



Crl.A.No.602 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	05.08.2026
Pronounced on	14.08.2026

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.A.No.602 of 2015

1.G.Venkatanarayana,
S/o.Late Kuppaiah

2.Venkateswari Devi,
W/o.G.Venkatanarayana

... Appellants

Vs.

State represented by
Inspector of Police,
SPE/CBI/ACB,
Chennai.
(R.C.No.53(A)/2002)

... Respondent

Prayer: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, 1973, to set aside the Judgment and Conviction imposed on the appellants by Judgment dated 25.08.2015 made in C.C.No.4/2005 on the file of IX Additional Special Judge for CBI Cases, Chennai.

For Appellants : Mr.K.P.Ananthakrishnan
for Mr.V.Abilash

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor (CBI)



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JUDGMENT

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This Criminal Appeal has been filed against the Judgment passed in C.C.No.4 of 2005 dated 25.08.2015 on the file of the IX Additional Special Court for CBI Cases, Chennai thereby convicting the accused for the offences punishable under Section 120B of the Indian Penal Code, 1860 read with Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988.

2. The case of the prosecution is that the first accused was married to the second accused, who is a housewife. The first accused was appointed as an Airman in the Indian Air Force on 19.05.1971 and voluntarily retired from service in the rank of Sergeant on 28.11.1989. Thereafter, he joined the Khadi and Village Industries Commission (hereinafter referred to as “KVIC”) as a Deputy Director at Mumbai on 04.12.1989.

3. The first accused was allegedly caught red-handed while demanding and accepting an illegal gratification of Rs.1000/- on 26.04.2002. Upon completion of the investigation, the respondent police filed the final report, and the first accused was placed under suspension



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with effect from 30.04.2002. During the course of the trap proceedings, searches were conducted at the residential premises of the first accused situated at Chennai and Hyderabad and certain incriminating documents were allegedly recovered and seized by the investigating agency.

4. During the period from 04.12.1989 to 26.04.2002, the first accused allegedly acquired movable and immovable properties, both in his name and in the names of his family members, valued at Rs.47,01,240.12/-, which were disproportionate to his known sources of income. It is further alleged that, at the commencement of the check period, the first accused possessed movable and immovable assets valued at Rs.71,900/-, as reflected in Statement-A appended to the final report.

5. As on the end of the check period, the first accused and his family members were allegedly found to be in possession of movable and immovable assets valued at Rs.68,96,209/-, as reflected in Statements-B, B1 and B2 appended to the final report. According to the prosecution, the accused and his family members had acquired assets amounting to Rs.32,88,339.86/- during the check period, as set out in Statement-C of the final report.



6. The first accused and his family members had allegedly incurred expenditure to the tune of Rs.11,65,270.98/- during the check period, as reflected in Statement-D appended to the final report.

7. The first accused, while functioning as Deputy Director and subsequently as State Director of KVIC during the relevant check period, allegedly entered into a conspiracy with the second accused, who is his wife, and acquired movable and immovable assets and pecuniary resources at Mumbai, Hyderabad, and Chennai amounting to Rs.47,01,240.12/-. According to the prosecution, the value of the assets allegedly disproportionate to their known sources of income worked out to 143%. On the basis of the aforesaid allegations, the first and second accused were charged with the offence punishable under Section 120B of the Indian Penal Code read with Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988.

8. In order to establish the charges against the accused, the prosecution had examined PW1 to PW56 and marked Exhibits P1 to P148. On the side of the accused, they examined DW1 to DW8 and marked Exhibits D1 to D46 in support of the defence.



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9. Upon perusal of the oral and documentary evidence, the Trial Court found both the accused guilty and convicted the accused for the offence punishable under Section 120B of the Indian Penal Code, 1860 read with Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988. They were sentenced to undergo one year rigorous imprisonment and each to pay a fine of Rs.25,000/-, in default to undergo simple imprisonment for a period of three months.

10. For the offences punishable under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988, the 1st Accused was sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.50,000/-, in default to undergo simple imprisonment for a period of six months. The sentences of A1 was ordered to be run concurrently.

11. Aggrieved by the above sentence and conviction, the present Criminal Appeal has been filed.

12. The learned counsel appearing for the appellants submitted that the sanction accorded for prosecuting the accused by P.W.5 is invalid and



legally unsustainable. Further, P.W.5 failed to properly consider and appreciate the documents marked as Exs.D13 to D15 and Exs.D31 to D35, which were relevant for determining the competent authority to accord sanction. He further submitted that P.W.5 lacked the requisite competence and authority to grant sanction for prosecution against the accused. According to the learned counsel, the Gazette Notification dated 12.09.2006, marked as Ex.D15, had given retrospective effect to the changes concerning the Appointing Authority and Disciplinary Authority in the KVIC. Therefore, it was contended that, in view of the said notification, P.W.5 was not the competent authority to accord sanction for prosecution, and consequently, the sanction order relied upon by the prosecution was vitiated for want of jurisdiction.

13. The learned counsel further submitted that the respondent police, without adopting any proper method of calculation, mechanically enhanced the value of the properties and thereby inflated the total value of the assets allegedly acquired by the accused. A sum of Rs.13,25,000/- was actually paid towards the purchase of the house property. However, the Investigating Officer, relying upon an exaggerated valuation report, assessed the value of the said property at Rs.35,27,000/-. He further



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submitted that the Investigating Officer had also taken into account only a meagre amount towards agricultural income earned by the accused during the relevant check period in the final report. The actual agricultural income available to the accused was not properly considered while determining their known sources of income. The Trial Court, however, failed to properly appreciate these aspects and mechanically accepted the figures furnished by the prosecution, resulting in an erroneous finding against the accused.

14. The learned counsel further submitted that the first accused had borrowed money from his father-in-law and, since he was unable to discharge the said liability, he executed a Sale Deed in favour of the second accused in respect of the property concerned. It was therefore contended that the transaction had to be appreciated in the context of the antecedent loan and could not be treated as an unexplained acquisition of assets by the accused. He further submitted that the Investigating Officer had deliberately failed to take into account certain items of income disclosed in the income statement of the first accused while computing the known sources of income.



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15. He also relied upon the evidence of P.W.21, who deposed that the mother of the first accused used to provide a sum of Rs.50,000/- to Rs.60,000/-, which was shared equally between P.W.21 and the first accused. According to the learned counsel, the said amount constituted a source of income available to the first accused, but the same was not taken into consideration by the Investigating Officer or the Trial Court while determining the alleged disproportionate assets. It was therefore contended that the prosecution had failed to arrive at the correct figure of the assets, income, and expenditure during the check period. When the omitted sources of income and the actual circumstances surrounding the acquisition of the properties are properly taken into consideration, the alleged disproportionate assets would substantially reduce and may not constitute disproportionate wealth at all. In the overall circumstances, the prosecution had failed to establish that the accused had amassed assets disproportionate to their known sources of income and, consequently, the conviction recorded by the Trial Court is liable to be set aside.

16. Per contra, the learned Special Public Prosecutor appearing for the CBI submitted that Statements 1 to 4 appended to the final report clearly set out the assets, income, and expenditure of the accused during



the relevant check period. According to the prosecution, the said statements establish that the accused had amassed assets and pecuniary resources to the tune of Rs.47,01,240.12/-, which amounted to 143% disproportionate to their known sources of income. Further, the properties acquired by the accused were properly valued by the Investigating Agency and that the valuation adopted in the final report was based on the relevant materials and valuation reports.

17. He further submitted that it is an undisputed fact that, on 14.10.2004, the Central Government dissolved the KVIC and appointed P.W.5, who was functioning as the Financial Adviser to KVIC, also to hold the additional charge of the post of Chief Executive Officer (CEO) and Commissioner of KVIC. Further, pursuant to the Gazette Notification dated 14.10.2004, marked as **Ex.P17**, all the properties and funds of KVIC stood vested in the Central Government and also provided that all the members of KVIC, including its Chairman, were required to vacate their respective offices.

18. He further submitted that, as per Ex.P24, the Under Secretary, Ministry of Small Scale Industries and Ministry of Agro and Rural



Industries, had specifically clarified that P.W.5 was competent to exercise all the powers vested in the Commissioner, including the powers of the Appointing Authority. Therefore, it was contended that P.W.5 possessed the requisite statutory and administrative authority to accord sanction for prosecution of the first accused. The sanction order issued by P.W.5 was consequently valid and competent, and the objection raised by the appellants regarding the validity of the sanction is devoid of merit.

19. He further submitted that the prosecution had placed sufficient oral and documentary evidence before the Trial Court to establish the charges against the accused beyond reasonable doubt. The Trial Court, upon proper appreciation of the evidence and the materials on record, had rightly found the accused guilty and convicted them for the offences charged. Hence, the judgment of conviction and sentence does not warrant any interference by this Court. Therefore he prayed for dismissal of the appeal.

20. Heard the learned counsel for the Appellants and the learned Special Public Prosecutor (CBI Cases) for the Respondent.



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21. There are two accused in the present case. The first accused, while functioning as Deputy Director and subsequently as State Director of the Khadi and Village Industries Commission (KVIC), during the relevant check period from 04.12.1989 to 26.04.2002, allegedly amassed assets and pecuniary resources disproportionate to his known sources of income amounting to Rs.47,01,240.12/-, which was stated to be 143% disproportionate to the known sources of income of the accused. On the basis of the aforesaid allegations and the materials collected during investigation, the above charges were framed against the accused.

22. The main contention of the learned counsel appearing for the appellants is that P.W.5, who accorded sanction for prosecution, did not possess the requisite power or jurisdiction to grant sanction for prosecuting the first accused. Hence, the sanction order suffers from a fundamental jurisdictional defect, as the same was accorded by an incompetent authority to prosecute the first accused. Since a valid sanction by the competent authority is a foundational requirement for prosecuting a public servant under the Prevention of Corruption Act, the absence of such competence vitiates the sanction order and consequently affects the sustainability of the prosecution itself.



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23. In the present case, P.W.5 accorded sanction for prosecution of the first accused by an order dated 07.01.2005. It is pertinent to note that, prior to the dissolution of the KVIC, the powers relating to disciplinary action and removal from service in respect of the post of Director were vested in the Chairman of the KVIC, as evidenced by Exs.P22 and P23. Further, as per the Gazette Notification dated 14.10.2004, marked as Ex.P17, the KVIC was dissolved and the existing administrative structure was altered and a new authority designated as the Commissioner of KVIC was created. P.W.5 was thereafter appointed as the Commissioner of KVIC. However, P.W.5 was not vested or delegated with any power or authority to remove the first accused from service.

24. Therefore, the crucial question arises for consideration is that whether, on 07.01.2005, P.W.5 had acquired the requisite statutory or delegated authority to exercise the powers of the Chairman, particularly the power to impose disciplinary action or remove a Director and, consequently, to accord sanction for prosecution.



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25. On perusal of the Gazette Notification dated 12.09.2006, marked as Ex.D15, it is evident that the competent authority to accord sanction for prosecution in respect of an officer holding the post of Director was designated as the Secretary, Ministry of Small-Scale Industries and Ministry of Agro and Rural Industries. The said notification was also given retrospective effect in respect of the changes relating to the Appointing Authority and Disciplinary Authority in the KVIC. Therefore, in view of the aforesaid notification, P.W.5 was not the competent authority to accord sanction for prosecution of the first accused. Consequently, the sanction order relied upon by the prosecution was issued by an authority lacking the requisite jurisdiction and, therefore, stood vitiated for want of competence.

26. In fact, the disciplinary proceedings initiated against the first accused were dropped on 18.11.2006 on the ground of defective sanction, and consequently, the first accused was fully exonerated of all the charges levelled against him in the disciplinary proceedings. The said fact is borne out by Ex.D15, which was marked before the Trial Court.



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27. Hence, the sanction order is not only suffering from mere irregularity, error or omission. The defect goes to the root of the prosecution case, as the sanction was accorded by P.W.5, who was not the competent authority empowered to issue such sanction under the relevant Rules. Therefore, the sanction order suffers from a fundamental lack of jurisdiction and competence, and not merely a procedural defect. Consequently, the prosecution cannot rely upon such an invalid sanction to sustain the proceedings against the first accused.

28. This fundamental defect vitiates the very foundation of the prosecution. It is well settled that a sanction accorded by an incompetent authority is not a mere procedural irregularity but goes to the root of the prosecution. In this regard, reliance is placed upon the judgment of the Hon'ble Supreme Court in **State of Goa Vs. Babu Thomas, (2005) 8 SCC 130**, wherein it was held that a sanction for prosecution must be accorded by the competent authority, and a sanction issued by an authority having no jurisdiction is invalid in law. Consequently, prosecution founded upon such an invalid sanction cannot be sustained.



29. Further, the sanctioning authority P.W.5, has categorically

admitted in her evidence that she was not competent to appoint a staff member without obtaining the approval of the Central Government. This admission clearly establishes that the power of appointment was not vested independently with P.W.5 and that the relevant appointment required the approval of the Central Government. Therefore, the authority competent to accord sanction for prosecution must be the Appointing Authority duly empowered under the relevant Rules.

30. Insofar as the allegation of disproportionate assets is concerned, the second accused is none other than the wife of the first accused. At the time of her marriage, the second accused was provided Stridhan amounting to ₹5,00,000/-. Further, a sum of ₹2,00,000/- was given by the second accused to her father out of her savings from tuition income. The said amount was subsequently reinvested in the money-lending business carried on by her father, who was examined as D.W.3. In the course of the said money-lending business, when the borrowers were unable to repay the amounts borrowed by them, they transferred their immovable properties to the accused towards part or full satisfaction of the outstanding loan amounts. Such properties were acquired from an



identifiable and legitimate source and could not be treated as unexplained assets of the accused. Therefore, the movable and immovable properties included in Annexure-B were required to be considered in the light of the aforesaid sources of acquisition and could not, merely on the basis of their possession by the accused, be treated as disproportionate assets.

31. Further, the first accused had received retiral benefits amounting to ₹3,00,000/- upon completion of his service as an Airman in the Indian Air Force. The said amount was handed over to his father-in-law and was utilised in the family's financial transactions. Pursuant to a family settlement, the first accused received an additional sum of ₹5,00,000/-, which was also invested with D.W.3 in the money-lending business. Accordingly, these amounts constituted legitimate and identifiable sources of funds available to the first accused and ought to have been taken into consideration while computing his known sources of income. Therefore, the Investigating Officer and the Trial Court had failed to appreciate the the aforesaid amounts while determining the alleged disproportionate assets, thereby resulting in an erroneous computation of the assets and income of the accused during the check period.



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32. In view of the foregoing discussion, this Court is of the considered view that the prosecution has failed to establish the charges against the accused beyond reasonable doubt. The prosecution has also failed to satisfactorily establish the alleged disproportionate assets after properly accounting for the legitimate sources of income and the materials placed on record. Consequently, the conviction and sentence imposed against the accused by the Trial Court cannot be sustained and liable to be set aside.

33. Accordingly, the judgment and conviction imposed on the Appellants *vide* Judgment dated 25.08.2015 in C.C.No.4 of 2005 on the file of the IX Additional Special Judge for CBI Cases, Chennai is set aside and this Criminal Appeal is allowed. The fine amount, if any paid, shall be refunded to the appellants forthwith. The bail bonds, if any executed, shall stand cancelled.

14.08.2026

Neutral Citation: Yes / No

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To:

1. Inspector of Police,
SPE/CBI/ACB,
Chennai.
2. The Public Prosecutor,
High Court of Madras,
Chennai-600 104.



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G.K.ILANTHIRAIYAN, J.

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Pre-Delivery Judgment
in Crl.A.No.602 of 2015

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