshmi, W/o.D.Balasankaralingam during the check period	Rs.15,097.40
9.	Interest earned from SB A/c.No.6852 of Canara Bank, Anna Nagar West Chennai by Smt. B. Subashini, Shp, D. Balasankaralingam during the check period	Rs.3,251
10.	Interest earned from SB A/c.No.5440 of Canara Bank, Anna Nagar West, Chennai by Ms.B.Sasirekha, D/o.D.Balasankaralingam during the check period	Rs. 2,327
11.	Interest earned from SB A/c.No.6853 of Canara Bank, Anna Nagar West, Chennai by Smt.B.Sugitha, D/o.D.Balasankaralingam during the check period	Rs. 3,216
12.	Interest earned from SB Nc. No.2998 Maintained with State Bank of India, Anna Nagar, Chennai-40 in the name of Smt. B. Jayalakshmi, W/o. D. Balasankaralingam.	Rs.8,132.25
13.	Interest earned from SB A/c.No.5241 maintained with Indian Bank, Asiad Colony, Anna Nagar West, Chennai - 101 in the name of Smt. B. Jayalakshmi, W/o.D.Balasankaralingam as on	Rs. 255



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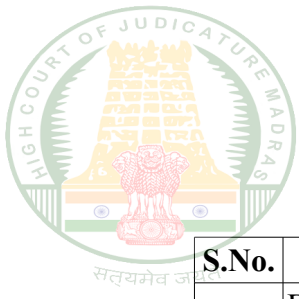
	19.02.97.	
14.	Income earned from LIC Mutual Fund, Mumbai Dhanvarsha (6) Scheme No.00037004 to 00037007 (4 Nos.) in the names of family members of D.Balasankaralingam.	Rs. 17,625.96
15.	Income earned from IDBI for the IDBI Certificate Nos.810757 to 810762 as dividend for the year 1995-96 vide dividend warrant No.354506.	Rs. 834
16.	Income received from the House at 10-D, Ramalinga Nagar, Madurai during the check period are as follows:	
	<b>Ground Floor:</b>	
	(a).Advance received from M/s.Pioneer Breeding Farms	Rs.4,500
	(b).Rent received from M/s.Pioneer Breeding Farms for the period 1.3.91 to 31.3.92 @ Rs.1500/- per month (13 months)	Rs.19,000
	(c).Rent received from M/s.Pioneer Breeding Farms for the period 01.4.92 to 30.06.95 @ Rs.2000/- per month (39 months)	Rs.78,000
	(d).Rent received from M/s.Pioneer Breeding Farms for the period 01.07.95 to 31.01.97 @ Rs. 2750/- (19 months)	Rs.52,250
	<b>First Floor:</b>	
	(a)Rent received from Mr.V.Valliappan for the period 01.08.88 to 31.07.91 @ Rs.950/- per month (36 months)	Rs.34,200
	(b)Advance received from Shri J.C. Sharma, F-37, Bhagath Singh Market, New Delhi-1 (M/s. Kuber Enterprises)	Rs. 10,000
	(c)Rent received from-do- for the period 01.11.95 to 31.01.97 @ Rs.2000/- per month (15months)	Rs. 30,000
17.	Income received for the property sold by Shri.D.Balasankaralingam and Smt. B. Jayalakshmi to Shri.V.Ramaswamy, S/o.Veluchamy Thevar, No.13-A, C.C.Road Venkitachalapuram, Madurai-11 on 7.11.92 at Re-survey No.150/3, Door No.28 Andalpuram South Street, Madakulam Village, Madurai	Rs. 80,100
18.	Income received for the property sold by Shri.D.Balasankaralingam and Smt.B.Jayalakshmi to Smt.Meenakshi, W/o.Shri V.Ramaswamy, S/o.Veluchamy Thevar, No.13-A, C.C.Road Venkitachalapuram, Madurai11 on 7.11.92 at Re-survey No.150/3 Door No.28, Andalpuram South Street, Madakulam Village, Madurai measuring 1744 sq.ft.	Rs. 65,000



19.	Income from LIC Money Back Policy No.711090196 towards payment of first survival benefit on 28.03.95 vide payment voucher dated.23.03.95 of LIC city Branch-16, Anna Nagar, Chennai-40.	Rs.7,500
20.	Interest earned from SB A/c.No.5131 of Chennai Central Co-operative Bank, Anna Nagar, Chennai-40 in the name of Shri.D.Balasankaralingam during the check period.	Rs.155
21.	Income earned from SB.A/c.No.c-1381 of SBI, Palakarai, Trichy.	Rs. 1,084.84
22.	Income received from Senior Post-master, Madurai Head Post-office-625001 vide post Office cheque No. A 368942 dt. 08.10.92.	Rs.1,45,000
23.	Dividend/interest earned from Unit Trust of India, in respect of 30 Nos. of share certificate for the period 1994-95 and 1995-96	Rs.82,788
24.	Amount received from SBOA Higher Secondary School, Madurai by way of Interest free deposit made on 08.06.87 and refunded on 23.08.91.	Rs.1,000
25.	Dividend earned by Smt.B.Jayalakshmi from Hindustan petroleum corporation Ltd., Mumbai during the check period.	Rs.346.65
26.	Gift received by Smt.B.Jayalakshmi from her brother Shri. R. Thulasiram rajan in Singapore Dollars.	Rs.12,27,100
	<b>Loans availed by the accused D. Balasankaralingam and his family members:</b>	
27.	Loan availed from M/s.Home Trust Finance Corporation, Montieth Road, Egmore, Chennai -8.	Rs.8,00,000
28.	Loan availed from M/s.Pioneer Overseas Finance Corporation Ltd., Chennai for purchase of Maruthi Car 800 CC (Regn.No.TN-02-B-1005).	Rs.2,42,785
29.	Loan received from M/s. KKSSN & Co., Virudhunagar.	Rs.9,00,000
30.	<b>Total Income earned by Shri D. Balasankaralingam and his family members during the check period</b>	<b>Rs. 44,56,416.32</b>

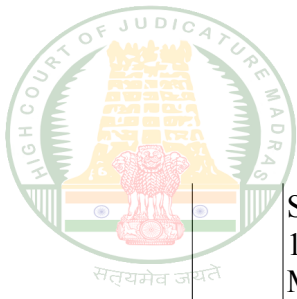
**Annexure – E**

Expenditure incurred by Shri.D.Balasankaralingam and his family members during the check period



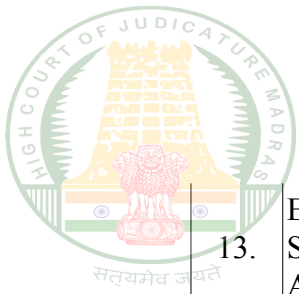
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S.No.	DESCRIPTION	AMOUNT
1.	Domestic Expenses incurred by Shri D.Balasankaralingam and his family Members during the check period-figures furnished by the Director, Directorate of Economics & Statistics, Teynampet, Chennai.	Rs. 3,59,935
2.	Expenditure incurred by Smt.B.Jayalakshmi, W/o.D.Balasankaralingam during the check period towards Locker No.J-2 maintained with Indian Bank, Asiad Colony, Anna Nagar west, Chennai-101.	Rs. 1,700
3.	Expenditure incurred by Smt.B.Jayalakshmi, W/o.D.Balasankaralingam during the check period towards Locker Nos.159 & 177 maintained with State Bank of India, Anna Nagar, Chennai – 40.	Rs.7650
4.	Expenditure incurred by Smt.B.Jayalakshmi, W/o.D.Balasankaralingam during the check period towards Locker No.78 maintained with Canara Bank, Anna Nagar West, Chennai-101.	Rs.910
5.	Expenditure incurred towards payment of rent for the house at No.859, Syndicate Bank Colony, 11th Street, Anna Nagar West Extn, Chennai -101. Advance paid:-  Rent for the period from 01.11.91 to 31.08.94 @Rs.1500/- (34 months) Rent for the period from 01.09.94 to 31.01.97 @ Rs.1800/- (29 months)	Rs.5,000  Rs.51,000 Rs.52,200
6.	Expenditure towards Electrical charges for the residence Rs.47,088 No.859, Syndicate Bank colony, Anna Nagar, Chennai vide Service connection number / consumer No. 168-03-319.	Rs.47,088
7.	Expenditure towards repayment of loan availed from Madurai Cooperative Building Society Ltd., No.15, Beasant Road, Madurai-2 from 15.12.87 to 20.02.97.	Rs.1,30,603.10
8.	Expenditure towards repayment of loan availed from M/s. Home trust finance Corporation, Egmore, Chennai- 8 viz, equal monthly deposit, initial payment etc.,	Rs.2,52,583
9.	Educational expenses towards the children of Shri D. Balasankaralingam are as follows:-	
	(a)Term fees remitted with SBOA Matriculation and Higher	Rs.1,543



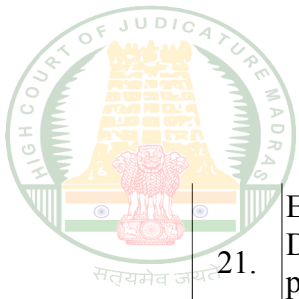
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	Secondary School,7 Melakuilkudi, Nagamalai West, Madurai 19. During the period 1987-88 and 1988-89 in respect of Ms.B.Sasirekha.	
	(b) Donations, Term fees, Interest free, Deposits, remitted with SBOA Higher Secondary School, Anna Nagar West Extn., Chennai -101 during the period 1992to1998 inrespect of Miss B. Subashini	Rs.22,350
	(c) Donations , Term fees, Interest free, Deposits, remitted with SBOA Higher Secondary School, Anna Nagar West Extn., Chennai -101 during the period 1993 to1998 in respect of Miss B. Sasirekha.	Rs.16,015
	(d) Donations and Term fees remitted with C.S.I Jessie Moses Higher Secondary School, Flat No.Z-Puliyur Village Choolaimedu, Thiruvengadapuram, Chennai -94 measuring 1463Sq.ft. registered with Sub- Registrar's Office, Kodambakkam, vide Doc.No.4801 dated 13.12.91 purchased from kanniappan & 5 others and Smt. B. Jayalakshmi.	Rs.16,575
	(e) Monthly fees, Termfees, Mise. Fees and amenities remitted with St. Josephs Anglo —Indian girls Higher Secondary School, Trichy,-1 for the period 1988 - 1989 to his daughter Miss. Subashini.	
	(i)Tuition fees Rs. 55x12	Rs.660
	(ii)Special fees Rs.35 per annum	Rs.35
	(iii)Misc. fees Rs. 40 per annum	Rs.40
	(iv)Amenities per year	Rs.50
10.	Expenditure towards Indane gas for the period August 1990 to 1992 1997 including deposit for cylinders and regulators ( Average of Rs.100 per cylinder for 10 cylinder per year) Rs. 6,500+950-00	Rs. 7,450
11.	Expenditure towards purchase of Non-judicial scan paper from S.Dhanasehran by Smt.B.Jayalakshmi for the execution of sale deed doc. No.2379 on 7.11.1994 vide registrar SL. Nos. 13234 to13239 Registered with SRO, Virudhu Nagar.	Rs.6,525
12.	Expenditure towards purchase of Non-judicial scan paper from S.Dhanasehran by Smt.B.Jayalakshmi for the execution of Sale Agreement vide Register SL.Nos. 11476 and 11477 dated. 3.10.94.	Rs.10

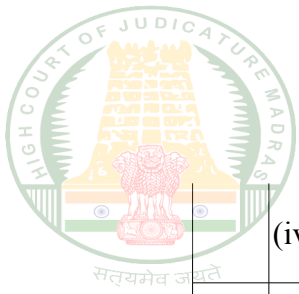


13.	Expenditure towards purchase of Non-judicial scan paper from S.Dhanasehran by Smt. B. Jayalakshmi for the execution of Sale Agreement Vide Register SI.No. 23307to23311 dated 24.01.96.	Rs.10
14.	Expenditure towards purchase of Non-judicial scan paper from S.Dhanasehran by Smt. B. Jayalakshmi for the execution of Sale deed document No.879 on 18.4.96 Vide Register SI Nos.607 to 611.	Rs.5,532
15.	Expenditure towards purchase of Non-judicial scan paper from S.Dhanasehran by Smt. B. Jayalakshmi for the execution of Sale Agreement Vide Register SL. No.1703 and 1704 dated 30.4.96.	Rs.10
16.	Expenditure towards purchase of Non-judicial scan paper from S.Dhanasehran by Smt. B. Jayalakshmi for the execution of Sale Agreement Vide Register SL. 356 dated 9.4.96 and SL 385 dated 10.4.96.	Rs.10
17.	Expenditure towards purchase of Non-judicial scan paper from S.Dhanasehran by Smt. B. Jayalakshmi for the execution of Sale Deed doc No. 2520 dated 13.11.96 vide Register SL Nos.13907 to 13910 all dated 10.11.96 and SL.139.11 and 13912 both dated 12.11.96.	Rs.31,000
18.	Expenditure towards purchase of non judicial Stamp paper purchased on 24.4.91 from Smt.EV.Shanthakumari, then Ex.Officio vendor and Asst. Treasury Officer, Sub-Treasury, Egmore Nungambakkam, Chennai vide Register SL. 1418 to 1432 dt. 24.4.91 for the execution of Sale deed between Smt.Mariammal and 22 others and Smt.D.Jayalakshmi vide D.No.2053 Registered at Kodambakkam Sub-Registrar Office and also purchased from S. Krishnan, Stamp vendor, Madras, - 79 totally (Rs.56,600+100 respectively)	Rs.56,700
19.	Expenditure towards purchase of non judicial Stamp paper purchased on 13.12..91 from Smt.EV.Shanthakumari, then Ex.Officio vendor and Asst. Treasury Officer, Sub-Treasury, Egmore Nungambakkam, Chennai vide Register L.Nos 6239 to 6244 dt.13.12.91 for the execution of Sale Deed between Shri Kanniappan and 5 others and Smt. D. Jayalakshmi vide D. No. 4801 Registered at Kodambakkam Sub Registrar Office and also purchased from D.Janardhanan, Stamp vendor, SRO, Purasaivakkam, No.37, Kandappa Achari Street, Purasaivakkam, Madras 7 totalling ( 30,000+21 respectively)	Rs.30,021
20.	Expenditure towards writing of Sale Deed for the document Nos.2379,2772,879, 2520 and also Sale Agreements return by K. Chandra sekharan	Rs.385





21.	Expenditure incurred towards Registration charges paid by D.Balasankaralingam to Sub Registrar, parasala for the sale of property at S.Nos.153/3 vide doc. Nos.6696/92 and 6697/92 totalling Rs.863/-plus Rs.704/- respectively.	Rs. 1,567
22.	Expenditure towards purchase of Non judicial Stamp paper purchased from Smt.S.Saraswathi on 27.1.94.	Rs. 20,000
23.	Expenditure towards purchase of Non judicial Stamp paper purchased from Smt.Seethalakshmi on 26.1.94.	Rs. 40,000
24.	Expenditure towards purchase of Non judicial Stamp paper purchased from Sri Vijaya Kumar on 25.1.94. and 27.1.94	Rs.40,000
25.	Expenditure incurred towards interest on loan for the purchase of Maruthi Car 800 CC wherein No.TNO2-B-1005 paid to M/s. Pioneer Overseas Finance Corporation Ltd. Chennai -2	Rs.6,075
26.	Expenditure incurred air conditioner, remote control, fixing Charges, Service and other Spare parts etc. for vehicle No. TN-02-B-105 in the name of Smt. D.Jayalakshmi.	Rs.31,640
27.	Road Tax paid towards Maruthi 800 Car No.TNO2-B-1005 remitted with RTO (East) Chennai.	Rs.2,100
28.	Expenditure incurred towards civil charges for the Maruthi Car 800 CC wherein No.TNO2-B-1005 (5.7.95 to 19.2.97) Speedometer reading as on 19.2.97 was 22047 (8 Average mileage of this vehicle 15 KMS. Per meter Petrol and cost of Petrol is taken @ Rs.25 average per litter 220478 / 15 x 25.	Rs.36,745
29.	Expenditure towards locker charges paid towards locker barring no. 38 Maintained with State Bank of India, Balakarai Branch, Trichy for the Check Period	Rs.1,200/-
30.	Penal Interest paid towards LIC Money Bank Policy No.711090196 with City Branch No.16, Anna Nagar, Chennai-40.	Rs.338
31.	Expenditure incurred towards cellular Phone charges paid to M/s.RPG Cellular during the check period	Rs.3,297.55
32.	Expenditure incurred towards Telephone charges paid to GM, Telecom, Madurai for the Telephone No. 60666 paid from 15.12.87 to 19.2.97	Rs.95,218.81
33.	Expenditure incurred by Shri D. Balasankaralingam towards Telephones Charges paid to the Department of Telecom, Chennai for the Telephone No.6265210. (i)Initial Deposit (ii)Rent for the Telephone instrument from 5.12.91 to 28.2.93. (iii)Rent for the Telephone instrument from 1.7.94 to 28.2.95.	Rs.8,000 Rs.2,453

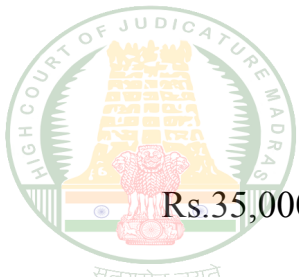


	(iv)Telephone call charges for the above said period	Rs.1,520 Rs.56,261
34.	Expenditure incurred by Smt. B. Jayalakshmi towards Telephone charges paid to the Department of Telecom, Chennai for the Telephone No.6212034	
	(i)Initial deposit	Rs.1,980
	(ii)Rent for the Telephone instrument paid on 11-2-96	Rs.2,191
	(iii)Rent for the Telephone instrument paid on 11-2-96	Rs.2,138
	(iv)Telephone call charges for the above said period	Rs.32,176
		<b>Rs.14,88,490.46</b>

53. Disputing the lists, the appellants contended that the assets worth about Rs.16,07,538/- not been included under schedule A. The first omission mentioned is the Kodaikanal Property which is shown as Items 3 and 4 and the value of Rs.75,000/- shown and deducted on the premises that the same was sold during the check period. The income derived from this properties till it was sold during the check period was not taken into account. These two properties have been purchased by both the accused jointly prior to the check period for a total sum of Rs.75,000/-.

54. The property has been sold during the check period, Ex.P.292 and Ex.293 are the sale deeds executed by one Rajaammal in favour of the first and second accused in the year 1987 in respect of property at Door No.28, Andalpuram, Madurai, these two sale deeds for a consideration of Rs.40,000/- and





Rs.35,000/- respectively been sold at 07.11.1992 for a sum of Rs.80,100/- and Rs.65,000/- respectively. This being shown as income during the check period, the capital for this income had arose by the investment made by the accused in the year 1987 instead of adding the capital of Rs.75,000/- in the value of asset at the beginning of check period, investigating agency had deems it fit to show the property in the schedule A, but delete its value since it was sold during the check period and taken only the difference in the sale consideration as income during the check period. By adopting this method, no prejudice has been caused to the accused. Therefore, the contention of the appellants that there is a omission of Rs.75,000/- being the value of the asset mentioned in the Items 3 and 4 of Annexure A, is only a account adjustment and not an error or omission.

55. Therefore, the Statement-A shown by the prosecution accepted by the trial Court that the accused 1 and 2 at the beginning of check period had property worth at Rs.4,14,233/- is absolutely right and based on the record.

56. It is contended that sum of Rs.1,89,899/- which was in the bank account of the appellants at the beginning of check period not taken into consideration.

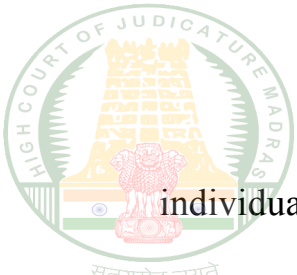


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The passbook of the appellants which was enclosed along with the answer to Section 313 of Cr.P.C questioning been relied by the appellants to show at the beginning of the check period. The first appellant had a balance of Rs.27,60,140/- as on 09.12.1987 in his savings Bank Account No.14174 of No.78 at Canara Bank, West Avani Moola Veedhi, Madurai. The first and the second accused jointly in their joint Account No.14135 of 28 had balance of Rs.44,791/- as on 09.12.1987. The second accused in her account No.13397 of 24 in the same bank had a balance of Rs.32,906/- at the end of December 1987.

57. There was no opportunity for the prosecution to question the veracity of this document namely the photo copy of pass books which was filed as Annexures to the answers given under Section 313 of Cr.P.C. However, the proceedings under Section 313 of Cr.P.C is not an empty formality and the accused always have an opportunity and right to explain the incriminating circumstances put against them.

58. It is not denied by the prosecution that these bank accounts pertain to the accused and these accounts were active and operated by them before and during the check period. Having chosen to disclose the three accounts one each in their



individual name and another in the joint name during the Section 313 proceedings, and wants to take advantage of her bank balance at the time of commencing of check period but had conveniently not produced the entry in the pass book to show what was the balance in these accounts at the end of check period. So that due credit for the said balance could have been given as asset at the end of check period. Piece-meal document without disclosing the entire fact which is within the exclusive knowledge of the accused will not give any advantage to the accused under the Prevention of Corruption Act.

59. The accused is bound to satisfactorily explain the source of income for the accumulation of asset. While pointing out that the bank balance at the commencement of check period not taken into account and disclosing the fact for the first time after examination of witness, but not to disclose the entire fact i.e., bank balance stood at the end of check period, dis entails the accused to include their bank balance at the beginning of check period. Had the appellants disclosed about these three bank accounts to Investigating Officer during the investigation, the investigating Officer would have taken note of the bank balance at the time of commencing of the check period as well as the bank balance at the end of check period, so as to decide the assets held by the accused during the check period.



Crl.A.No.3 of 2022

Having deprived the Investigating Officer from considering the material facts namely the three bank accounts maintained by the accused in Canara Bank, West Avani Moola Veedhi, Madurai, the accused cannot take advantage of part of the document by stealthily introducing during the 313 questioning as an annexure.

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60. The learned counsel for the appellants heavily relying upon the Income Tax Returns and contended that the returns filed by the appellants and their three children ought to have been taken note. A sum of Rs.13,42,646/- declared as income of the appellants and the family members before the income tax authority and the same been assessed to tax. These facts are reflected in the additional document filed pending appeal in C.M.P.No.660 of 2022. This Court, at the beginning of the judgment had discussed about this application and the time and circumstances under which this application to receive additional documents is filed.

61. The reliability of income tax returns been well discussed by the Hon'ble Supreme Court in the Judgment in *State Through Deputy Superintendent of Police -vs- R.Soundirarasu etc* case cited supra following the judgment of J.Jayalalitha and therefore, there is no purpose to reiterate the same again except to



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say the income returns filed before the registration of complaint and the income tax returns filed subsequent to the registration of complaint for disproportionate asset stand on different footing. A belated filing of income tax returns disclosing the income after registration of the complaint under Prevention of Corruption Act for disproportionate asset necessarily leads to suspicion. The accused is bound to explain not only the source of income but also to explain to the income tax authority why same not disclosed during the relevant assessment year.

62. The learned Senior counsel for the appellants contended that the income tax returns marked as Ex.P.267 to Ex.P.290 and Ex.P.1993-1997 are the documents relied by the prosecution and they relied income tax returns filed by the appellants and their daughters during the check period for various assessment years. The assessments being made by the income tax authorities and the very filing of income tax returns and paying the income tax for income by the second appellant is sufficient to show that she is an independent entity having separate source of income and her income from property cannot be put into the list of property of a public servant. The income tax returns filed by the second accused disclosing income from interest and other receipts is sufficient proof to show that the second accused is not a house wife or without any source of income and the gifts received



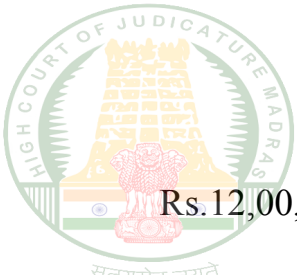
by her children also been shown in the income tax returns which was filed much before the search. Relying upon Ex.D.32, the report filed by the Assistant Commissioner of Income Tax in-respect of cash recovered during the search, the Learned Senior Counsel prayed that the additional documents which are consequences of the report and income tax returns filed by the appellants are relevant and necessarily to be taken into consideration.

63. Ex.D.32 is the communication letter from the Assistant Commissioner Office dated 14.12.2001 addressed to the Principal Special Judge for CBI. The letter is with the following annexures:

*(i) Report with enclosures comprising pages 1 to 12 from Deputy Director of Income Tax (1 No.) Erode dated 07.04.1999.*

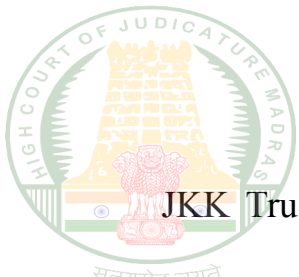
*(ii). Three Reports along with enclosures containing pages from 13 to 72 from ITO, WD-I(3) dated 24.03.1999, 26.03.1999 & 30.03.1999.*

64. The reports are in connection with receipt of advance Rs.12,00,000/- from K.Senthamarai representing JKK Rangammal Charitable Trust, Kumarapalayam., after enquiry, satisfied that Jayalakshmi has received



Rs.12,00,000/- from M/s.JKK Rangammal Trust and same is reflected in the books of account for the period in the 1993-1997. This Court has already pointed out that as stated by the learned Senior counsel appearing for the appellants., the sale deed pertains to the property at No.61,Thiruvengatapuram Choolaimedu. The contract with JKK Rangammal Trust on 20.11.1996 and receipt of total sum of Rs.12,00,000/- as reflected in the document, was seized during the search of JKK Rangammal Charitable Trust premises. Therefore, this document cannot be doubted as a antedated document and due credit to be given to the content of the document which says the second accused Jayalakshmi has received Rs.12,00,000/- towards the part consideration. This amount to be taken into account as income during the check period, whereas, the other two sale transactions namely one with Jamal in respect of the Plot No.62 of Thiruvengatapuram, Choolaimedu, purportedly been agreed to sell to one Jamal, there is no material to believe that it was a transaction entered genuinely prior to the search and receipt of advance Rs.12,00,000/-.

65. This Court has already made clear the income tax assessment and opinion of the Income Tax Authority is confined only to tax collection and its evasion. It is not a certificate for the source of income for Rs.12,00,000/- paid by



JKK Trust there is corresponding reference in the account of JKK Rangammal

Trust and the sale agreement itself was recovered from JKK Premises during search, therefore, this Court accepts that it is a genuine document though not a registered deed. Hence, due credit to be given for the receipt of Rs.12,00,000/- as advance as part income during the check period.

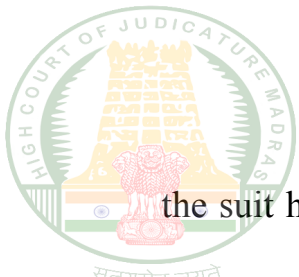
66. The income tax returns in the name of school going children and his wife when she had no immovable property worth generating income but claim that she was doing money lending business to third parties and no document to substantiate the said claim. So, there is every reason to believe that the public servant has spread his ill gotten money by investing in the name of family members and also paying a paltry sum as income tax in their names, but, the returns substantially show their income derived from their investment in UTI and other banks. For the source of that investment, there is no explanation from the appellants except to say that they were receiving gifts from their relatives. Even for that claim, except one transaction as Foreign Gift from Singapore for Rs.12,27,100/-. there is no other document or proof to show that substantial gift has been flowing to the children. The search had unravelled the accused had money in surplus in hand to invest in various properties as well as valuable





securities. Also had liquid cash of around Rs.38,00,000/-. While so, it is surprise to note that for the sake of giving explanation, the second accused claims that she borrowed Rs.3.5 lakhs from her aunty Saraswathi Ammal. When she had sufficient currency in her hand and thought fit to keep it in two lockers, the strange explanation of borrowal from Saraswathi has been put forth.

67. As far as the claim that there was income from Agricultural activity through the land, she leased from Dhanushkodi P.W.65, the learned counsel appearing for the appellants submitted that under Ex.P.319, Dhanushkodi/PW65 and his son Muthu Kumar had leased in favour of second accused, the property shown in the schedule of Ex.P.319. However, most of the survey numbers shown in Ex.319 lease deed appears to be the property of Government and others. This fact has been proved by prosecution by examining the Village Administrative Officer. Only a few survey numbers shown in the deed stands in the name of Dhanushkodi and his son Muthu Kumar. In this connection, though, the appellants rely upon the suit filed by Jayalakshmi, the second accused against Muthu Kumar, son of PW65 seeking permanent injunction before the District Munsif Court, Srivilliputhur in O.S.No.458 of 2000 the suit *vide* judgment dated 30.01.2022 decreed. From Ex.D.12 and Ex.D.13 the decree and judgment, this Court finds that



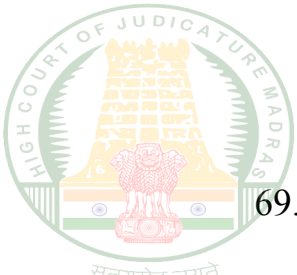
the suit has been filed on 14.11.2000 much after the registration of criminal case.

Though, the defendant namely Muthu Kumar, son of P.W.65 had filed written statement, he has not graced the witness box or examined any witness on his behalf. He has not filed any document to support his case. Two unregistered agreements purportedly been entered between the second accused with Dhanushkodi and his son Muthukumar alone marked as Exhibits. No other evidence be let in. It is obviously a collusive suit and fraudulent decree obtained to mislead the Court. Therefore, the claim of the second appellant that she had taken vast extension of agricultural land on lease and was carrying on agricultural activity sitting in Chennai rejected by the trial Court rightly. Based on the agreement executed by Dhanushkodi and his son for a property which they don't own is yet another attempt by the accused to make believe the Court that she had derived a fanciful income from the land at Srivilliputhur by entering into the lease with a person who is not the owner of the land.

68. That apart, one of the major amounts which is disputed by the appellants is regarding the value of the house constructed at Anna Nagar. This is a property which second accused had purchased from one Meenakshi for Rs.7,20,000/-. She has applied for loan for construction and at that time she has obtained valuation



certificate for availing loan to raise new construction. The valuer by name Surya Narayana Rao has valued the property as about Rs.20,00,000/- which includes the cost of the land. After availing the loan and after getting planning permission in the year 1994 construction has been done by the accused. Therefore, the valuation given by Surya Narayana Rao in the year 1992 before construction cannot be the actual value of the building constructed apparently after availing the loan from Home Finance. The defence documents clearly indicates construction has been made after availing loan and that construction was done after 1994 getting planning permission. While applying for the loan from Home Trust Finance Company, both the appellants have filed their income tax returns for the Bank to appreciate their credit worthiness. The second accused had declared her projected estimated income upto Rs.2,00,000/- for assessment year 1993-1994. As we have already seen, most of her income were derived from investments made in bank and UTI and those investments are from unknown source. It may be wrong to say that the second appellant had no income of her own, but, it is absolutely right to say she had no legal source of income except the interest which she and her daughters were harvesting. But the seed i.e., the principal money deposited is from unknown source.



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69. The valuation by the valuer Surya Narayana Rao which finds place in the file marked Ex.D.35 is prior to the construction whereas the valuation certificate relied by the prosecution is subsequent to the construction. The contention of the appellants is that the time of inspecting the property for valuation was long after the end of check period and it does not indicate the value of the building as it was at the end of check period and therefore a sum of Rs.15,24,303/- has to be deducted from the total value estimated within a year of end of check period the property has been inspected. The price calculation and cost valuation can only be marginal and if at all there is any excess, contra opinion from any other field expert must have been produced by the appellants. The valuation by Surya Narayana Rao much prior to the construction, obtained to avail loan for construction of building cannot be the value of the building after putting up additional construction. Therefore, the submission regarding costs of construction of house as excessive is negatived.

70. Four Special terms deposits with SBI each for Rs.50,000/- is disowned by the second appellant that it was not in the name of second accused and in the name of their daughter namely Sugitha is disowned by A2 saying that amount was not remitted by her, if that is to be accepted then the case of the appellant gets



more worse. It is to be taken as an investment in their name to the tune of Rs.2,00,000/- from unknown source however they were enjoying the interest accrued from the deposit and claiming that the interest income as lawful income but disowning the principal amount is nothing but ridiculous.

71. Thus, the claim of the appellant that about Rs.19,72,757/- been added in excess to the total value of asset held at the end of check period also deserves to be rejected. Small variations in thousands such as initial deposit for telephone, land registration cost for the sale deed in lieu of repayment of loan which claims to be Rs.20,000/- and investment made in Central Co-operative Bank for a sum of Rs.40,000/- will not have much variations in the final conclusion of the Court that the accused who had salary income of Rs.3,52,834/- and reward amount of Rs.34,900/-, totally Rs.387,722/- in addition, lawful income from his investment in bank both in his name, wife name and children name along with rental income being Rs.44,56,416.32 during the check period which includes gift received by the second accused had acquired wealth disproportionate to the income from known source.

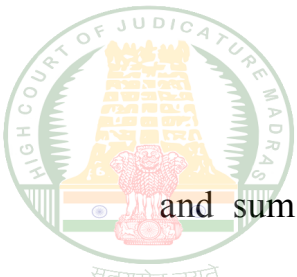
72. After due consideration of submissions made by the learned senior



counsel for the appellants and the documents referred, it is necessary to add another Rs.12,00,000/- under the head of income which the second accused has probalized as money she received as advance by entering into an sale agreement with JKK Trust.

73. Under the expenditure head, taking note of the fact that, the public servant family consists of his spouse and their daughters and they were studying in school or college during the check period only a moderate sum of Rs.3,60,000/- per year been fixed for towards the domestic expenses, a sum of Rs.31,640/- assessed for maintaining the car and other spare parts and a sum of Rs.36,756/- towards the fuel expenses. The Maruthi Car 800 CC purchased by the first accused on 05.07.1995 by the end of the check period ie., in the year 1992-1995 had run 22,470 Kms. Based on the mileage and approximate cost of petrol at Rs.25/- this figure has been arrived and the expenditure for AC fixing also based on the bill. The assessment are very reasonable and requires no change.

74. The learned counsel for the appellants submitted that the telephone was in the premises which was let out to the tenant, who had paid telephone bill, this has been spoken by the tenant and he was also examined as prosecution witness

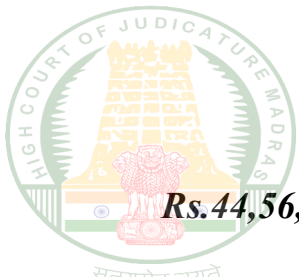


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and sum of Rs.95,218/- has to be deleted from the Annexure-E amount for expenditure. This Court find force in the above submission. The telephone number 60666 appears to have been installed in the premises at Madurai of the first accused and it was let out for rent and it was under the usage of the tenant. PW34 Manager of Pioneer building Firms with the tenant of the premises bearing 10-D Rama Linga Nagar 3<sup>rd</sup> Street, Madurai had deposed that he has been occupying the premises since 1990 and he is using the telephonic service in the premises and paying the telephone charges. While so, a sum of Rs.95,218.81 under the expenses head for payment of telephonic charge used at Madurai by his tenant has to be deleted. After deletion, the expenditure during the check period comes around Rs.13,93,490.46/- instead of Rs.14,88,490.46/-

75. The rental income from the sold property till his alienation and income alleged to have been generated from Tourist Taxi TCV 1005, income from IGG resort, the maximum lawful income could not have, in any case will exceed Rs.5,00,000/-.

76. Thus, the total income during the check period to be fixed as



**Rs.44,56,460.32 + Rs.12,00,000/- + Rs.5,00,000/- = Rs.61.56.416.32 and it is**

**rounded of to Rs.62,00,000/-**, whereas, the value of the property held by the accused at the end of the check period is Rs.1,44,32,287.08. The asset held by the accused at the beginning of check period Rs.4,14,233/- .

77. After considering the submissions made by the counsels and verification of the records and documents, this Court arrived at the following conclusions:-

i	Assets at the beginning of the check period	Rs. 4,14,233.00
ii	Assets at the end of the check period	Rs.1,44,32,287.08
iii	Income around during the check period)	Rs. 62,00,000.00
iv	Expenditure incurred during the check period (is Rs.13,97,271.46 the same is rounded to Rs.13,95,000/- )	Rs. 13,95,000.00
v	Likely Saving during the check period	Rs. 48,05,000.00
vi	Disproportionate Assets during the check period (ii – v)	Rs. 96,27,287.08

78. The value of the asset acquired by the accused in his name and his family members names is almost double the estimated savings from the known source of income. While so, except some minor error in assessment which has no bearing in the decision, this Court finds the trial court judgment has appreciated the law as well as the fact.

79. For the contention of the learned Senior counsel for the appellants that





the change in the law after 2018 though it is captioned as amendment it is only a substitution to the old provision of law under the Prevention of Corruption Act governing disproportionate of asset, this Court finds that even such liberal interpretation is given to the provision of law, it will not be of any use for the appellants herein.

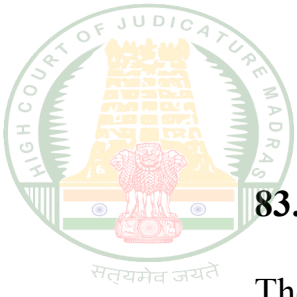
80. The law expects satisfactory explanation for the source of income, in this case, that is missing. The claim and attempt made by the appellants to project the explanations through their witnesses and documents in fact had exposed suppression of their income from other sources. After the search and recovery of huge currency, an attempt make believe story of prior sale agreements and suits for enforcement of the sale agreements been created. The trial Court has rightly held that these documents are ante dated. After close scrutiny one document namely the agreement with JKK Rangammal Charitable Trust where the accused has probalized that they have entered into an agreement and received sale consideration 12 lakhs for other transactions the view of the trial Court is confirmed. Therefore, the Court ever after, due credit for that receipt of Rs.12,00,000/- as income during the check period, find a vast difference between their known source of income and the value of assets which they have invested is



very huge and the disproportionality is shocking event if it is estimated moderately. Therefore, this Court confirms the judgment of the trial court.

81. Accordingly, the order of conviction passed in C.C.No.3 of 2009 is confirmed. The ***Criminal Appeal No.3 of 2009 is dismissed.*** Taking note of the age of the appellants, this Court grants 30 days time for them to surrender, failing which, the respondent police shall secure them and commit to prison to undergo the remaining period of sentence.

82. Taking note of the fact that, out of 12 properties listed for confiscation three have locked in litigation and third party right has come into force due to court intervention and therefore, this Court is of the opinion the confiscation order be modified, instead of ordering forfeiture of all the property. As far as the order of confiscation, the same is modified to the effect that in lieu of forfeiture, the appellants jointly and severally shall pay a sum of Rs.25,00,000/- which shall be around 50% of the value assessed as disproportionate to the known source of income.



CrI.A.No.3 of 2022

**83. CrI.M.P.No.660 of 2022**

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The documents are subsequent to search and mostly relates to the proceedings of Income Tax Department. One document namely, the sale agreement with M/s.JKK Charitable Trust taken note and duly considered for determining the issue. Therefore, connected Miscellaneous Petition No.660 of 2022 to receive additional documents is dismissed for the reasons stated above.

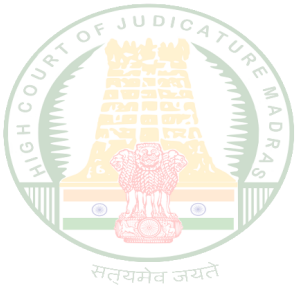
**17.07.2023**

Internet : Yes.  
Index : Yes.  
Neutral Citation : Yes/No.

vv

Copy to:-

1. The Additional Special Judge for CBI Cases, Chennai.
2. The Inspector of Police, Central Bureau of Investigation, SPE/CBI/ACB, Chennai.
3. The Public Prosecutor, High Court, Madras.



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Crl.A.No.3 of 2009

**Dr.G.JAYACHANDRAN, J.**

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**Delivery Judgment made in**  
**Crl.A.No.3 of 2009**  
**and Crl.MP.No.660 of 2022**

**17.07.2023**

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