**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**BENCH AT AURANGABAD**

**CRIMINAL APPEAL NO. 477 OF 2000**

Chaladan S/o Nilika Ramchandran
(Since deceased, through his L.Rs.)

1A) U.K. Ramabai w/o Ramchandran
Age : 63 years, Occu.: Household,
R/o Aswathi, Near Korjan UPS,
Kakkad, Kanpur (Kerala)

1B) Dr.Reshma Jidesh W/o C.V. Jidesh
Age : 37 years, Occu.: Doctor
R/o Jolsna House, Azhikodi South,
Kannur (Kerala)

1C) Dr. Roshna Ramchandran
Age : 34 years,
R/o.: Awasthi, Near Korjan UPS,
Kakkad Kannur (Kerala) **APPELLANTS**

**VERSUS**

The State of Maharashtra
Through Kranti Chowk Police
Station, Aurangabad **RESPONDENT**

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Mr. P.F. Patni, Advocate for the appellants
Mr. S.D. Ghayal, A.P.P. for the respondent-State

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**CORAM : M.T. JOSHI, J.**
**JUDGEMENT RESERVED ON : 01/12/2015**
**JUDGEMENT PRONOUNCED ON :18/12/2015**

**JUDGEMENT** :

1. Heard both sides.

2. Aggrieved by the judgement and order dated 1st December, 2000, passed by learned Special Judge (A.C.), Aurangabad in Special Case No. 28 of 1998, thereby convicting the present appellant - Chaladan s/o Nilika Ramchandran for the offences punishable under section 13 (1) (e) read with section 13 (2) of the Prevention of Corruption Act, 1988 and consequently sentencing him to suffer rigorous imprisonment for three years and to pay fine of Rs.1000/-, in default to suffer rigorous imprisonment for six months, the original accused No. 1 has preferred the present appeal.

. The original accused No. 2 – appellant's wife was acquitted by the learned Special Judge, as property in her name was found to be owned by herself from independent sources.

. Since during pendency of the present appeal, the appellant/original accused No. 1 has died, his legal representatives i.e. present appellants no. 1A to 1C have continued the present appeal proceedings, after grant of leave by this Court.

3. The appellant during the period of filing of the complaint at Exhibit-214 on 25th October, 1994 was working as Sub-Divisional Officer, Irrigation Department (E.G.S.), Aurangabad. In March, 1991, a discreet enquiry was initiated against him. Since during the course of discreet enquiry, it was disclosed that he has amassed assets disproportionate to his known legal sources of income, open enquiry was ordered in September, 1993 by the Director General (A.C.B.), Bombay. During the course of open enquiry, it was found that the appellant has earned an income of Rs. 10,94,329.73 with the acquitted accused No.2. His expenditure was calculated at Rs. 3,49,521.38. Thus, likely saving was Rs. 7,44,808.35. Their assets were found worth Rs. 9,71,391.90. Thus, the assets were disproportionate to the extent of Rs. 2,26,583.55.

. In the circumstances, the Investigating Officer PW17 filed his own F.I.R. at Exhibit-214 on 25th October, 1994 and conducted the further enquiry into these aspects.

. During enquiry, additional evidence was collected. The house of the appellant was searched. Ultimately, according to the prosecution, the income of the appellant as well as the acquitted accused No. 2 during the check period was Rs. 15,63,535.38. Family expenses @ 25% came to Rs. 1,51,292.29, payment towards the loan, educational expenditure, etc. was added to it and total expenditure was computed at Rs. 7,72,823.52.

. As regards the assets, besides the valuation of the plot and house at Aurangabad, Bungalow at Kakkat, District Kanoor, the vale of household property was found in the search, the bank shares, bank deposits in the post and magnam certificates, closing balance in various bank accounts as well as other property including the gold ornaments on the person of acquitted accused No. 2, was taken into consideration and all the assets were valued at Rs. 13,72,262.92.

. The Investigating Officer thus made the following calculations :

| | | |
|---|---|---|
| (I) | Income | Rs.15,63,535.38 |
| Less : | Expenditure | Rs. 7,72,823.52 |
| | | Rs. 7,90,711.86 |

| | | |
|---|---|---|
| (II) | Total Assets | Rs.13,72,262.92 |
| Less : | Probable balance | Rs. 7,90,711.86 |
| | Disproportionate assets : | Rs. 5,81,551.06 |

4. The learned Special Judge had reassessed the income, expenditure and the value of the assets of both the accused. According to the learned Special Judge, the income of the appellant and his wife together was Rs.15,99,951/-. The property and income of the wife of the appellant was held independent. The value of the same at Rs.2,35,332/- was deducted and the appellant's income was calculated at Rs.13,64,619/-. The total expenditure was assessed at Rs.7,72,823/- and the probable saving was assessed at Rs.5,91,796/-. As against this, the assets of the appellant were re-assessed by the learned Special Judge at Rs.11,06,146/-. Thus, according to the learned Special Judge, the value of the disproportionate assets held by the appellant

comes to Rs.5,14.350/-. Since these assets were held beyond known source of income of the appellant, he was convicted as detailed supra.

5. Mr. P.F. Patni, learned counsel for the appellant has assailed the reasoning of the learned Special Judge on the grounds which would be detailed at the proper places of this judgment.

. The learned, A.P.P., on the other hand supported the reasoning of the learned Special Judge.

6. On the basis of above material, the following points arise for my determination:-

I) Whether the prosecution has proved that the present appellant for a period between 5th July, 1964 and 25th October, 1994, being a public servant committed criminal misconduct by acquiring assets to the tune of Rs.5,14,350/- as disproportionate to his known source of income of which he failed to give satisfactory account ?

II) Whether the sanction accorded to prosecute the present appellant is legal and valid ?

My finding to above point no. (I) is in the negative and to point no. (II) is in the affirmative. The appellant is acquitted for the reasons to follow.

## R E A S O N S

7. The prosecution case, the findings of the trial Court and my observations are as under:-

**A) TOTAL INCOME OF THE APPELLANT FROM ALL LEGAL SOURCES :**

**a) Salary of the appellant/accused – Chaladan :**

. The appellant had joined his services as Overseer on $5^{th}$ July, 1964. The prosecution has calculated his salary upto $25^{th}$ October, 1984 i.e. for the check period of about 30 years. His services as Oversear, then his deputation to Zilla Parishad, his posting at Aurangabad, Sillod and Jalna was considered.

. PW1-Mohd.Hani, the Junior Clerk of Minor Irrigation No.I, Aurangabad had proved exhibit – 39, the data prepared by the head clerk of the concerned office which showed that the salary with dearness allowance was received at Rs.6,05,173/-.

. PW4-Mr. Deshpande, was also examined who has proved and calculated the supplementary pay bills at exhibit - 111 to exhibit – 114 and thus the salary, as stated above, was calculated.

. The appellant claimed that he was gainfully working prior to his joining the present service. He did not place any evidence on record in this regard. The learned Special Judge therefore did not accept this claim. It was further submitted that an amount of Rs.1,00,151/-, by way of traveling allowance and diet allowance be also included. His last of the submission was that an amount of Rs.8509/- received towards the project and cash allowance also should have been included.

. The travelling allowance and diet allowance being not an income but reimbursement of the expenses, the learned Special Judge has rightly did not consider the same. As regards the project and cash allowance, the learned Special Judge held that no evidence was led to show that it was part of the salary. In the circumstances, the learned trial Court found the income from salary of the appellant at Rs.6,05,173/-. In my view, cash handling allowance and project allowance being addition to income, the amount of Rs. 8509/- will have to be added.

. Further, though the appellant could not produce material about his prior gainful work, in the FIR itself the Investigating Officer has detailed that for a period from June, 1961 to May, 1964, the appellant served as an overseer with Kerala State Project.

**b) Income from Krishna Talkies at Kannoor by acquitted accused no. 2 – Smt. U.K.Ramabai W/o Ramchandran :**
**------------------------------------------**

. Accused no. 2 – Smt. U.K. Ramabai was partner in the business of said Krishna Talkies as she had inherited it from her father. Her brothers and sisters were the other partners. No evidence regarding her share was placed by the accused on record. The investigating officer has, therefore, calculated the payment of duties towards entertainment to the Grampanchayat situated in Kerala State as per the rules on the basis of percentage of duties and the income during the check period was calculated at Rs.2,37,832/-.

. According to the appellant, the Partnership-Deed would show that the acquitted accused no. 2 had 1/3rd share. However, the statement produced along with exhibit 509 showed that she had 1/4th share. No account books were produced by the accused no. 2. According to the appellant, the income received from exhibition of cinemas which were exempted from entertainment duty, is not included. Further, the income received from cycle stand, snacks-stall etc. is also not included. The learned trial Court held that the prosecution has relied over the best available evidence and has proved that the accused no. 2 had received the income at Rs.2,37,832/- from the said Krishna Talkies.

. In my view, the learned Special Judge has relied over the calculation of the income on the basis of the documents available and based evidence was the payment of entertainment duties. It is not be noted that on the basis of payment of entertainment duties, the gross income was calculated and the same was taken into consideration. The deductions towards maintenance, electricity charges were not made. In that view of the matter therefore, the income arrived at is on the higher and safer side and no interference in the said estimation is required.

**c) Interest on the amount of Fixed Deposit Receipts and savings bank accounts received by the appellant :**

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. The branch manager of Central Bank of India and State Bank of Hyderabad, namely, PW8 – Ramchandra Joshi and PW9 – Gopal Chandwani, respectively had placed evidence in this regard before the Court. The learned Special Judge, therefore, rightly held that there was no question of any doubt about the said evidence. Additionally, it was brought to the notice of the Court that the interest of recurring deposits (R.D.) was not calculated. In the circumstances, upon calculation, the learned Special Judge has found that the appellant has received the income of Rs.18,916/-. The prosecution had not added the same in the income of the appellant. Therefore, the learned Special Judge has added the said amount of Rs.18,916/-, as a part of income.

**d) Loans from the banks obtained by the accused:**

. There is no dispute that the appellant had obtained loan of Rs.1,32,300/- from different bank and financial institutions. The appellant however submitted that he had also raised loans from private persons and relatives to the tune of Rs.85,000/-. No evidence, however, was placed on record except the one agreement said to have been executed on 14th September, 1993. the learned Special Judge held that it was very recent document and there is no supporting evidence. The learned Special Judge, therefore, held that the appellant has raised loan of Rs.1,32,300/-. The reasoning in this regard forwarded by the learned Special Judge cannot be faulted with.

**e) Interest on F.D.Rs. from the Post Office :**

. Admittedly, the appellant had received an amount of Rs.75,612.95/- from fixed deposit receipts in the Post Office, by way of interest.

**f) Income from L.I.C. policies, Magnam Certificates, Chit Funds and L.T.C.**

. The prosecution claimed that the appellant had received an amount of Rs.12,654/- from L.I.C. policies upon their maturity. Further, he had received an amount of Rs. 29,205/- from Magnam Certificates and Rs.11,645/- from Chit funds and L.T.C.

. The appellant without any specification has submitted that less amount has been shown by the prosecution. However, no supporting data was made available by the appellant. Exhibit-109, on the other hand, showed the lesser amount.

**g) Income from rent received from the house, situated at Shriniketan colony, Aurangabad**

. The prosecution has examined PW7-Alexander and PW13-Rana, the then tenants and also proved through them the rent receipts at exhibit-185 to exhibit-206 from the mouth of these witnesses that the rent was received by the appellant at Rs.1,78,350/-. The only dispute raised by the appellant was that the tenants were paying half of the property and water tax. Out of the above witnesses, PW7-Alexander had initially denied that he used to pay such taxes; however, later-on he accepted the same. No evidence was placed by the appellant in this regard. Therefore, the learned special judge has rightly accepted the income of the appellant at Rs.1,78,350/- towards the receipts of the rent.

**h) Income from land at Kannoor (Kerala) :**
**-----------------------------------**

. The appellant has not disputed income of Rs.85,000/- from the said land at Kannoor (Kerala).

**i) Income received from the compensation of land:**
**---------------------------------------------**

. Certain land of the appellant at Kannoor (Kerala) was acquired by the State for the purposes of Canal. PW17-Mr.Kulkarni, the investigating officer deposed that there was no evidence on record to show that in fact, the amount was received by the appellant/accused. However, evidence would show that the compensation was fixed at Rs.9,500/- in the year 1986. In the circumstances, the learned Special Judge rightly held that the said income is required to be added to the gross income of the appellant/accused.

**j) Income received from the property of the father of the appellant:**

. The appellant claimed that he had received an amount of Rs.8,000/- from the property left by his deceased father. He has pointed out towards the statement to that effect in Income Tax File No.100 collected by the investigating officer. The learned Special Judge has, therefore, rightly added the said amount of Rs. 8,000/- to the income of the appellant.

**k) Income from the hosue at Kannoor (Kakkat) by acquitted accused no. 2 :**

. Acquitted accused no. 2 had purchased a house at Kannoor (Kakkat) for an amount of Rs.1,90,000/- in the year 1992. According to the accused, upon selling the shop, the said house was purchased and she had received an amount of Rs.60,000/- during the check period by way of rent. According to the investigating officer, when he made enquiry with the relatives of the appellant they told that the students were placed in the said house as tenants. The investigating officer agreed that the electricity charges of Rs.2200/- were paid. Admittedly, the accused were not residing in the house. For want of reliable evidence, however, the learned trial Court held that the claim towards the rent cannot be accepted.

. A rent receipt was produced to the investigating officer by the relatives which showed that one Vinod was residing in the said house as tenant. His full name, however, is not forthcoming. That was the reason for the learned Special Judge to hold that the claim towards rent cannot be accepted. However, finding that the electricity was consumed and the fact that none of the accused was residing in the said house, in my view, it would be safer to add the income of Rs.60,000/-, as claimed by the appellant towards the income of acquitted accused no. 2. Thus, in my view, the total income of the acquitted accused No. 2 come to

Rs.1,88,350/- (Rs.1,28,350/- + Rs.60,000/-).

**B) EXPENDITURE OF THE APPELLANT / ACCUSED:**

. The prosecution has calculated the family expenditure at the rate of 25% of the salary of the appellant, which comes to Rs.1,51,292/-as against the appellant's claim that it should have been calculated at the rate of 40%.

In the FIR at Exhibit-214, the I.O. himself computed the same @ 40% i.e. Rs. 2,11,864/-.

. Further, according to the appellant, his other expenditure other than the family expenditure was Rs.8,98,830/-, the prosecution has claimed that this expenditure of the appellant was Rs.7,72,823/-. The learned Special Judge has accepted the expenditure as calculated by the prosecution. The reasons were given that 50% of the payment of property and water tax paid by the tenant was not included in the expenditure. Further, loss caused due to the sale of old scooter was not considered. The learned Special Judge held that since no receipt is produced by the appellant, the same cannot be considered. The sale of scooter however is an admitted fact.

**C) ASSETS :**

The prosecution claimed that both the accused were in possession of the assets in the value of Rs.13,72,262/-.

**a) House of the present appellant at Aurangabad :**

. The appellant owns a house in Shantiniketan colony, Aurangabad. PW2 – Ashok Shinde, Junior Engineer working with Public Works Division at Aurangabad was called upon by the investigating officer in the month of March/April 1994 to have the valuation of the house. The valuation given by the said witness is Rs.1,55,567/-, as detailed below :

| | | | |
|---|---|---|---|
| i) | Built-up area | = | Rs. 94,141/- |
| ii) | Compound wall | = | Rs. 50,700/- |
| iii) | Flooring | = | Rs. 10,726/- |
| | Total | = | Rs.1,55,567/- |

. It was the prosecution case, the said house was build in three phases. The appellant has disputed the same. The learned Special Judge, however, believed the testimony of the PW2-Ashok Shinde the Junior Engineer as supported by the then Sub-Divisional Engineer – PW7 Jayant Deshpande.

. The appellant has examined witness Mohd. Ali Abbasi. According to him valuation of the house property was Rs.91,457/-. This valuation was estimated by the said witness by visiting the house on 10$^{th}$ April, 1999. The learned Special Judge has observed that since the inspection was carried during the pendency of the case, evidence of the witness is not free from doubt. This witness has also admitted in cross examination regarding the booklet of D.S.R. rates prevailing in 1975-1976, this was the answer given which prompted the learned Special Judge to hold that the evidence of this expert witness does not inspire confidence. It was also observed that the appellant could have placed on record bills of building materials, voucher of payments to the Contractors etc. regarding the house. In the circumstances, the learned Special Judge calculated the valuation of the house as Rs.1,55,567/- + price of the plot and share in the co-operative society totally amounting to Rs. 1,73,517/-.

. As regards the valuation of the house property at Aurangabad, the deposition of PW1 and PW2 would in essence show that they merely relied over the D.S.R. i.e. prevailing rates on the basis of which the Public Works Division awards the contracts. It is well known that said rates are applicable for a standard building. In the present case, admittedly the property was load-bearing house. The appellant has admitted a document at Exhibit-576. It was the return submitted by the appellant to his superior officials regarding the properties held by him and the cost thereof. Since the said return was submitted to the office as per the relevant civil services rule/s, during the period of construction of the house, the same can afford as a reasonable guide. It would show that for a cost of Rs. 88,000/-, the house was built. According to the explanation to the F.I.R. given by the appellant, Exhibit-509, the total cost was Rs. 1,26,000/-, including the plot, etc. According to the prosecution, the valuation came to Rs. 1,73,517/-. Thus, additional asset of Rs. 46,000/- is shown by the prosecution on the basis of valuation arrived at by the P.W.D. officials, which is flawed for the reasons already forwarded above. The same will have to be deducted.

**b) House at Kakkat and plot at Anjarkandi :**

. The acquitted accused no. 2 had admittedly purchased the said house at Kakkat and a plot at Anjarkandi. Admittedly, the valuation of the said house and plot was Rs.1,90,000/- and Rs.4,000/-, respectively.

**c) Prices of Vehicles, Freez, Gas Connection and V.C.R. :**

. The investigating officer has deposed and given the description of the prices of above items as follows:

| | | | |
|---|---|---|---|
| i) | Bajaj Scooter No.MVF-4277 | = | Rs.10,468/- |
| ii) | Fiat Car No. MVG-8277 (Old) | = | Rs.30,500/- |
| iii) | Gas with Stove (Shegdi) | = | Rs.277.31 |
| iv) | Freeze of Zenith Company | = | Rs.4,800/- |
| v) | Gas Connection | = | Rs.568.65 |

vi) V.C.R. of National Company = Rs.10,000/-

The prices of above items, as calculated by the prosecution, are not disputed by the accused.

**d) Prices of Gold Ornaments :**

. According to the prosecution, during the check period, the acquitted accused no. 2 had purchased gold ear-rings of Rs.3597.85. PW5-Bipin Zaveri proved sale of the same at exhibit-117.

. Acquitted accused no. 2 was alleged to have purchased gold necklace, bangles, finger-rings, etc. from the shop of PW6-Yogesh Zaveri. He, however, did not support the prosecution case of the purchase of aforesaid gold ornaments and deposed that he had merely prepared the same and only labour charges were received, meaning thereby that the gold was already in possession of the acquitted accused no.2. In that view of the matter, learned Special Judge did not accept the prosecution case that the acquitted accused no. 2 had purchased gold necklace worth Rs.15,559/- and gold bangles worth Rs.15,225/-, totally amounting to

Rs.30,784/-. The said amount was, therefore, deducted from the assets of the accused. No fault with these findings can be found.

**e) Prices of T.V. Set, Coolers, Tape-Recorder, Washing Machine, B.P.L. Stereo, Wooden Showcase and Sofa Set :**

. According to the prosecution, the price of all these articles is at Rs.46,200/-. This figure of Rs.46,200/- does not include the price of Tape-Recorder as nothing has been deposed by the investigating officer in this regard. The investigating officer PW17-Mr.Kulkarni has, in his deposition, given the item-wise prices of the said articles as follows:

| | | | |
|---|---|---|---|
| i) | Colour T.V. | = | Rs.13,000/- |
| ii) | Two Coolers | = | Rs.13,600/- |
| iii) | Washing Machine | = | Rs.8,500/- |
| iv) | B.P.L Stereo | = | Rs.3,100/- |
| v) | Wooden Showcase | = | Rs.3,000/- |
| vi) | Sofa Set | = | Rs.5,000/- |
| | Total | = | Rs.46,200/- |

. The appellant has only disputed the purchase of Sofa Set at Rs.5,000/-. All other items were admitted by him. According to him, Sofa Set was not in-fact purchased and it was admitted in package when the raid was organized. The learned Special Judge, however, remarked that there is no evidence to show that the said Sofa Set was not purchased. Therefore, the learned Special Judge believed the prosecution evidence in regard to addition of the above articles. Since the sofa was in packaged condition, the defence appears to be probable.

**f) Domestic articles found in the house of the accused :**

. Panch witness Anant Kulkarni was examined to show the various articles found in the house of the appellant at the time of raid. The list of the same was proved at Exhibit-152 to Exhibit-160. The total price of the articles was estimated under the said panchanama at Rs. 81,279.35. There was no other evidence on record to counter the same. The learned Special Judge found it difficult to estimate otherwise as no receipts, etc.

were available. It was, however, held that the prices mentioned therein are reasonable and therefore, the said calculation was rightly accepted.

**g) Bank deposits, shares, investment (magnam) certificates and balance in various accounts in the banks :**

. Bank deposits, bank shares and magnam certificates produced on record were found valued at Rs.7,59,373.45. Closing Balance in the saving bank account of the accused was Rs.35,397.50. The relevant bank officials i.e. PW8-Ramchandra Joshi, PW9-Gopal Chandwani have proved the same by documentary evidence.

. The evidence would further show that the present appellant has invested from time to time a considerable amount in fixed deposit receipts. The explanation at Exhibit-509 supported by the documents of fixed deposit receipts would show that the appellant has received more than Rs. 2,75,000/- towards interest on the original principal amount. The same is the case regarding the deposits with various banks.

. Thus, while according to the prosecution, the total value of the assets found in possession of the appellant and acquitted accused no. 2 was Rs.13,72,262/-. The learned Special Judge deducted the value of gold necklace and bangles worth Rs.30,784/- and came to the conclusion that the prosecution has proved that the appellant and the acquitted accused no. 2 were in possession of assets to the tune of Rs.13,41,478/-.

. After appreciating the arguments from both sides, ultimately, as per the learned Special Judge, the income of the appellant and the income of acquitted accused no. 2 i.e. the wife together was Rs.15,99,951/-. The learned Special Judge held that since acquitted accused no. 2, the wife had independent property, share in the talkies, inherited by her from her father, her income cannot be added therefore from the total income of Rs.15,99,951/- of both the accused, the exclusive income of acquitted accused no. 2 of Rs.2,35,332/- was deducted and it was held that the total income of the appellant/accused was Rs.13,64,619/-.

. Upon deduction of total expenditure of Rs.7,72,823/-, it was held that the probable balance with the appellant would be Rs.5,91,796/-. The total assets were, however, found to be of Rs. 11,06,146/-. Thus, the total amount of disproportionate assets of the appellant was Rs.5,14,350/-. Since, these assets were beyond known source of the income of the appellant, which according to the learned Special Judge, the appellant has not accounted for, he was convicted as detailed supra.

8. It is required to be considered that the acquitted accused No.2, the wife of the appellant, as per the prosecution case itself, had substantive property in Kerala State, as received by her through her father. It was a 16 R of land, 1/4th share in running talkies. The said share was admittedly sold by her to her siblings and the amount was received from it.

9. If all above amounts as held by me are added in the calculation of respective income, expenditure and deducted from the valuation of the assets, made by the learned Special Judge, in the background of the economic

condition of the appellant and his family, as detailed supra, in my view, the prosecution has failed to prove beyond reasonable doubt that the appellant was holding the assets beyond his known source of income.

**AS TO POINT NO. (II):**

10. PW12 Mr. Shriniwas Shinthre was working as Deputy Secretary in the Irrigation Department of State of Maharashtra. According to him, when the proposal of according sanction to prosecute the appellant was received to him from Home Department, he examined all the papers. He found the case fit for according sanction to prosecute the appellant. Therefore, by putting an endorsement to that effect, he sent the proposal to the Law & Judiciary Department for approval. Upon receiving the approval, he submitted the proposal to the concerned Minister as well as to the Chief Minister for grant of approval. The Chief Minister accorded approval. The Law & Judiciary Department had also approved the same and accordingly, he issued the sanction order at Exhibit 183.

. During cross-examination PW12 Mr. Shinthre admitted that independently Deputy Secretary has no power to appoint or remove the public servant from the post which was held by the present appellant. However, the powers of Secretary are delegated to the Additional Secretary and the Deputy Secretary.

11. If all these facts are taken into consideration, the sanction accorded to prosecute the present appellant will have to be held to be valid, though Mr. Patni, learned counsel for the appellant submits that the Deputy Secretary has no authority to accord the sanction.

. However, as on facts, I have come to the conclusion that the prosecution has failed to prove its case beyond reasonable doubt that the appellant was found in possession of the assets disproportionate to his known sources of income, the issue of sanction to prosecute the appellant, becomes insignificant. In the result, the following order:-

12. The appeal is hereby allowed. The order of the learned Special Judge (A.C.), Aurangabad, dated 1st

December, 2000, passed in Special Case No. 28 of 1998, thereby convicting the appellant – Chaladan s/o Nilika Ramchandran for the offences punishable under section 13 (1) (e) read with section 13 (2) of the Prevention of Corruption Act, 1988 and consequently sentencing him to suffer rigorous imprisonment for three years and to pay fine of Rs.1000/-, in default to suffer rigorous imprisonment for six months, is hereby set aside. The consequential order of the learned Special Judge of confiscation of the appellant's property is set aside.

. Instead, the appellant is hereby acquitted of the offences punishable under section 13 (1) (e) read with section 13 (2) of the Prevention of Corruption Act, 1988. The bail bonds of the appellant shall stand cancelled. The property of the appellant be released from confiscation.

. The appeal is accordingly allowed and disposed of.

Sd/-
**[M.T. JOSHI]**
**JUDGE**

npj/criapl477-2000