

14.

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

+ CRL.REV.P. 834/2005

Judgment delivered on : September 3rd , 2009

M.M. Singh Petitioner
Through : Mr. Sandeep Sethi, Sr. Adv. with
Mr. Santosh Mishra, Adv.

versus

STATE through CBI Respondent
Through : Mr. Harish Gulati and Mr. A.
Malhotra, Adv.

[2] CRL.REV.P. 848-49/2005

R.P. Singh & Another Petitioners
Through : Mr. Sandeep Sethi, Sr. Adv. with
Mr. Santosh Mishra, Adv.

versus

STATE through CBI Respondent
Through : Mr. Harish Gulati and Mr. A.
Malhotra, Adv.

**CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI**

1. Whether reporters of local papers may be allowed to see the Judgment ? **Yes**
2. To be referred to the Reporter or not? **Yes**
3. Whether the Judgment should be reported in the Digest? **Yes**

G.S.SISTANI, J.

1. Both the petitions are directed against a common order dated 17.8.20005 and order of charge dated 29.8.2005, passed by the learned Special Judge in FIR No.RC-4(A)/98/ACU VIII, under Section 109 of the Indian Penal Code 1860, and Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act. Both the petitions were argued together and with the consent of counsel for the parties, the same are being disposed of by this

common order.

2. The necessary facts for the disposal of the present petitions are that: a case was registered against the petitioners under Section 13(2) read with Section 13 (1)(e) of the Prevention of Corruption Act. It was alleged that Shri M.M.Singh (petitioner in Crl.Rev.P.No.834/2005), while working as Senior Deputy Director (Quality), corporate office of Steel Authority of India Ltd. has amassed assets worth over Rs.98.0 lacs during the period of January, 1990 to December, 1995, and the same are disproportionate to his known sources of income. During the course of investigation, Shri R.P.Singh and Shri Sharat Chandra Singh (petitioners in Crl.Rev.P.No.848-49/2005), father and brother (respectively) of Shri M.M.Singh, were also made accused persons, as according to the investigating officer, movable and immovable properties had also been bought in their names. It was alleged that the total income during the check period of the petitioner (Shri M.M.Singh) and other individuals from salary, agricultural land, pensions and from other investments, came to Rs.59,17,820.63. The total expenditure of the petitioner and other members of the family was calculated as Rs.2,76,045/-. The assets both movable and immovable have been shown as amounting to Rs.1,28,63,942.58/-. Accordingly, assets disproportionate to the income have been calculated to the tune of Rs.72,22,166.95/0. Learned trial Court in pursuance of the charge-sheet filed by the CBI, initiated proceedings against the accused persons. And simultaneously, a departmental enquiry was initiated against the

petitioner (Shri M.M.Singh). Vide order dated 17.8.20005, the learned Special Judge of the criminal Court, held that a *prima facie* case was made out against the three accused persons (petitioners herein) and vide order dated 29.8.2005 charges were framed against the three accused persons.

3. It is contended by learned senior counsel for the petitioners that an exhaustive inquiry was conducted by the Investigating officer in the departmental inquiry and the investigating officer in the CBI had also appeared as a management witness. After a detailed inquiry, Disciplinary Authority vide order dated 2.7.2004 exonerated the petitioner (Shri M.M.Singh) of the charges. It is submitted that the impugned order dated 17.8.2005 and order on charge dated 29.8.2005 are perverse and suffer from non-application of mind and irregularities. It is contended that while framing charges against the petitioners, learned trial court has failed to consider or appreciate the settled proposition of law that framing of charge is a very serious matter and should not be done lightly or as a matter of course.
4. It is next contended by learned senior counsel for the petitioners that the trial court may frame charge only in the discerning few cases where on the basis of the material adduced by the prosecution there arises in the opinion of the trial court "grave suspicion" of the complicity of the accused. The trial court can only determine the grave suspicion on the basis of the material on record and by application of mind. The court is duty bound to scrutinize the material on record and then to determine whether or not there is a strong possibility of conviction of the accused at

the conclusion of trial. It is contended that in this case, the trial court has failed to apply its mind and without appreciating the material on record, has framed the charges. It is contended that the trial court fell in serious error in routinely clubbing the assets of all the accused persons and then arriving at the conclusion of disproportionate assets.

5. Learned senior counsel for the petitioners has strongly urged before this Court that the trial court failed to appreciate in the right perspective the exoneration of petitioner (Shri M.M.Singh) by the inquiry officer in the departmental proceedings. It is stated that the trial court has erred in discharging the report of the inquiry officer on the plea that the charges framed in the departmental proceedings are different from the charges framed in the criminal prosecution. He further submits that the trial court has failed to appreciate the essence of the finding of the inquiry officer and it is not enough that the charges are simply compared. Result of the finding of the inquiry officer would show that he has gone into and adjudicated the matter for purchase of assets by the petitioners *vis-a-vis*, the income and assets in the hands of all other accused. Therefore, the said finding has substantial bearing in determining whether or not charges are to framed against the petitioners.
6. It is strongly urged that the standard of proof required in departmental proceedings which are of civil nature, is far lower than the standard required in criminal proceedings. The standard of proof in departmental proceedings is preponderance of possibilities, while in criminal prosecution it is 'beyond

reasonable doubt'. It is trite law that finding of a civil proceedings is binding on the criminal proceedings and not *vice-versa*. In support of his plea learned counsel has relied upon the decision in the case of ***P.S. Rajya Vs. State of Bihar***, reported at **(1996) 9 SCC 1**, in which the question that came up for consideration before the Apex Court was whether it was justified in prosecuting the appellant under section 5(2) read with section 5(i)(e) of the Prevention of Corruption Act, 1947, notwithstanding the fact that on identical charges, the appellant had been exonerated in the departmental proceedings. It will be useful to reproduce relevant paragraphs:

"17. At the outset we may point out that the learned Counsel for the respondent could not but accept the position that the standard of proof required to establish the guilt in a criminal case is far higher than the standard of proof required to establish the guilt in the departmental proceedings. He also accepted that in the present case, the charge in the departmental proceedings and in the criminal proceedings is one and the same. He did not dispute the findings rendered in the departmental proceedings and the ultimate result of it. On these premises, if we proceed further then there is no difficulty in accepting the case of the appellant. For if the charge which is identical could not be established in a departmental proceedings and in view of the admitted discrepancies in the reports submitted by the valuers one wonders what is there further to proceed against the appellant in criminal proceedings. In this context, we can usefully extract certain relevant portions from the report of the Central Vigilance Commission on this aspect.

"Neither the prosecution nor the defence has produced the author of various reports to confirm the valuation. The documents cited in the list of documents is a report signed by two engineers namely S/Sh. S.N. Jha and D.N. Mukherjee whereas the document brought on record (Ex. S-20) has been signed by three engineers. There is also difference in the estimated value of the property in the statement of imputation and the report. The document at Ex. S-20 has been signed by three engineers and the property has been valued at Rs. 4,85,000 for the

ground floor and Rs. 2,55,600 for the second floor. A total of this comes to Rs. 7,40,900 which is totally different from the figure of Rs. 7,69,800 indicated in the statement of imputation. None of the engineers who prepared the valuation report though cited as prosecution witnesses appeared during the course of enquiry. This supports the defence argument that the authenticity of this document is in serious doubts. It is a fact that the Income Tax Authorities got this property evaluated by S/Sh. S.N. Jha and Vasudev and as per this report at pages 50 to 63 they estimated the property at Rs. 4,57,600 including the cost of land Rs. 1,82,000 for ground and mezzanine floor plus Rs. 2,55,600 for first floor and Rs. 20,000 for cost of land). Thus both the engineers who prepared the valuation report for income tax purposes also prepared the report for the CBI and there is no indication in the subsequent report as to why there is a difference in the value of the property. A perusal of these two reports reveals that there is difference in the specification of the work. The valuation report prepared by Sh. S.N. Jha for ground floor for income tax purposes clearly states that the structure was having "RCC Pillars at places, brick work in cement mortar, RCC lintel, 60 cm walls, 9 inch floor height, 17.6, 8.00, 8.00 inch" but in the report for CBI which was also prepared by him the description is "RCC framed structure open warranted on three sides in the ground floor. Similarly, for the first floor it is written in the report as "partly framed structure and partly load bearing walls, floor heights 3.20 m. Further Sh. S.N. Jha on page 54 of Ex. D-1 had adopted a rate of Rs. 290 per sq. mtr. for ground floor and adding for extra height he had estimated ground floor including mezzanine floor at Rs. 2,02,600. But for the report at Ex. S-20 the rate has been raised to 365 per sq. mtr. There is no explanation for this increase of rate by Rs. 75 per mtr. It is also observed that for the updating of the cost of index 5-% was added to the rate of Rs. 290/as per page 55 of Ex. D-1 by Sh. S.N. Jha but this has been raised to 97% as an escalation to the cost of index in Ex. S-20 without explaining or giving the reasons therefore. It is surprising that same set of engineers have adopted different standard for evaluating the same property at different occasions. Obviously, either of the report is false and it was for the prosecution to suitably explain it. In the absence of it the only inference to be drawn is that report at Ex-S-20 is not authentic. Since the same set of engineers have done the evaluation earlier and if subsequently they felt that there was some error in the earlier report, they should have explained

detailed reasons either in the report itself or during the course of enquiry. Therefore, Ex. S-20 is not reliable.

23. Even though all these facts including the Report of the Central Vigilance Commission were brought to the notice of the High Court, unfortunately, the High Court took a view that the issues raised had to be gone into in the final proceedings and the Report of the Central Vigilance Commission, exonerating the appellant of the same charge in departmental proceedings would not conclude the criminal case against the appellant. We have already held that for the reasons given, on the peculiar facts of this case, the criminal proceedings initiated against the appellant cannot be pursued. Therefore, we do not agree with the view taken by the High Court as stated above. These are the reasons for our order dated 27.3.1996 for allowing the appeal and quashing the impugned criminal proceedings and giving consequential reliefs."

7. It is next submitted that there is also no meeting of minds between the parties, to commit the criminal offence inasmuch as, the father and brother are self-earning members. Father of the petitioner is stated to be a retired school teacher and is getting a pension of Rs.2000/- per month. The brother is doing cultivation on the ancestral agricultural land, which would show that they had their own source of income and all the transactions were from their bank account. Both the father and the brother are income-tax assesses and had filed their income-tax returns separately. The father and brother have declared their income through VDIS Scheme in the year 1997, before the Registration of the case. It is submitted that once the father and the brother have satisfactorily explained that income was derived by them through agricultural resource as well as the fact that the father of the petitioner (Shri M.M.Singh) is a retired school teacher, and has an independent source of income and

since there is no material on record to connect the father and brother of the petitioner to the alleged offence, the petitioners should be acquitted from the charges framed. In support of his contention, learned counsel for the petitioners has placed reliance on the case of **DSP, Chennai, Vs. K. Inbasagaran** reported at **(2006) 1 SCC 420** wherein the accused was acquitted since in his part, he had satisfactorily established that the monies and assets recovered belonged to his wife, which she had amassed from the business run by her and there was no evidence that the assets belonged to the accused.

8. *Per contra*, present petitions are opposed by learned counsel for the CBI on the ground that the material on record amply points out the culpability of the petitioners. Learned counsel for the CBI submits that during the course of investigation, it was found that the father of the accused was a retired teacher and was also looking after the agricultural land and the brother was unemployed and after completing his Ph.D. in Maithily language, he was assisting his father in agriculture and the number of movable and immovable properties purchased in their names were beyond their probable income. Investigation also revealed that all the three persons entered into a conspiracy and the petitioner (Shri M.M.Singh) being a public servant purchased the properties in the name of his father and brother. As per the CBI, the petitioner had drawn a net salary of Rs.3,25,821/- during the check period. The agricultural income from all the properties was to the tune of Rs.13,85,070/- i.e. Rs.2,30,845/- per year. The total income of the accused during the check period was

Rs.59,17,820.63. The total expenditure incurred by the petitioner during the check period was Rs.2,76,045/-. The petitioners had movable assets amounting to Rs.1,10,32,267.10/-. This figure has been derived after deducting the bank balances in the beginning of check period which was Rs.1,16,139.29. The petitioners had immovable assets amounting to Rs.18,31,675.48. It is submitted that during the investigation, the Investigating Officer had also collected the evidence about the income of each member of the family and the income from the land and properties of the family. It was found that the brother had no particular source of income and he was only assisting his father in agricultural activities. The father was a pensioner and was getting pension of Rs.2,000/- per month. He submits that in view of the fact that the family members in whose name huge assets are found, are dependent on the petitioner and they have no sufficient income to acquire the properties, all these factors and circumstance clearly show a conspiracy between the petitioners and other accused persons. Learned counsel relies upon the case of **Nallamal Vs. State of Tamil Nadu**, reported at **1999 (Crl.) Journal, 3967**, wherein it has been laid down that even a non-public servant can be prosecuted for an offence of disproportionate assets if he abets the said offence by a public servant and keeps the property in his name, shielding the public servant from the clutches of law. It is further submitted that in this case, all the petitioners are residing in the same house and they have a common ration card, which itself would lead to a strong circumstance to infer meeting

of minds and an agreement to commit the offence. Learned counsel also submits that Chandra Shekhar (CW-3) has revealed that all of the investment of the petitioner (Shri M.M.Singh) and his family members were made by him, using the demand draft sent by the petitioner (Shri M.M.Singh), the main accused. Even otherwise, the father and brother have no sufficient income and they were dependent on the petitioner (Shri M.M.Singh). Various bank accounts in Delhi were opened by the brother and father of the main accused while they are stated to be residing at Bihar. Purchase of flats had also been made by them in Delhi where the petitioner is residing. Learned counsel submits that the order passed by the learned trial court shows application of mind and there is no infirmity in the same. Counsel further relies upon the case of ***State through SPE & CBI A.P. Vs. M. Krishna Mohan & Anr.*** reported at ***AIR 2008 SC 368***, para 33 of which reads as under:

“In a case of this nature where departmental proceeding was initiated only as against respondent no.2, the enquiry officer did not have the benefit to consider all the materials which could be brought on record by the Department in the light of the investigation made by a specialized investigating agency, the evidence of experts and deposition of witnesses to show that forgery of document has been committed by forging thumb impression and handwriting, we are of the opinion that exoneration of respondent no.2 in the departmental proceedings cannot lead to the conclusion that he was not guilty of commission of the offences wherefor he was charged.”

9. Mr.Sethi, submits that the case of ***State through SPE*** (*supra*) is not applicable to the facts of this case as in the aforesaid matter the investigation had not even commenced by the CBI,

while in this case, the Inspector of the CBI had appeared as a witness and had made a statement.

10. I have heard learned counsel for the parties and carefully scrutinized the material on record. At the forefront and before analyzing the rival contentions of the parties, it would be apt to recall that a Court exercising revisional jurisdiction cannot go into intricate details as regards the merits of a matter and may interfere only when there is any illegality or material irregularity or impropriety in the order passed by the lower court. A revisional court cannot act as a court of appeal and reappraise the merits of the case. Thus this court is to consider whether the trial Court applied the law with regard to framing of charge to the facts of this case and if there is any infirmity in the impugned order.

11. The law with regard to framing of charge is well-settled. In the case of ***Union of India Vs. Prafulla Kumar Samal***, (1979) 3 SCC 4, the Apex Court laid down broad contours on the point of framing of charge. The same are reproduced as under:

“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a Post Office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

12. Similar opinion was expressed in the case of **State of Orissa**

Vs. Debendra Nath Padhi, (2005) 1 SCC 568, wherein the

Apex Court held:

“6. At the stage of framing charge, the trial court is required to consider whether there are sufficient grounds to proceed against the accused. Section 227 of the Code provides for the eventuality when the accused shall be discharged. If not discharged, the charge against the accused is required to be framed under Section 228. These two sections read as under:

Section 227 CrPC

*“227. Discharge.—*If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.”

Section 228 CrPC

“228. Framing of charge.—(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, and thereupon the Chief Judicial Magistrate shall try the offence in accordance with the procedure for the trial of warrant cases instituted on a police report;

(b) is exclusively triable by the court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of sub-section (1), the charge shall be read and explained to the accused, and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried."

7. Similarly, in respect of warrant cases triable by Magistrates, instituted on a police report, Sections 239 and 240 of the Code are the relevant statutory provisions. Section 239 requires the Magistrate to consider "the police report and the documents sent with it under Section 173" and, if necessary, examine the accused and after giving the accused an opportunity of being heard, if the Magistrate considers the charge against the accused to be groundless, the accused is liable to be discharged by recording reasons thereof.

8. What is the meaning of the expression "the record of the case" as used in Section 227 of the Code. Though the word "case" is not defined in the Code but Section 209 throws light on the interpretation to be placed on the said word. Section 209 which deals with the commitment of case to the Court of Session when offence is triable exclusively by it, inter alia, provides that when it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall commit "the case" to the Court of Session and send to that court "the record of the case" and the document and articles, if any, which are to be produced in evidence and notify the Public Prosecutor of the commitment of the case to the Court of Session. It is evident that the record of the case and documents submitted therewith as postulated in Section 227 relate to the case and the documents referred in Section 209. That is the plain meaning of Section 227 read with Section 209 of the Code. No provision in the Code grants to the accused any right to file any material or document at the stage of framing of charge. That right is granted only at the stage of the trial.

9. Further, the scheme of the Code when examined in the light of the provisions of the old Code of 1898, makes the position more clear. In the old Code, there was no provision similar to Section 227. Section 227 was incorporated in the Code with a view to save the accused from prolonged harassment which is a necessary concomitant of a protracted criminal trial. It is calculated to eliminate harassment to accused persons when the evidential materials gathered after investigation fall short of minimum legal requirements. If the evidence even if fully accepted cannot show that the accused committed the offence, the accused deserves to be discharged. In the old Code, the procedure as contained in Sections 207 and 207-A was fairly lengthy. Section 207, inter alia, provided that the Magistrate, where the case is exclusively triable by a Court of Session in any proceedings instituted on a police report, shall follow the procedure specified in Section 207-A. Under Section 207-A in any proceeding instituted on a police report the Magistrate was required to hold inquiry in terms provided under sub-section (1), to take evidence as provided in sub-section (4), the accused could cross-examine and the prosecution could re-examine the witnesses as provided in sub-section (5), discharge the accused if in the opinion of the Magistrate the evidence and documents disclosed no grounds for committing him for trial, as provided in sub-section (6) and to commit the accused for trial after framing of charge as provided in sub-section (7), summon the witnesses of the accused to appear before the court to which he has been committed as provided in sub-section (11) and send the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session as provided in sub-section (14). The aforesaid Sections 207 and 207-A have been omitted from the Code and a new Section 209 enacted on the recommendation of the Law Commission contained in its 41st Report. It was realised that the commitment inquiry under the old Code was resulting in inordinate delay and served no useful purpose. That inquiry has, therefore, been dispensed with in the Code with the object of expeditious disposal of cases. Instead of the committal Magistrate framing the charge, it is now to be framed by the Court of Session under Section 228 in case the accused is not discharged under Section 227. This change brought out in the Code is also required to be kept in view while determining the question. Under the Code, the evidence can be taken only after framing of charge.

10. Now, let us examine the decisions which have a bearing on the point in issue.

11. In *State of Bihar v. Ramesh Singh*¹ considering the scope of Sections 227 and 228 of the Code, it was held that at the stage of framing of charge it is

¹ (1977) 4 SCC 39 : 1977 SCC (Cri) 533.

not obligatory for the judge to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. At that stage, the court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion, at the initial stage of framing of charge, is sufficient to frame the charge and in that event it is not open to say that there is no sufficient ground for proceeding against the accused.

12. In *Supdt. and Remembrancer of Legal Affairs, W.B. v. Anil Kumar Bhunia*² a three-Judge Bench held that the Magistrate at the stage of framing charges had to see whether the facts alleged and sought to be proved by the prosecution prima facie disclose the commission of offence on general consideration of the *materials placed before him by the investigating police officer*. (emphasis supplied) Though in this case the specific question whether an accused at the stage of framing of charge has a right to produce any material was not considered as such, but that seems implicit when it was held that the Magistrate had to consider material placed before it by the investigating police officer.

13. In *State of Delhi v. Gyan Devi*³ this Court reiterated that at the stage of framing of charge the trial court is not to examine and assess in detail the materials placed on record by the prosecution nor is it for the court to consider the sufficiency of the materials to establish the offence alleged against the accused persons.

14. In *State of M.P. v. S.B. Johari*⁴ it was held that the charge can be quashed if the evidence which the prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted, cannot show that the accused committed the particular offence. In that case, there would be no sufficient ground for proceeding with the trial.

15. In *State of Maharashtra v. Priya Sharan Maharaj*⁵ it was held that at Sections 227 and 228 stage the court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. The court may, for this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

² (1979) 4 SCC 274 : 1979 SCC (Cri) 1038 : (1980) 1 SCR 323.

³ (2000) 8 SCC 239 : 2000 SCC (Cri) 1486.

⁴ (2000) 2 SCC 57 : 2000 SCC (Cri) 311.

⁵ (1997) 4 SCC 393 : 1997 SCC (Cri) 584.

16. All the decisions, when they hold that there can only be limited evaluation of materials and documents on record and sifting of evidence to *prima facie* find out whether sufficient ground exists or not for the purpose of proceeding further with the trial, have so held with reference to materials and documents produced by the prosecution and not the accused. The decisions proceed on the basis of settled legal position that the material as produced by the prosecution alone is to be considered and not the one produced by the accused. The latter aspect relating to the accused though has not been specifically stated, yet it is implicit in the decisions. It seems to have not been specifically so stated as it was taken to be a well-settled proposition. This aspect, however, has been adverted to in *State Anti-Corruption Bureau v. P. Suryaprakasam*⁶ where considering the scope of Sections 239 and 240 of the Code it was held that at the time of framing of charge, what the trial court is required to, and can consider are only the police report referred to under Section 173 of the Code and the documents sent with it. *The only right the accused has at that stage is of being heard and nothing beyond that.* (emphasis supplied)

13. Thus at the time of framing of charge, the Court is not supposed to look into the evidence of the case in detail and is only to consider whether there is a strong suspicion against the accused on the basis of the material that comes before it. The court has the power to sift the evidence for the limited purpose of finding out, whether or not a *prima facie* case is made out against the accused. However, the Court is not supposed to delve deeply into the merits of the matter and start a roving expedition into the evidence that is brought forth it, as if conducting a trial. Further there is no one fixed definition that may be ascribed to the term "*prima facie*" nor can the term "strong suspicion" have a singular meaning. While coming to the conclusion of a strong *prima facie* case or strong suspicion, the Court shall have to

⁶ 1999 SCC (Cri) 373.

decide each case on the basis of its own independent facts and circumstances.

14. Reading the facts of this case and the rival contentions raised, in light of the principles of law laid down as per ***Prafulla kumar (supra)*** and ***Debendra Nath Padhi (supra)***, it is seen that a departmental inquiry was initiated against Shri M.M. Singh (a public servant), on charges of not having sought permission/reported to the department about the various moveable and immoveable properties acquired by him in the name of his family persons, during the check period of 1990-1995. Simultaneously, court proceedings were launched against Shri M.M. Singh, wherein it was alleged that Shri M.M. Singh had amassed assets disproportionate to his income. It was further alleged that the same had been done in connivance with his father and brother, inasmuch as huge moveable and immoveable assets were bought in their respective names during the check period of 1990-1995. Vide order dated 02.07.2004, passed by the by the Disciplinary Authority, Shri M.M. Singh was absolved of the charges made against him before his department. However, the learned Special Judge, before whom the criminal proceedings were pending, was of the opinion that a *prima facie* case was made out against Shri M.M. Singh and his father and brother, and consequently, vide order dated 29.08.2005, charges were framed against the three accused persons.

15. It has been contended by learned senior counsel for the

petitioners that Shri M.M. Singh has been absolved of all the charges inasmuch as the department SAIL which had initiated proceedings against Shri M.M. Singh, has found in its order that Shri M.M. Singh was innocent and thus the learned Special Judge has come to an incorrect finding that a case is made out against him and other petitioners. Learned counsel for the petitioners has also submitted that the charges in the two proceedings are not to be mechanically compared but the essence of the findings of the Disciplinary Authority need be appreciated. On the contrary, counsel for the CBI has argued that the charges in the departmental inquiry were separate and distinguished from the charges framed in the case before the learned trial Court, so the finding of the Disciplinary Authority is not binding on the criminal Court. Para 13 of the reply filed by the respondent (CBI) reads as under:

“13. The prosecution case is that the accused has purchased properties in the name of his family members and made investments in their names only to defeat the provisions of law. The documentary and oral evidences produced before the Trial Court will prove the prosecution case. Whereas departmental enquiry was initiated by the SAIL against the petitioner for 9 instances of immovable properties acquired in the name of (1) Sharat Chander Singh, (younger brother) (2) Radheshwar Prasad Singh (father) & (3) Rekha Singh (late wife), 8 instances of movable properties acquired in name of late Rekha Singh, Aditya Singh (minor son), Vishal Singh (minor son), R.P.Singh (father), Vandana Singh (wife) and that Shri M.M. Singh had opened two SB accounts no.5440 in the name of his minor son Master Anshuman Singh and SB a/c No.5439 in the name of his second minor son Master Vishal Singh on 15.3.91 at State Bank of India, Masjid Moth, New Delhi whereas instances of immovable properties and movable properties shown in the charge sheet filed before this Hon'ble Court against Madan Mohan Singh and others are 12 & 46 respectively.

In departmental inquiry, the management has examined only five witnesses out of 126 witnesses cited in the list of witnesses attached with the charge. M.M.Singh had produced five witnesses in his defence namely (i) Shri Deva Singh (father-in-law of Madan Mohan Singh) (ii) Smt. Vandana Singh (wife of M.M.Singh), (iii) Shri R.P. Singh (father of Madan Mohan Singh), (iv) Shri Shatrughan Singh & (v) Shri Sharat Chander Singh (younger brother of Madan Mohan Singh). R.P. Singh and S.C. Singh are also accused in the present case. The prosecution witnesses cited in the list of witnesses enclosed with the charge sheet filed in the court are 126 in number who will prove the criminal charges leveled against accused Madan Mohan Singh and others. The statement of witnesses are supported by documentary evidence also. From the above facts, it is very clear that placing reliance upon the order in departmental enquiry will undermine the interest of justice."

16. In view of the above contentions raised, I deem it appropriate to reproduce the Statement of Articles of Charge framed against the petitioner by the Steel Authority of India:

"STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST SHRI MADAN MOHAN SINGH, THE THEN SR.MANAGER AND PRESENTLY JOINT DIRECTOR, STEEL AUTHORITY OF INDIA LIMITED, CORPORATE OFFICE, NEW DELHI.

For Article of Charge No.1

That, the said Shri Madan Mohan Singh, Joint Director (SAIL), Corporate Office, New Delhi while functioning as Manager /Sr.Manager, RMD, SAIL, New Delhi during the period of 1990 to 1995 failed to maintain absolute integrity and devotion to duty and committed gross misconduct in much as he knowingly and intentionally did not obtain permission nor intimate to his department in the matter regarding purchase/ acquisition of immovable property in the name of his wife late Smt.Rekha Singh, his brother Shri Sharat Chander Singh and in the name of his father Shri Radeshwar Prasad Singh.

And thus, he failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a public servant and thereby contravened the

provisions of Rule 16 (1) and 16(3) of the Conduct, Discipline and Appeal Rules, 1977 of Steel Authority of India Limited, New Delhi.

For Article of Charge No.2.

That, the said Shri Madan Mohan Singh, Joint Director (SAIL), Corporate Office, New Delhi while functioning as Manager/ Sr. Manager, RMD, SAIL, New Delhi during the period of 1990 to 1995 failed to maintain absolute and devotion to duty and committed gross misconduct in much as he knowingly and intentionally did not intimate to his department in matter regarding heavy investments made in various companies in the name of his minor sons viz. Master Vishal Singh and Master Aditya Singh @ Master Anshuman Singh, in the name of his father Radheswar Prasad Singha nd in the name of his wife Smt.Vandana Singh @ Smt.Vandana Chauhan.

Thus, the said Shri Madan Mohan Singh by his acts committed gross misconduct and failed to maintain his absolute integrity, devotion to duty and acted in a manner unbecoming on his part as public servant and thereby contravened the provisions of Rule 16(1) and 16(3) of Conduct, Discipline and Appeal Rules, 1977, Steel Authority of India Limited."

17. Charges framed by learned court below vide its order dated 29.8.2005 are reproduced:

"I, ..., Special Judge, CBI, New Delhi, do hereby charge you Accused No. (1) Madan Mohan Singh as under:

That you being public servant employed at Steel Authority of India Ltd. New Delhi during the period 1.1.90 to 31.12.95 acquired assets which were disproportionate to your known source of income and on 31.12.1995 you had been in possession of pecuniary resources/properties in your name and in the name of your sons Sh. Vishal Singh and Master Aditya Singh, in the name of your wives Smt. Rekha Singh and Smt. Vandana Singh, your father in law Deva Singh, in the name of your father Sh. R.P. Singh and in the name of your brother Sh. S.C. Singh to the extent of Rs.72,22,166.95/- which were disproportionate of your known source of income for which could not satisfactorily account and thereby committed an offence under Section 13 (1) (e) of Prevention of Corruption Act, 1988 punishable under Section 13(2) of the Act and within my cognizance.

And I hereby direct that you be tried by this court for the aforesaid charge.”

18. The order dated 02.07.2004, by which the petitioner was exonerated by the Steel Authority of India is also being reproduced hereunder:

“No.Vlg: 170197

July 2, 2004

ORDER

Whereas Major Penalty proceedings under Rule 25 of SAIL Conduct Disciplinary & Appeal Rules 1977 were initiated against Shri M.M. Singh, Joint Director (Quality) SAIL, New Delhi vide Memorandum No.170197 dated 23.9.2002 for failure to report acquisition of assets acquired in the name of his family member. This charge sheet has two parts relating to failure in reporting in respect of (i) immovable property and (ii) movable property. Shri Singh was also placed under suspension vide order No.Vlg: 170197 dated 5.6.2003.

WHEREAS Sh.MM.Singh denied the charges and an Inquiry Committee was constituted vide order No.170197 dated 9.5.2003 to enquire into the charges.

AND WHEREAS the Inquiry Authority had submitted his report on 6.4.2003 to the undersigned. The Inquiry Authority has held that immovable properties under question held by the family members of Shri M.M.Singh were acquired out of their own sources of funds/ income and thus not reportable in view of Explanation No.2 of Rule 16 of SAIL CDA Rules. IA thus held that the first part of the charge relating to non-reporting of acquisition of immovable assets is not substantiated. So far as non reporting of movable assets acquired by family members of Shri Singh is concerned, IA has held that as Explanation No.2 is not applicable to the sub-rule 16(3) dealing with reporting movable properties, employees have to report the same within one month of any transaction irrespective of source of funding. As such movable property acquired by family members of Shri Singh were required to be reported and held the charge as established.

AND WHEREAS a copy of the enquiry report was given to Shri Singh vide Memo dated 19.4.2004 for his submission, if any. Shri Singh vide his submission dated 1.5.2004 contested the interpretation of the IA about provision of SAIL CDA Rules on declaration of acquisition/disposal of movable assets i.e. Explanation 2 under Rule 16 of the SAIL CDA Rules was not applicable to the sub rule 16(3) dealing with movable properties.

AND WHEREAS as the issue raised was related to interpretation of CDA Rules, the matter was referred to Corporate Law, who opined that “movable property owned or held by the members of the family of employees out of their own fund or income are not required to be reported under CDA Rules....”

ON careful consideration of the charge memorandum, enquiry report, representation made by Sh.Singh, opinion of ED (Law) and other relevant records, I feel that in the interest of fair play and justice, it would be logical to interpret that the explanation given under Rule 16 in respect of acquisition of property by spouse and /or family members out of their own income/source and not from the employee concerned apply to both immovable and movable properties. As such, it would be unfair to hold Shri Singh liable for the failure to report in respect of movable properties, while holding that same is not required in case of immovable properties. In view of this, I give the benefit of doubt to the charge sheeted officer and held that the charges are not established.

NOW, THEREFORE, after consideration of all relevant facts and circumstances of the cases, I exonerate Sh.M.M.Singh of the charges leveled against him vide Memorandum No.170197 dated 23.9.2002. I also revoke his suspension ordered vide Order No. Vig: 170197 dated 5.6.2003. These, however, will be without any prejudice to the criminal proceedings under subjudice for which sanction for prosecution was given vide order dated 28.5.2002.”

19. In my considered opinion, it is settled position of law that simply because the accused has been exonerated by the Disciplinary Authority on the charges raised before it, does not concomitantly imply that the criminal proceedings will also lapse and lead to an acquittal of the accused. Relying upon the decision rendered by the Apex Court in the case of **Standard Chartered Bank and Ors. Vs. Directorate of Enforcement and Ors.**, reported at 2006 (1) JCC 488, this Court in the case of **Sunil Gulati Vs. RK Vohra** reported at 2007 (1) JCC 220 has laid a two point yardstick so as to determine whether criminal proceedings can

continue in the face of the fact that the accused has been absolved of the charges, by the Disciplinary Authority of his organization. Firstly, whether the charges in the departmental proceedings and the criminal prosecution are identical or not; and, secondly, whether exoneration of the concerned person in the departmental proceedings is on merits, holding that there was no contravention of the provisions of any act. Relevant portion from **Sunil Gulati** (*supra*) is reproduced as under:

“25

1. On the same violation alleged against a person, if adjudication proceedings as well as criminal proceedings are permissible, both can be initiated simultaneously. For initiating criminal proceedings one does not have to wait for the outcome of the adjudication proceedings as the two proceedings are independent in nature.

2. The findings in the departmental proceedings would not amount to *res judicata* and initiation of criminal proceedings in these circumstances can be treated as double jeopardy as they are not in the nature of prosecution'.

3. In case adjudication proceedings are decided against a person who is facing prosecution as well and the Tribunal has also upheld the findings of the adjudicators/assessing authority, that would have no bearing on the criminal proceedings and the criminal proceedings are to be determined on its own merits in accordance with law, uninhibited by the findings of the Tribunal. It is because of the reason that in so far as criminal action is concerned, it has to be proved as per the strict standards fixed for criminal cases before the criminal court by producing necessary evidence.

4. In case of converse situation namely where the accused persons are exonerated by the competent authorities/Tribunal in adjudication proceedings, one will have to see the reasons for such exoneration to determine whether these criminal proceedings could still continue. If the exoneration in departmental adjudication is on technical ground or by giving benefit of doubt and not on merits or the adjudication proceedings were on different facts, it would have no bearing on criminal proceedings. If, on the other hand, the exoneration in the adjudication proceedings is on merits and it is found that allegations are not substantiated at all and the concerned person(s) is/are innocent, and the criminal prosecution is also on the same set of facts and circumstances, the

criminal prosecution cannot be allowed to continue. The reason is obvious criminal complaint is filed by the departmental authorities alleging violation/ contravention of the provisions of the Act on the part of the accused persons. However, if the departmental authorities themselves, in adjudication proceedings, record a categorical and unambiguous finding that there is no such contravention of the provisions of the Act, it would be unjust for such departmental authorities to continue with the criminal complaint and say that there is sufficient evidence to foist the accused with criminal liability when it is stated in the departmental proceedings that ex-facie there is no such violation. The yardstick would, therefore, be to see as to whether charges in the departmental proceedings as well as criminal complaint are identical and the exoneration of the concerned person in the departmental proceedings is on merits holding that there is no contravention of the provisions of any act."

20. On the first count, it is seen that the learned Special Judge has vide order dated 17.08.2005 observed that the charges framed against Shri M.M. Singh before the Disciplinary Authority were different from those framed before the criminal Court. The learned Judge observed that disciplinary proceedings against the petitioner, Shri M.M. Singh were for the violation of the Conduct Disciplinary and Appeal Rules, 1997 and for not having intimated the higher authorities about the purchase of properties. Thus it is seen that the disciplinary proceedings against Shri M.M. Singh, were not for the possession of assets disproportionate to his income. I am in firm agreement with the opinion rendered by the learned Special Judge that the two charges were clear and distinct. Furthermore perusal of the statement of article of charge framed by the Steel Authority of India would show that the petitioner had failed to maintain absolute integrity and devotion to duty and committed gross misconduct, as he knowingly and intentionally did not obtain permission nor intimated his department in the matter of purchase/ acquisition

of movable and immovable property in the name of his wives, father and brother. The thrust of the charge was that no permission was sought, whereas in the charge which has been framed by the Court the thrust is on assets acquired which were disproportionate to the known source of income as on 31.12.1995 in the name of the petitioner – Madan Mohan Singh and in the name of his sons, wives (first wife had died), father and brother to the extent of Rs.72,22,166.95. As per the charge-sheet filed by the CBI, during the check period, Shri M.M. Singh had amassed assets disproportionate to his income inasmuch as several properties were bought/acquired by him in his own name as well as in the name of his family members *inter alia* wife, son, father and brother. Relevant portion of the charge sheet is reproduced hereunder:

“RC4(A)/98/A dated 26.10.1998 was registered against Shri Madan Mohan Singh, the then Sr. Dy. Director (Quality) Corporate Office Steel Authority of India Ltd., New Delhi, U/s 13(2) r/w 13(1) (e) of PC Act, 1988, on source information.

The allegations in brief are that Sh. Madan Mohan Singh while working in the aforesaid capacity had amassed disproportionate assets moveable and immovable in the shape of Cars, FDRs, Cash, Plots, Flats and Houses in his name and/or in the name of his family members/relatives worth over 98 lacs during Jan. 1990 to Dec. 1995.”

21. The charge sheet further states that the total income (during the check period) of petitioner, Shri M.M. Singh, his dependents and family members from the salary, agricultural land, pension and from the investments made comes to Rs.59,17,820.63/-. The total expenditure during the check period comes to Rs.2,76,045/-. Further during investigation it was revealed that

the petitioner, Shri M.M. Singh, and his family members were found to be in possession of movable assets amounting to Rs.1,10,32,267.10/-. These movable assets were in the shape of bank balances in various banks, investments, fixed deposits, LIC policies, UTI (ULIP), LIC Mutual Fund, Jeevan Beema Sahiyog (Dhan Raksha) and a Maruti Car bearing No.DL 4CA -6844. The investigation also revealed that during the period from 01.09.1990 to 31.12.1995, petitioner, Shri M.M. Singh, had acquired immovable assets in his name; in the name of his late wife Smt. Rekha; his present wife- Smt. Vandana Singh; brothers Shri Sharat Chandra Singh, late Arun Kumar Singh; father Shri Radheshwar Prasad Singh; and, mother late Smt. Sudama Devi, amounting to Rs.18,31,675.48/-. Thus, as per the charge sheet, petitioner, Shri M.M. Singh, and his family members were found to possess disproportionate assets during the aforesaid check period, amounting to Rs.72,22,166.95/-. In my considered opinion, the charges framed against this petitioner, Shri M.M. Singh, before the Disciplinary Authority are completely different from the allegations that have been made in the charge-sheet by the CBI. There is no force in the contention of learned counsel for the petitioners that the charges in the two proceedings are similar.

22. Further, vide order dated 02.07.2004, the Disciplinary Authority of SAIL had observed that the immovable properties under question, held by the family members of the petitioner, Shri M.M. Singh, were acquired out of their own sources of funds/income and thus not reportable in view of explanation

no.2 of Rule 16 of SAIL CDA Rules. So far as non-reporting of movable assets acquired by the family members of petitioner, Shri M.M. Singh, is concerned, the Disciplinary Authority observed that since one was not required to inform the department about the immovable property acquired by the family members out of their own sources of income, it would be unfair to say that one should report about the movable properties acquired in the like manner. The Disciplinary Authority further stated that it was giving benefit of doubt to the charge-sheeted officer (Sh. M.M. Singh). Learned counsel for the petitioners has drawn heavily on the above observations made by the Disciplinary Authority that property had been acquired by the family members of the petitioners out of their own sources of income. I find there to be no merit in this contention. A careful perusal of the order passed by the Disciplinary Authority would show that the authority had categorically opined in the last three lines of the order that any observations passed would be without any prejudice to the criminal proceedings under *subjudice* for which sanction for prosecution was granted vide order dated 28.05.2002. Further, I find that the probe with regard to possession of moveable and immoveable properties was not adequately undertaken by the department. Counsel for the petitioners has not been able to rebut the argument of counsel for respondent (CBI) that, whereas departmental inquiry was initiated by the SAIL against the petitioner only for nine (9) instances of immovable properties and eight (8) instances of movable properties acquired in the name of various family

members. On the other hand, instances of movable and immovable properties acquired by the family members, shown in the charge-sheet filed before the trial Court as well as before this Court are forty-six (46) and twelve (12) respectively. In the departmental inquiry, only five (5) witnesses out of a total number of 126 witnesses were examined. Further as the order passed by the Disciplinary Authority itself says, Shri M.M. Singh was given benefit of doubt by his department. For a person to be absolved of all the charges made against him in criminal proceedings on the basis of the proceedings before the disciplinary authority, it is necessary that the accused should have been exonerated on merits by the Disciplinary Authority. However, I find that the petitioner, Shri M.M. Singh, was never absolved of the charges alleged against him and was only given a benefit of doubt. In view of this, the fact that a CBI Official had also been examined before the Disciplinary Authority, does not also help the cause of the petitioner (Shri M.M. Singh). From the above facts, it is very clear that placing reliance upon the order of the departmental inquiry will undermine the interest of justice. There is a grave suspicion against the petitioner Shri M.M. Singh in acquiring assets disproportionate to his known sources of income. I find there to be no infirmity in the order of the learned Special Judge *vis-à-vis* framing charges against Shri M.M. Singh.

23. In so far as the father and brother of Shri M.M. Singh are concerned, it has been brought to the notice of this Court that the father (Shri Radheshwar Prased Singh) of Shri M.M. Singh is a

retired school teacher, generating a pension of Rs.2,000/-, per month and was looking after the agricultural land. During investigation, the I.O. had collected evidence about the income of others member of the family as well and it is stated that the brother (Shri Sharat Chandra Singh) of Shri M.M. Singh, had no source of income and was primarily assisting his father in agricultural activities. It has been also brought to the attention of this Court that the investigation revealed that all the three persons entered into a conspiracy and the petitioner (Shri M.M.Singh) being a public servant, purchased the properties in the name of his father and brother. In the report (copy of which has been filed on record) submitted by the Inquiry Officer to the Chairman, Disciplinary Authority, it has been specifically noted by the Inquiry Officer that:

“This would of course imply that the [Charged Officer] CO had given wrong declaration about the income of his some dependent family members, but that is not the subject of the present enquiry.”

24. Further, I find merit in the reasoning given by the learned Special Judge that it smells fishy that the father and brother of Shri M.M. Singh had become income tax assesses only in the year 1996-97, and there is no reasonable explanation as to from where did they accumulate and amass so many properties in their name, when they were not even income tax assesses during the check period of 1990-1995. Thus it is unclear as to how did they come to be in possession of so many assets all of a sudden. In my considered opinion, in view of the observations of the Apex Court in the case of ***P. Nallamal and another Vs.***

State of Tamil Nadu, reported at **1999 Cri.L.J. 3967: (1999)**

6 SCC 559, the father and brother of Shri M.M. Singh are also liable to be tried along with Shri M.M. Singh and that the charges framed against them are as per settled position of law. It has been held in ***Nallamal*** (*supra*) that even a non-public servant can be prosecuted for the offence of owning disproportionate assets if he abets the said offence by a public servant. Relevant portion of the judgment is reproduced hereunder:

“21. There is no force in the contention that the offences under Section 13(1)(e) [of the PC Act] cannot be abetted by another person. “Abetment” is defined in Section 107 of the Penal Code as under:

“107. *Abetment of a thing.*—A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.”

22. For the “First” clause (i.e. instigation) the following Explanation is added to the section:

“Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure a thing to be done, is said to instigate the doing of that thing.”

23. For the “Thirdly” clause (i.e. intentionally aids) the following Explanation is added:

“Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.”

24. Shri Shanti Bhushan cited certain illustrations which, according to us, would amplify the cases of abetments fitting with each of the three clauses in Section 107 of the Penal Code vis-a-vis Section 13(1)(e) of the PC Act.

The first illustration cited is this:

If A, a close relative of the public servant tells him of how other public servants have become more wealthy by receiving bribes and A persuades the public servant to do the same in order to become rich and the public servant acts accordingly. If it is a proved position there cannot be any doubt that A has abetted the offence by instigation.

Next illustration is this:

Four persons including the public servant decide to raise a bulk amount through bribery and the remaining persons prompt the public servant to keep such money in their names. If this is a proved position then all the said persons are guilty of abetment through conspiracy.

The last illustration is this:

If a public servant tells A, a close friend of his, that he has acquired considerable wealth through bribery but he cannot keep them as he has no known source of income to account, he requests A to keep the said wealth in A's name, and A obliges the public servant in doing so. If it is a proved position A is guilty of abetment falling under the "Thirdly" clause of Section 107 of the Penal Code.

25. Such illustrations are apt examples of how the offence under Section 13(1)(e) of the PC Act can be abetted by non-public servants. The only mode of prosecuting such offender is through the trial envisaged in the PC Act.

25. While to attract the offence of abetment of disproportionate assets a person need not be dependent on the main accused and any private person can abet the said offence, in this case there is substantial material on record to show that the father and brother were dependent on the main accused. Thus I find that it has been correctly held per the learned Special Judge, that *prima facie*, the three persons had entered into a conspiracy and the petitioner (Shri M.M.Singh) being a public servant purchased/acquired the illegal properties in the name of his father and brother. Further I find that the learned Special Judge has correctly observed that at the stage of framing of

charge, no elaborate enquiry is required. The Court has to be satisfied only that a *prima facie* case of commission of the offence has been made out and the accused can be discharged only if the allegations made against them do not constitute the necessary ingredients for the offence.

- 26.** In view of the aforestated reasons, I find that the order dated 17.08.2005 and dated 29.8.2005, contains cogent reasons and does not warrant interference by this Court. There is no impropriety or material irregularity in the said orders. A bare reading of the order would show that the learned Special Judge did not arbitrarily pass an order framing charges against the petitioners. I find that the learned Special Judge appreciated the law in the right perspective and came to a correct finding that a *prima facie* case and a strong suspicion is made out against the petitioners, on the basis of the material on record. Accordingly, there is no infirmity in the order dated 17.8.2005 and the order dated 29.8.2005 framing charges against the petitioners, passed by the learned Special Judge in FIR No.RC-4(A)/98/ACU VIII.
- 27.** Present revision petitions (CRL.REV.P. 834/2005, CRL.REV.P. 848-49/2005) stand dismissed.

September 3rd, 2009
'msr'

G.S.SISTANI, J.