IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 17.04.2018	Pronounced on: 06.06.2018

Coram:

The Honourable Dr.Justice G.Jayachandran

Criminal Appeal No.33 of 2001

State represented by the
Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Ramanathapuram
(Cr.No.7/AC/96/HQ) ...Appellant/Complainant.

/versus/

1. Thiru V.Sathyamoorthy,
2. Tmt.V.Chandra ... Respondents/ Accused 1 & 2

PRAYER: Criminal Appeal is filed under Section 378 of Criminal Procedure Code, against the judgment dated 18.08.2000 in Special C.C.No.17/97 on the file of the learned XII Additional Judge/Special Judge No.2, Chennai and to set aside the order of acquittal, acquitting A-1 for the offence under Section 13(2) read with 13(1)(e) of Prevention of Corruption Act, 1988 and A-2 under Section 109 I.P.C and Section 13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988.

For Appellant : Mr.C.Emalias
Speical Public Prosecutor

For Respondents: Mr.V.Gopinath Senior Counsel,
for Mr.S.Suresh

J U D G M E N T

This appeal is preferred by the state aggrieved by the order of acquittal passed by the trial Court, acquitting A-1 V.Sathyamoorthy tried for the offence under 13(2) r/w 13(1)(e) of Prevention of Corruption Act and his wife V.Chandra, A-2 for the offence under Sections 109 I.P.C and 13(2) r/w 13 (1)(e) of Prevention of Corruption Act, 1988.

2. Gist of the case

Based on the reliable information, a case was registered on 22.08.1996 in Cr.No.7/AC/96/HQ., under Section 13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988.against Mr.V.Sathyamoorthy who was the Member of the Tamil Nadu State Legislative Assembly from 17.06.1991 to 13.05.1996 as well as Minister for Commercial Taxes in the Government of Tamil Nadu between the period 17.05.1993 and 13.05.1996, for he had accumulated assets and pecuniary resources in his name and in the names of his family members disproportionate to his known sources of income. After investigation final report was filed on 03.11.1997 under Section 173 Cr.P.C before the Trial Court against (i). Tr.V.Sathyamoorthy, (ii). Tmt.V.Chandra W/o A-1, (iii). Tmt.M.Thangam Ammal, mother of A-2, (iv). Tr.V.Mayalaga Thevar, father of A-2, (v). Tmt.T.Anjali Devi, sister of A-2, (vi). Tmt.Pushpavalli, elder brother's daughter of A-1 and (vii). Tmt.Nagavalli, another elder brother's daughter of A-1.

3. The period between 01.01.1992 and 13.05.1996, was considered as check period. At the beginning of the check period, 01.01.1992 A-1 was found in possession of assets to the extent of Rs.1,65,280.60 in his name, in the names of his wife [A-2] and his minor son. The properties are listed in Annexure-I. At the end of the check period on 13.05.1996, A-1 was found in possession of assets and pecuniary resources to the extent of Rs.83,01,948.60 in his name, in the name of A-2 to A-7 and his minor son. The details of assets were listed in Annexure-II. The income derived by A-1 to A-7 and minor son of A-1 during the check period was reckoned as Rs.29,32,758.78 and the expenditures during the check period are Rs.31,28,678.70. These details are shown in Annexure-III and Annexure-IV respectively. The assets acquired by A-1 during the check period in his name and in the names of other accused and his minor son listed and valued at Rs.81,36,668.00 in Annexure-V.

4. Alleging that A1 as public servant [Member of the Legislative Assembly and Minister] has accumulated wealth worth Rs.83,32,587.92 over and above his known source of income in his name and his family members name who were arrayed as A2 to A7, the final report with documents were presented before the trial Court.

5. The Trial Court after taking note of the materials which were collected during the investigation and placed before it by the prosecution framed charges under Section 13(2) r/w 13(1)(e) of Prevention of Corruption Act against A1 for acquiring assets

disproportionate to his known source to an extend of Rs.83,32,587.92 and against A2 to A7 for abating A1 to acquire the assets.

6. To prove the case, the prosecution has examined 113 witnesses. 325 Exhibits and 20 material objects were marked. On behalf of the defence to disprove the case of the prosecution, 31 witnesses were examined and 16 Exhibits were marked.

7. The Trial Court held that the prosecution has not properly taken note of the source of income available for the appellants to acquire assets during the check period. The valuation of the properties were not done consonance with the rules and procedure. The Trial Court has also pointing out that the income tax returns of the accused persons and the income of 2nd accused from Aqua culture Farm and Rice Mills etc., were not given due consideration while arriving at the known source of income and ratio of disproportionate assets.

8. Taking into consideration of the evidence let in by the prosecution and the contra evidence let in by the defence, the trial Court has come to a conclusion that the assets mentioned by the prosecution in Annexure-V as the assets acquired during the check period, by A1 and A2 are not been proved beyond reasonable doubt that they were acquired through unknown sources. Contrarily, during the check period the minor son of accused A1 and A2 had asset worth Rs.30,75,048/- and saving of Rs.39 lakhs is proved. While so, the income of minor son has been taken as expenditure of A1 and A2 which is factually wrong. By excluding the lawful income of the minor son and including the same as expenditure of the A1 and A2, the prosecution has erroneously proceeded against these appellants.

9. Aggrieved by the said findings of the trial Court, the present appeal is preferred as against A1 and A2 [the former Minister and his wife]. The grounds of appeal points out that the income tax returns marked as Ex.D.13 and Ex.D.15 were created after the commencement of the investigation to make believe the income are properly accounted. This very conduct of the accused persons itself to be drawn adverse to them. The presumption against the accused person gets strengthened by the said conduct, whereas the trail Court had erroneously given undue credence to the income tax returns filed by the accused persons subsequent to the registration of the case.

10. It is further contended by the Appellant/State that the trial Court has absolutely failed to understand the method of calculating disproportionate assets and had erroneously calculated the details of assets to hold that the assets held by the respondents are not disproportional to their known source. The minor son of the public servant [A-1] had no independent source of income while so the assets held in the minors name were taken as money invested by A1 to acquire the same. The Trial Court has erroneously excluded the properties acquired by A1 in the name of his minor son. The Trial Court arbitrarily had reduced the value of the assets mentioned in Annexure-II to Rs.40.15 lakhs- from Rs.52,81,671.60.

11.The estimation of the building owned by A1 though done in accordance with law and based on the opinion of the expert in PWD department, the valuation shown in Ex.P.249 was not accepted by the trial Court. The reason for declining the report is not legally and factually correct. The value of the assets like building, furniture, landed property and vehicles, acquired during the check period though were assessed properly by the prosecution, the learned Special Judge had not taken that value, but for the reason which are un found,had totally declined to take those properties into the account of assets acquired during the check period.

12. It is further contended by the appellant that A1 being the Minister of the State ought to have disclosed his income and assets periodically at the end of every financial year to the Speaker of the house till he was holding the public office. He has deliberately omitted to disclose the assets acquired during the relevant period. Which by itself indicates the assets acquired during the property or not accounted and not through legal source. The source of acquiring these properties are within the exclusive knowledge of the accused. Having failed to disclose the source, the presumption is against him which he has not rebutted with material facts.

13. Further it is contended that the trial Court conclusion that A1 had income through ancestral property and his father had large extend of land is not supported by any evidence. When the first accused was born with 10 brothers and one sister and his father had only 98 acres of land in total, it is impossible for A1 to have derived income from his ancestral properties to acquire excessive wealth to an extent of Rs.53,50,756/- within the period of 4½ years while he was holding public office as Minister and MLA.

14. The prosecution had proved through documentary and oral evidence that the assets held by A1 and his family members before the commencement of the check period was only Rs.1,65,280.60/- and the total asset held by A1 and his family members at the end of the check period dated 13.05.1996 was Rs.52,81,671.60/-. The income from the known source of the A1 and his family members during the check period i.e., from 01.01.1992 to 13.05.1996 was only Rs.28,83,543.78/-. After giving due consideration for the expenditures of the accused family during the check period, which works out to Rs.31,17,909/-. It has been proved by the prosecution that the assets held by the accused and his family members after the check period excessively disproportionate to the source known.

15. Even after the amount which the trial Court has taken as lawful income of the accused persons the revised assets statement will be as under:

Annexure-I: Assets and pecuniary resources that stood to the credit of A1, A2 and their minor son upto the commencement of the check period i.e.as on 01.01.1992 was Rs.1,65,280.60.
Annexure-II: Assets and pecuniary resources that stood to the credit of A1, A2 and their minor son upto the end of the check period i.e.as on 13.05.1996 was Rs.52,81,671.60.

Annexure-III: Income derived by A1, A2 and their minor son during the check period between 01.01.1992 and 13.05.1996 was Rs.28,83,543.78.
Annexure-IV: Expenditures incurred by A1, A2 and their minor son during the check period between 01.01.1992 and 13.05.1996 was Rs.31,17,909.60.
Annexure V: Assets and pecuniary resources acquired by A1 in his name and in the names of A2 and their minor son during the check period was Rs.51,16,391.00 [Annexure II – Annexure- I]
Annexure VI: Excess expenditures of the A1, A2 and their minor son during the check period was Rs.2,34,365.00 [Annexure II – Annexure- I]
Annexure VII: Total disproportionate assets of A1, A2 and their minor son during the check period was Rs.53,50,756.82 [Annexure V+ Annexure VI]

16. Thus, the disproportionality of assets and pecuniary resource are beyond the known sources and duly attracts offence under Section 13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988. Therefore, the trial Court ought not to have acquitted the accused persons.

17. Per contra, the Senior Counsel appearing for the respondents would submit that for each and every property

serialized in the annexures relied by the prosecution, due explanation for the source has been provided before the trial Court by the accused by way of oral and documentary evidence. The trial Court after due consideration and reasoning had rightly acquitted all the accused. Since, there is no perversity or illegality in the finding of the trial Court, there is no need to interfere the trial Court order of acquittal.

18. In the synopsis filed on behalf of the respondent/accused it is submitted that, A1's family even prior to his marriage with A2, is a wealthy family. A1's family Vadivelu Thevar is a big landlord. He was owning 90 acres of land. He was the President of Panchayat Board, Melaselvanur till 1962 when he died. His family was owning a timber depot. Initially the timber depot existed in Mudukulathur and later it was in Keelaselvanoor, when it was closed. The name of the timber depot is Seluvai Timber Dept. A1 was an Advocate by profession and also acquired properties periodically even prior to check period. He has been the legal advisor to Taluk Housing Society, Mudhukulathur and Mudukulathurand Kamudi land development bank. He was having extensive legal practice in Mudukulathur, Ramanthapuram, Madurai and Sivagangai. A1's elder brother Myilvahanaan is a Class 1 Contractor of PWD and Highways. He is a partner in Sethupathy Modern Rice Mill in Kadaladi with A2. Mayilvahanan is owner of several wine shops and arrack shops. He was also dealer in salt. He was contracting several deals with Tamil Nadu Salt Corporation. He is also a big landlord. A1's elder brother Thiru v.Soundrapandian is a Senior Divisional Manager in Life Insurance Corporation of India and retired only in 1997. Another elder brother Thiru V.Chokalingam was also Divisional Manager in LIC and retired in the year 1996.

19. A1 was elected as M.L.A in Kadaladi Constituency for the period 1980 to 1984. Further from 1986-1990 he was the Panchayat Union Chairman of Kadaladi. From 1991 to 1996 he was M.L.A of Kadaladi Constituency. From 1993 to 1996 he was the Minister for Commercial Taxes, Government of Tamil Nadu. From 1980 to 1994 A1 was the AIADMK Union Secretary of Kadaladi. From 1980 till date he is a special Speaker for the party. From 1988 till 1991 A1 was the AIADMK District President for Ramanthapuram District. From 1991 onwards till 1996, A1 was the Youth Secretary for Ramanthapuram District. From 1991 till 1996 he was the District Secretary for Dr.Jayalalitha Pervai. From 1994 to 1996.

20. A2 [V.Chandra] married A1 [V.Sathyamoorthy] on 25th March 1974. She is a Malaysian citizen by birth. Her father was

employed in Malaysia from 1947 onwards. A2 born and brought up in Malaysia till her marriage in good economical background. She has brought in more than 150 sovereigns of jewels, Silver articles, furnitures at the time of marriage. From the time of marriage, periodically she has been in the habit of lending money. M.O.9 note book seized during seizure by PW.98 would speak to the above facts. That apart she has been carrying in a business in wine, arrack and toddy shops. M.O.20 seized by police from the house of Mayilvahanan proves this. She is also a partner in Sethupathy Modern Rice Mill. Annexure-I would also show that she is in the habit of purchasing immovable properties ever since her marriage. She has also been a partner in Civil contract business along with Mayilvahanan and others. The agreement is filed along with 313 of Cr.P.C statement she was also owing and doing business in brick kiln. A2's business and other financial activities made her to venture in a big way in launching aqua farm and made several lakhs of rupees as profit. The Trial Court having considering these facts had rightly acquitted the accused. Therefore the appeal deserve to be dismissed.

21. Points for consideration

"Whether the Trial Court appreciation of the evidence and the calculation of the disproportionality of the income is in accordance with law or perverse?"

22. Before adverting to the rival contentions raised before this Court, the details shown in Annexures I to VII by the prosecution is given below for easy reference.

Annexure-I

List of properties held at the beginning of the Check Period [01.01.1992]

Sl.No	Assets	Remarks
1.	0.35.5 Hectares (87 cents) of punja lands in Survery No.125/5-B and 126/3A at Melaselvanur, acquired by Tr.V.Sathyamoorthy as ancestral property	Nil
2.	0.71.0 Hectars (1.74 acres) of Punja land in Survey No.139/2 at Melaselvanur, acquired by Tr.V.Sathyamoorthy and his 3 brothers as ancestral property (share of Tr.V.Sathyamoorthy 44 cents)	Nil

Sl.No	Assets	Remarks
3.	0.34.0 Hectares (83 cents) of Nanja land in S.No.223/5 and 234/7 at Oruvanendal Village, acquired by Tr.V.Sathyamoorthy as ancestral property	Nil
4.	0.23.5 Hectares (58 cents) of Panja lands in S.No.234/6-B, 237/3-F and 306/2-B at Oruvanendal Village, acquired by Tr.V.Sathyamoorthy as ancestral property.	Nil
5.	0.46.0 Hectares (1.14 acres) of Nanja land in S.No.66/9 at Melaselvanur Village, purchased in the name of Tmt.S.Chandra on 20.05.1975 as per document No.722/75 of the Sub-Registry, Sayalkudi	Rs.2,000.00
6.	0.04.0 Hectares (10 Cents) of house site in S.No.136/3-B at Melaselvanur Village, purchased in the name of Tmt.S.Chandra (Wife of Tr.V.Sathyamoorthy) on 30.01.1981 as per document No.110/81 of the Sub-Registry, Sayalkudi.	Rs.200.00
7.	2.04.0 Hectares (5.4 Acres) of Punja Lands in S.No.99/1-C to 3-C at Melaselvanur Village purchased for Rs.5,040/- in the name of Tr.V.Sathyamoorthy and Tr.V.Mayilvahanan on 07.08.1981 as per Document No.1681/81 of the Sub-Registry, Sayalkudi. (Share of Tr.V.Sathayamoorthy 1.02.0 Hectares).	Rs.2,520.00
8.	0.68.0 Hectars (1.60 acres) of Punja lands in S.No.99/4 at Melaselvanur Village purchased in the name of the Tvl.V.Sathayamoorthy and V.Mayilvahanan for Rs.2,016/- on 24.10.1981 as per document No.2207/01 of the Sub-Registry, Sayalikudi (Share of Tr.V.Sathayamoorthy 0.34.0 Hectares)	Rs.1,008.00
9.	1.66.0 Hectare (4.00 Acres) of Punja land in S.No.4/9-A at Kadugusanthai Village, purchased in the name of Tmt.S.Chandra and Tr.V.Mayilvahanan for Rs.3,320/- on 12.11.1981 as per document No.2292/81 of the Sub-Registry, Sayalkudi (Tmt.Chandra share 0.83.0 Hectare).	Rs.1,660.00

Sl.No	Assets	Remarks
10.	1.12.0 Hectares (2.74 acres) of punja land in S.No.98/3-B at Melaselvanur, purchased in the name of Tr.V.Sathayamoorthy and his brother Tr.V.Mayilvahanan for Rs.4,500/- on 26.12.1981 as per Document No.2422/81 of the Sub-Registry, Sayalkudi (share of Tr.V.Sathyamoorthy 1.12.0 Hectares)	Rs.2,250.00
11.	0.54.0 Hectare (1.34 acres) of Punja land in S.No.6/3 at Kadugusanthai Village purchased in the name of Tmt.S.Chandra and Tr.M.Gopalakrishnan for Rs.1,340/- on 23.08.1982 as per Document No.1559/82 of the Sub Registry, Sayalkudi (Tmt.S.Chandra share 0.54.0 Hectares)	Rs.670.00
12.	0.61.5 Hectare (1.51 acres) of Punja land in S.No.6/4 at Kadugusanthai Village purchased in the name of Tmt.S.Chandra and Tr.M.Gopalakrishnan for Rs.1,510/- on 23.08.1982 as per document No.1560/82 of the Sub Registry, Sayalkudi (Tmt.S.Chandra share 0.28.5 Hectares)	Rs.755.00
13.	0.15.5 Hectare (38 cents) of Punja land in S.No.4/3 at Kadugusanthai village purchased in the name of Tmt.S.Chandra and Tr.M.Gopalakrishnan on 23.08.1982 for Rs.380/- as per Document No.1562/82 of the Sub Registry, Sayalkudi (Tmt.S.Chandra share 0.15.5 Hectares)	Rs.190.00
14.	2.45.0 Hectare (6.01 acres) of Punja land in S.No.24/2 at Kadugusanthai Village, purchased in the name of Tmt.S.Chandra and Vallimayil on 29.11.1982 for Rs.6,010/- as per document No.2156/82 of the Sub Registry, Sayalkudi (Tmt.S.Chandra share 1.22.0 Hectares)	Rs.3,005.00
15.	0.38.0 Hectare (93 cents) of Nanja land in S.No.68/6 at Melaselvanur village, purchased in the name of Tr.V.Sathyamoorthy on 18.01.1985 as per document No.678/85 of the Sub Registry, Kadaladi.	Rs.6,510.00

Sl.No	Assets	Remarks
16.	8 cents of house site in S.No.296/7 (Plot No.25 and 28) at Pattinamkathan village, purchased in the name of Tr.V.Sathyamoorthy on 27.03.1985 as per Document No.678/85 of the Sub Registry, Velipattinam, Ramanathapuram.	Rs.6,900.00
17.	0.45.5 Hectare (3.60 acres) of Punja land in S.No.103/1-B at Melaselvanur Village purchased in the name of Tmt.S.Chandra on 16.06.1986 as per Document No.327/86 of the Sub Registry, Kadaladi.	Rs.9,000.00
18.	0.44.0 Hectare (1.80 acres) of Nunja land in S.No.123/3, 138/8 and 150/5 and 0.54.5 Hectare (1.35 acres) of Punja lands in S.No.133/6 and 136/6 at Pursankulam village and 0.26.0 Hectare (64 cents) of Nanja land in S.No.7/3 at Vedanthai village (present share 0.18.5-45 cents) purchased in the name of Tmt.S.Chandra on 07.11.1986 as per Document No.767/86 of the Sub Registry, Kadaladi	Rs.20,000.00
19.	0.53.5 Hectare (1.31 acres) of Nanja land in S.No.116/3-B, 116/3-C, 117/2-B and 117/2 at Pottakulam Village purchased in the name of S.Sundarapandian on 30.12.1987 as per Document No.683/87 of the Sub Registry, Kadaladi	Rs.15,720.00
20.	0.40.5 Hectare (1 acres) of Nanja land in S.No.81/7-A at Kadaladi, purchased in the name of Tmt.Chanra and Tr.V.Mayilvahanan on 12.06.1989 for Rs.15,000/- as per Document No.265/89 of the Sub Registry, Kadaladi (Tmt.Chandra. Share 0.40.0 Hec)	Rs.7,500.00
21.	0.07.0 Hectare (17 Cents) of Nanja land in S.No.81/7-A at Kadaladi, purchased in the name of Tr.V.Sathyamoorthy on 12.06.1989 as per Document No.266/89 of the Sub Registry, Kadaladi.	Rs.2,550.00
22.	0.07.0 Hectare (17 cents) of Nanja land in S.No.115/1 at Pottakulam village, purchased in the name of Tr.V.Sathyamoorthy on 10.07.1989 as per Document No.393/89 of the Sub Registry, Kadaladi (share of Tmt.S.Chandra)	Rs.2,560.00

Sl.No	Assets	Remarks
23.	5,356 Sqr.Ft. House site in S.No.53/1 at Kadaladi, purchased in the name of Tmt.S.Chandra and M.Vallimail for Rs.26,780/- on 07-06-84 as per Doc. No.288/84 of the Sub-Registry, Kadaladi. (Share of Tmt.S.Chandra).	Rs.13,390.00
24.	1.404 Sqr.Ft. House site in S.No.53/1 at Kadaladi, purchased in the name of Tmt.S.Chandra and N.VallimaiI for Rs.5,616/-on 07-06-84 as per Doc. No.289/84 of the Sub-Registry, Kadaladi.(Share of Tmt.S.Chandra).	Rs.2,808.00
25.	Amount invested as per Fixed Deposit Certificate No.78/F-D/C-631246 on 11.07.1984 in the name Master Sundra Pandian, S/o. Sathyamoorthy, Melaselvanur at Indian Bank Assembly Extn Counter, Anna Salai, Chennai	Rs.9,000.00
26.	Cash Balance in S/B Account No.301 of Tr.Sathyamoorthy, Nelasevanur at Indian Bank Assembly Extn, Counter,Anna Salai, Chennai.	Rs.8,826.80
27.	Cash Balance in S/B Account No.1972 of Tr.Sathyamoorthy, with Indian Overseas Bank, Kadaladi as on 01-01-92.	Rs.5,516.80
28.	Cash Balance in S/B Account No.1943 of Tmt.S.Chandra, W/o.Tr.Sathyamoorthy, Kadaladi with Indian Overseas Bank, Kadaladi as on 01-01-92.	Rs.47.00
29.	Amount invested in Recurring Deposit No.06/91 in the name of Tmt. S.Chandra, W/o.Sathyamoorthy at Indian Overseas Bank, Kadaladi as on 01-01-92.	Rs.1,800.00
30.	Cash Balance in S.B.Account No.6867 of Tr.Sathyamoorthy with Indian Overseas Bank, Secretariat Branch, Chennai.	Rs.15,894.00
31.	100 Sovereigns of Gold Jewels acquired by Tmt.S.Chandra W/o.V.Sathyamoorthy as marriage gift from her father at the time of marriage in 1974.	Nil
32.	20 Sovereigns of Gold Jewels acquired by Tr.V.Sathyamoorthy from his mother at the time of marriage in 1974.	Nil

Sl.No	Assets	Remarks
33.	16 Kgms, of Silver articles acquired by Tr.V.Sathyamoorthy as marriage gift from his father-in-law in 1974.	Nil
34.	Crockery, Cutlery and utensils, acquired by Tr.V.Sathyamoorthy as marriage gift from his father-in-law in 1974.	Nil
35.	Wooden single Bed Cot, Wooden Double Cot, Wooden Tables, Benches, Cub-Board, purchased by Tr.V.Sathyamoorthy between 1982 to 1991.	Nil
36.	VOLTAS Refrigerator with stabilizer purchased by Tr.V.Sathyamoorthy in 1989.	Rs.5,000.00
37.	SONY Two-in-One Tape recorder purchased in 1986.	Rs.2,000.00
38.	SONY Colour TV purchased in 1986	Rs.6,000.00
39.	Ultra Grinder purchased in 1986	Rs.1,500.00
40.	Vijay Grinder purchased in 1991.	Rs.2,500.00
41.	Panasonic J-22 VCR purchased during 1986.	Rs.6,000.00
42.	Race Bulls 7 Nos. possessed by Tr.V.Sathyamoorthy	Nil
	TOTAL	Rs.1,65,280.60

Annexure-II

Assets at the end of the Check period [13.05.1996]

Sl.No.	Assets	Amount
1.	0.35.5 Hectares (87 cents) of punja lands in Survery No.125/5-B and 126/3A at Melaselvanur, acquired by Tr.V.Sathyamoorthy as ancestral property	Nil
2.	0.71.0 Hectars (1.74 acres) of Punja land in Survey No.139/2 at Melaselvanur, acquired by Tr.V.Sathyamoorthy and his 3 brothers as ancestral property (share of Tr.V.Sathyamoorthy 44 cents)	Nil

3.	0.34.0 Hectares (83 cents) of Nanja land in S.No.223/5 and 234/7 at Oruvanendal Village, acquired by Tr.V.Sathyamoorthy as ancestral property	Nil
4.	0.23.5 Hectares (58 cents) of Panja lands in S.No.234/6-B, 237/3-F and 306/2-B at Oruvanendal Village, acquired by Tr.V.Sathyamoorthy as ancestral property.	Nil
5.	0.46.0 Hectares (1.14 acres) of Nanja land in S.No.66/9 at Melaselvanur Village, purchased in the name of Tmt.S.Chandra on 20.05.1975 as per document No.722/75 of the Sub-Registry, Sayalkudi	Rs.2,000.00
6.	0.04.0 Hectares (10 Cents) of house site in S.No.136/3-B at Melaselvanur Village, purchased in the name of Tmt.S.Chandra (Wife of Tr.V.Sathyamoorthy) on 30.01.1981 as per document No.110/81 of the Sub-Registry, Sayalkudi.	Rs.200.00
7.	2.04.0 Hectares (5.4 acres) of Punja land in S.No.99/1C to 3C at Melaselvanur village purchased in the name of Tr.V.Sathyamoorthy and Tr.V.Mayilvahanan on 07.08.1981 for Rs.5,040/- as per document No.1681/81 of the Sub-Registry, Sayalkudi (Share of Sathyamoorthy 1.02.0 Hec)	Rs.2,520.00
8.	0.68.0 Hectars (1.68 acres) of Punja lands in S.No.99/4 at Melaselvanur Village purchased in the name of the Tvl.V.Sathayamoorthy and V.Mayilvahanan for Rs.2,016/- on 24.10.1981 as per document No.2207/01 of the Sub-Registry, Sayalikudi (Share of Tr.V.Sathayamoorthy 0.34.0 Hectares)	Rs.1,008.00
9.	1.66.0 Hectares (4.00 acres) of Punja land in S.No.4/9A at Kadugusandai Village, purchased in the name of Tmt.S.Chandra and Tr.V.Mayilvahanan on 12.11.1981 for Rs.3,320/- as per document No.2292/81 of the Sub Registry, Sayalkudi (Share of Tmt.S.Chandra 0.83.0 Hec)	Rs.1,660.00
10.	1.12.0 Hectares (2.74 acres) of punja land in S.No.98/3-B at Melaselvanur, purchased in the name of Tr.V.Sathayamoorthy and his brother Tr.V.Mayilvahanan for Rs.4,500/- on 26.12.1981 as per Document No.2422/81 of the Sub-Registry, Sayalkudi (share of Tr.V.Sathyamoorthy 1.12.0 Hectares)	Rs.2,250.00

11.	0.54.0 Hectare (1.34 acres) of Punja land in S.No.6/3 at Kadugusanthai Village purchased in the name of Tmt.S.Chandra and Tr.M.Gopalakrishnan for Rs.1,340/- on 23.08.1982 as per Document No.1559/82 of the Sub Registry, Sayalkudi (Tmt.S.Chandra share 0.54.0 Hectares)	Rs.670.00
12.	0.61.5 Hectare (1.51 acres) of Punja land in S.No.6/4 at Kadugusanthai Village purchased in the name of Tmt.S.Chandra and Tr.M.Gopalakrishnan for Rs.1,510/- on 23.08.1982 as per document No.1560/82 of the Sub Registry, Sayalkudi (Tmt.S.Chandra share 0.28.5 Hectares)	Rs.755.00
13.	0.15.5 Hectare (38 cents) of Punja land in S.No.4/3 at Kadugusandai village purchased in the name of Tmt.S.Chandra and Tr.M.Gopalakrishnan on 23.08.1982 for Rs.380/- as per Document No.1562/82 of the Sub Registry, Sayalkudi (Tmt.S.Chandra share 0.15.5 Hectares)	Rs.190.00
14.	2.45.0 Hectare (6.01 acres) of Punja land in S.No.24/2 at Kadugusanthai Village, purchased in the name of Tmt.S.Chandra and Vallimayil on 29.11.1982 for Rs.6,010/- as per document No.2156/82 of the Sub Registry, Sayalkudi (Tmt.S.Chandra share 1.22.0 Hectares)	Rs.3005.00
15.	0.38.0 Hectare (93 cents) of Nanja land in S.No.68/6 at Melaselvanur village, purchased in the name of Tr.V.Sathyamoorthy on 18.01.1985 as per document No.21/85 of the Sub Registry, Kadaladi.	Rs.6,510.00
16.	8 cents of house site in S.No.296/7 (Plot No.25 and 28) at Pattinamkathan village, purchased in the name of Tr.V.Sathyamoorthy on 27.03.1985 as per Document No.678/85 of the Sub Registry, Velipattinam, Ramanathapuram.	Rs.6,900.00
17.	1.45.5 Hectares (3.60 acres) of Punja land in S.No.103/1B at Melaselvanur Village, purchased in the name of Tmt.S.Chandra on 16.06.1986 as per document No.327/86 of the Sub-Registry, Kadaladi.	Rs.9,000.00

18.	0.44.0 Hectares (1.08 acres) of Nanja land in S.No.123/3, 138/8 and 150/5 and 0.54.5 Hec. (1.35 acres) of Punja land in S.No.133/6 and 136/6 at Purasankulam Village and 0.26.0 Hec.(64 cents) of Nanja land in S.No.7/3 at Vedanthai village (present share 0.18.0- (45 cents) purchased in the name of Tmt.S.Chandra on 07.11.1986 as per document No.767/86 of the Sub-Registry, Kadaladi.	Rs.20,000.00
19.	0.53.5 Hectares (1.31 acres) of Nanja land in S.No.116/3-B, 116/3-C and 117/2-B and 117/2-E at Pottakulam Village, purchased in the name of Tr.S.Sundarapandian on 30.12.1987 as per Document No.683/87 of Sub Registry, Kadaladi.	Rs.15,720/-
20.	0.40.0 Hectares (One acres) of Nanja land in S.No.81/7-A at Kadaladi, purchased in the name of Tmt.S.Chandra and Tr.V.Mayilvahanan on 12.06.1989 as per Document No.265/89 of Sub Registry, Kadaladi (Tmt.Chandra a share 0.40.0 Hectare)	Rs.7,500.00
21.	0.07.0 Hectares (17 cents) of Nanja land in S.No.115/1 at Pottakulam Village, purchased in the name of Tr.V.Sathyamoorthy on 12.06.1989 as per document no.266/89 of Sub Registry, Kadaladi	Rs.2,550.00
22.	0.07.0 Hectares (17 cents) of Nanja land in S.No.115/1 at Pottakulam Village, purchased in the name of Tr.V.Sathyamoorthy on 12.06.1989 as per Document No.266/89 of Sub Registry, Kadaladi	Rs.2,560.00
23.	0.85.5 Hectares (2.12 acres) of Nanja land in S.No.70/2 and 70/4 at Melaselvanur Village, purchased in the name of Tr.V.Sathyamoorthy for Rs.25,830/- on 11.05.1992 as per Document No.217/92 of the Sub-Registry, Kadalai (Document Value Rs.35,830/-) already paid Rs.11,000/- and actual amount paid Rs.24,830/-	Rs.24,830/-
	b) Stamp Value	Rs.4,310.00
	C) Registration Fees	Rs.366.00

24.	6.41.0 Hectares (15.83 acres) of Punja lands in S.No.579 at Kooraikulam Village, purchased in the name of Tmt.S.Chandra on 18.06.1992 as per Document No.993/92 of the Sub Registry, Keelakari	Rs.99,740.00
	b) Stamp Value	Rs.11,933.00
	C) Registration Fees	Rs.1,000.00
25.	0.25.0 Hectares (62 Cents) of Punja lands in S.No.587/2-C and 587/4 at Kooraikulam Village, purchased in the name of Tmt.S.Chandra on 25-08-92 as per Document No.1398/92 of the Sub Registry, Keelakarai.	Rs.2,820.00
	b) Stamp Value	Rs.489.00
	C) Registration Fees	Rs.40.00
26.	0.19.0 Hectares (36 cents) of Punja lands in S.No.584/2-C at Kooraikulam Village, purchased in the name of Tmt.S.Chandra on 01.09.1992 as per document No.1423/92 of the Sub Registry, Keelakarai.	Rs.1,800.00
	b)Stamp Value	Rs.250.00
	C) Registration Fees	Rs.20.00
27.	0.37.5 Hectares (93 Cents) of Punja lands in S.No.587/2-C and 587/4 at Kooraikulam Village, purchased in the name of Tmt.S.Chandra on 27.05.1993 as per Document No.671/93 of the Sub-Registry Keelakarai.	Rs.6,520.00
	b) Stamp Value	Rs.800.00
	c) Registration Fees	Rs.110.00
28.	0.40.5 Hectares (1 Acres) of Punja lands in S.No.586/2 at Kooraikulam Village, purchased in the name of Tr.Sundarapandian (Son of the accused) on 28.05.1993 as per Document No.674/93 of the Sub-Registry, Keelakarai.	Rs.7,000.00
	b) Stamp Value	Rs.840.00
	c) Registration Fees	Rs.70.00
29.	0.54.5 Hectares (1.35 Acres) of Punja lands in S.No.587/3 at Kooraikulam Village, purchased in the name of Tr.Sundarapandian (Son of the accused) on 10.08.1993 as per Document No.1036/93 of the Sub-Registry, Keelakarai	Rs.13,500.00
	b) Stamp Value	Rs.1,620.00
	c) Registration Fees	Rs.135.00

30.	3,723 Sq.Feets House site (Plot No.1 and 2) in S.No.307/9 at Bharathinagar, Ramanathapuram, purchased in the name of Tr.V.Sathiyamoorthy on 19.01.1994 as per document No.77/94 of the Sub-Registry, Velipattinam, Ramanathapuram	Rs.55,111.00
	b) Stamp Value	Rs.7,070.00
	c) Registration Fees	Rs.610.00
31.	0.69.5 Hectares (1.72 Acres) of Punja lands in S.No.136/7-B at Melaselvanur Village, purchased in the name of Tr.V.Sathiyamoorthy on 18.03.1994 as per document No.97/94 of the Sub-Registry, Kadaladi.	27,700.00
	b) Stamp Value	Rs.3,328.00
	c) Registration Fees	Rs.300.00
32.	1.56.5 Hectares (3.91 Acres) of Punja lands with 90 Coconuts saplings in S.No.151/1-A-2, 151/2-A, 151/5 at Pothumpu Village, purchased in the name of Tr.S.Sundarapandian (Son of the accused) on 12.07.1995 as per Document No.4482/92 of the Joint Sub-Registry of No.IV, Madurai.	Rs.1,73,900.00
	b) Stamp Value	Rs.20,900.00
	c) Registration Fees	Rs.1,800.00
33.	7.24.0 Hectares (17.89 Acres) of Punja lands in S.No.138/1, 138/2, 138/3, 140/5 and 140/4-B at Keelaselvanur Village, purchased in the name of Tmt.S.Chandra on 06.11.1995 as per document No. 567/95 of the Sub-Registry, Kadaladi.	Rs.1,94,000.00
	b) Stamp Value	23,300.00
	c) Registration Fees	1,985.00
34.	0.89.5 Hectares (2.20 Acres) of Punja lands in S.No.131/4 at Keelaselvanur Village, purchased in the name of Tmt.S.Chandra on 02.01.1996 as per document No.3/96 of the Sub-Registry, Kadaladi	
	b) Stamp Value	Rs.1,470.00
	c) Registration Fees	Rs.145.00

35.	4 Cents of House site with Rice Mill and Mechinary in S.No.131/4 at Keelaselvanur Village, Ramanathapuram, purchased in the name of Tmt.S.Chandra on 03.01.1996 as per Document No.117/96 of the Sub-Registry, Kadaladi.	1,20,000.00
	b) Stamp value	Rs.13,613.00
	c) Registration Fees	Rs.1,240.00
36.	0.18.0 Hectares (44 Cents) of Punja lands in S.No.151/2-B at Pothumpu Village, purchased in the name of Tr.S.Sundarapandian (Son) as per Document No.2933/95 dated 12.07.1995 for Rs.5,000/- and Document No.1159/96 dated 11.03.1996 for Rs.17,600/- at Joint Sub-Registry No.IV., Madurai	Rs.22,600.00
	b) Stamp Value	Rs.4,280.00
	c) Registration Fees	Rs.380.00
37.	One House Constructed in S.No.136/7-B at (D.No.1/6-B) at Melaselvanur Village in the name of Tr.V.Sathiyamoorthy during 1994-1995.	Rs.15,44,221.00
38.	Costly Wooden furniture purchased by Tr.V.Sathiyamoorthy and kept in his house in Door No.1/60B Melaselvanur Village during 1994-1995.	Rs.1,91,491.00
39.	One Tractor with Trailer bearing Regn.No.TN.65-6732 and TN-65-6733 purchased in the name of Tmt.S.Chandra W/o V.Sathiyamoorthy Ramanathapuram from M/s. Jeyaraj and Son Madurai during 1994	Rs.3,13,322.00
40.	One Aerators, purchased in the name of Tmt.S.Chandra from Samurai Techno Trading Pri.Ltd., Chennai during April, 1994.	Rs.3,75,000.00
41.	20 HP SIEMENS electric Motors with Starter purchased from Kutty and Nathan, Chennai in the name of Tmt.S.Chandra Aqua Farm, Ramanathapuram vide invoice No.16390 dated 23.06.1995.	Rs.27,500.00
42.	10 HP Kirloskar Electric Motors with Starter (Two Numbers) purchased in the name of Tmt.S.Chandra of Ramnad from Sai Engineering Company, Madurai on 28.06.1993 and 17.07.1993 vide invoice No.S/1533 and S.1667	Rs.28,700.00 Rs.8,617.00

43	Kirloskar make CHOTA JAWA Model Single Cylinder water cooled Diesel Oil Engine with Pump, G.M.Impeller etc., purchased in the name of Tmt.S.Chandra of Ramnad from Sai Engineering Company, Madurai on 29.06.1993 vide Invoice No.S/1546.	Rs.26,500.00
44.	75 KVA Generator with Battery, Panel Board etc., purchased from PEEYEES power Engineering Works, Madras vide invoice No.87, dated 19.06.1994 in the name of Tmt.S.Chandra of Madras.	Rs.2,21,534.00
45.	Kirloskar 15 HP Motor Pump with coupling and Channel Iron Base Plate etc., purchased from Sankar Trading Company, Chennai in the name of Tmt.Chandra of Madras vide invoice No.00199, dated 14.06.1994	Rs.22,517.00
46.	5 HP Electric Motor with Starter purchased during 1994 Two numbers.	Rs.14,700.00
47.	Share Advance deposited at YUVARJ DENIM Apparels (P) Ltd., Thiruppur on 02.10.1995 in the name of Tr.S.Sundarapandian, Madras	Rs.5,00,000.00
48.	Share Advance deposited at YUVARJ DENIM Apparels (P) Ltd., Thiruppur on 02.10.1995 in the name of Tr.S.Sundarapandian, Madras	Rs.2,00,000.00
49.	Cash Balance in S.B.Account No.165 of Tr.V.Sathiyamoorthy with R.D.c.c. Bank Collectorate Complex Branch, Ramnad as on 13.05.1996	Rs.605.00
50.	Cash Balance in S.B.Account No.11619 of Tmt.S.Chandra with RDCC., Bank, Main Branch, Ramnad.	Rs.1,140.0
51.	Suga Vazhvu Deposits in Deposit No.11011 and 11012 at RDCC., Bank Main Branch, Ramnad in the name of Tmt.S.Chandra, Ramnad	Rs.40,000.00
52.	Cash Balance in S.B.Account No.3645 of Bank of India, Usman Road, Chennai in the name of Tr.S.Sundarapandian S/o Sathiyamoorthy, Ramnad.	Rs.51,125.00
53.	Cash Balance in Current Account No.1253 in the name of Tmt.S.Chandra with Bank of India Mount Road Branch, Chennai	Rs.86,141.25
54.	Cash Balance in S.B.Account No.1943 of Tmt.S.Chandra w/o S.Sathiyamoorthy, Kadaladi with Indian Overseas Bank, Kadaladi.	Rs.127.60
55.	Cash Balance in S.B.Account No.6867 of Tr.V.Sathiyamoorthy with Indian Overseas Bank, Secretariat Branch, Chennai.	Rs.74,216.00

56.	Cash Balance in S.B. Account No.301 of Tr.V.Sathiyamoorthy with Indian Bank Assembly Extn. Counter, Anna Salai, Chennai.	Rs.38,215.75
57.	66.75 Sovereigns of Gold Jewels found in possession of Tr.V.Sathiyamoorthy at the time of search at Chennai on 23.08.1996 (66.75 Sgs. Value) (66.75 x Rs.3,200)	Rs.2,13,600.00
58.	26 Kgs of Silver vessels found in possession of Tr.V.Sathyamoorthy in his house at Chennai at the time of search on 23.08.1996 (Rate Rs.6 per gram).	Rs.1,56,000.00
59.	803.500 gms of Silver articles found at the time of search in the house of Tr.V.Sathyamoorthy in Door No.1/60-B, at Melaselvanur on 23.08.1996.	Rs.4,821.00
60.	Cash and coin found in the house of Tr.V.Sathyamoorthy at Melaselvanur during search on 23.08.1996.	Rs.89,755.00
61.	One carrier Alpine 119 Air Conditioner purchased during 1996.	Rs.14,000.00
62.	VIDEO Cassettes 40 Nos. Purchased from 1992 to 1996.	Rs.10,000.00
63.	BPL. Colour TV acquired by Tr.V.Sathyamoorthy in Feb 1996	Rs.20,000.00
64.	Revolver purchased during Feb 93 in the name of Tr.V.Sathyamoorthy	Rs.5,000.00
65.	Double Barrel Gun, purchased during May 1992 in the name of Tr.V.Sathyamoorthy	Rs.8,000.00
66.	BPL. Refrigerator with 4 doors, purchased by Tr.V.Sathyamoorthy during Feb 1996.	Rs.18,000.00
67.	16 Plastic chairs found in the house of Tr.V.Sathyamoorthy at Melaselvanur during House search on 23.08.1996 (16 x 300)	Rs.4,800.00
68.	Crockery, Cutlery and Utensils acquired by Tr.V.Sathymoorthy as marriage gift from his father-in-law in 1974	Nil
69.	Wooden single bed cot, wooden double cot, Wooden tables, Benches, Cub-Board purchased by Tr.V.Sathyamoorthy between 1982 to 1991.	Nil
70.	VOLTAS Refrigerator with stabling purchased by Tr.V.Sathyamoorthy in 1989	Rs.5,000.00
71.	SONY Two-in-one Tape Recorder purchased in 1986	Rs.2,000.00
72.	SONY Colour TV purchased in 1986	Rs.6,000.00
73	Ultra Grinder purchased in 1986	Rs.1,500.00

74.	Vijay Grinder purchased in 1991	Rs.2,500.00
75.	Panasonic J-2 VCR purchased during 1986.	Rs.6,000.00
	Total	Rs.52,81,671.60

ANNEXURE-III

Income of V.Sathiyamoorthy [A1] and his family member during the Check Period From 01.01.1992 to 13.05.1996

Sl.No.	Sources of Income	Amount
1.	Net Salary of Tr.V.Sathyamoorthy after all deduction from 01.01.1992 to 16.05.1993 as M.L.A	Rs.45,508.00
2.	Net salary of Tr.V.Sathyamoorthy after Income tax deduction from 17.05.1993 to 17.05.1996	Rs.1,53,681.00
3.	Profit in sale of House Sites in S.No.53/1 at Kadaladi by Tmt.S.Chandra and Valliamayal for Rs.52,105/- to Tr.K.Karuppana Thevar and Party of A.Punavasal as per Document No.274/92 dated 09.06.1992 of the Sub-Registry, Kadaladi (Tmt.S.Chandra share Rs.9,854.00)	Rs.9,854.50
4.	Loan amount received from Bank of India, Mount Road Branch, Chennai in the name of M/s. Chandra Aqua Farm on 20.05.1994	Rs.10,09,421.00
5.	Loan amount received by Tmt.S.Chandra from Tr.Valivittan S/o.Karuppiah, Chennai by means of 2 cheques on 28.07.1995 and 01.12.1995 (Rs.1,56,300.421 & Rs.1,65,527-444)	Rs.1,55,879.00 Rs.1,65,083.00
6.	Loan amount received from Tr.S.Alagendren of Madurai by Tr.S.Sundrapandian on 14.08.1995	Rs.2,49,265.00
7.	Subsidy amount received from the Brackish Water Farmers Development Agency, Ramnad Vide Vr.No.95 dated 03.11.1994	Rs.1,04,536.00
8.	Net Agricultural Income derived from the lands of Tr.V.Sathyamoorthy, his wife, his son and benamies. a) Tr.V.Sathymoorthy Rs.2,11,000.00 b) Tmt.S.Chandra Rs. 17000.00 c) Tr.Sundrapandian Rs. 4000.00	Rs.2,32,000.00

9.	Amount received in recurring Deposit Account No.6/91 of Indian Overseas Bank Branch, Kadaladi in the name of Tmt.S.Chandra of Melaselvanur on 22.07.1994	Rs.11,435.00
10.	Income earned in M/s.Chandra Aqua Farm, Kooraikulam Village.	Rs.6,35,571.23
11.	Fixed Deposit amount received from Indian Bank Assembly Office Extn, Counter, in the name of Tr.S.Sundarapandian as per Fixed Deposit Certificate No.78/FD/C-631246 dated 11.07.1984	Rs. 17,640.00
12.	Profit in sale of 7 Race Bulls to 5 persons during 1993.	Rs.72,000.00
13.	Interest earned in SB.A/C No.301 of Tr.V.Sathyamoorthy with I.B. Assembly Extn. Counter, Chennai.	Rs.4,168.95
14.	Interest earned in SB.A/c No.1972 of Tr.V.Sathyamoorthy with I.O.B Kadaladi.	Rs.7,398.50
15.	Interest earned in SB.A/c No.1943 of Tmt.S.Chandra with I.O.B Kadaladi.	Rs.80.60
16.	Interest earned in SB.A/c.No.6867 of Tr.V.Sathyamoorthy with I.O.B Secretariat Branch, Chennai.	Rs.8,300.00
17.	Interest earned in SB.A/c No.165 of Tr.V.Sathyamoorthy with RDDC Bank, Collectorate Branch, Ramnad	Rs.104.00
18.	Interest earned in SB.A/c No.11619 of Tmt.S.Chandra with RDDC Bank, Main Branch, Ramnad	Rs.759.00
19.	Interest earned in SB.A/c No.3645 of Tr.Sundrapandian, with Bank of India Usman Road Branch, Chennai.	Rs.759.00
	TOTAL	Rs.28,83,543.78

ANNEXURE-IV

Expenditure during the Check Period from 01.01.1992 to 13.05.1996

SL.No.	Source of Income	Amount
1.	Family expenditure of Tr.V.Sathyamoorthy and his family members	Rs.1,83,044.00
2.	Educational Expenses for the children of Tr.V.Sathyamoorthy.	Rs.10,913.00

3.	Amount deposited in Recurring Deposit No.6/91 in the name of Tmt.S.Chandra, W/o. Sathyamoorthy at Indian Overseas Bank, Kadaladi from 1992 to 22.07.1994	Rs.9,068.00
4.	Land Taxes paid by Tr.V.Sathyamoorthy his wife Tmt.S.Chandra, son Tr.S.Sundarapandian and Tmt.Thangam in respect of lands, possessed by them at Melaselvanur, Kadaladi, Thiruppullani and vedanthai for the Pasali 1402 to 1405.	Rs.1,342.00
5.	Income Tax remitted by Tr.V.Sathyamoorthy during 1992-93 and 1993-94 and 1994-95	Rs.16,165.00
6.	Expenditure for starting Chandra Aqua Farm at Kooraikulam 1993 to 1996. (Excluding machinery)	Rs.13,00,000.00
7.	Land amount and interest remitted in the name of M/s.Chandra Aqua Farms at Bank of India, Mount Road Branch, Chennai from 1994 to 1996	Rs.11,39,747.00
8.	L.I.C Quarterly premium, paid by Tr.V.Sathyamoorthy in policy No.740395220 at Thallakulam Branch from 01.01.1992 to 13.05.1996	Rs.23,779.60
9.	L.I.C Half yearly premium, paid by Tmt.S.Chandra, in policy No.741367932 at Thallakulam Branch from 20.08.1994.	Rs.14,092.00
10.	L.I.C yearly premium, paid by Tr.V.Sathyamoorthy in policy No.712243083 at Mylapore Branch Chennai from 28.03.1995.	Rs.15,408.00
11.	L.I.C yearly premium, paid by Tr.S.Sundarapandian in policy No.712243017 at Mylapore Branch Chennai from 28.03.1995	Rs.13,180.00
12.	Donation given by Tr.V.Sathyamoorthy to Assammal Memoral Education Trust, S.Tharaikudi on 06.04.1996	Rs.10,000.00
13.	E.C.Deposit amount and E.C.consumption charges, collected for S.C.No.110 of Kooraikulam Village during 1995-96	Rs.2,06,073.00 Rs.15,800.00
14.	E.C.Deposit amount and collected for S.C.No.117 of Kooraikulam village during 1995-1996.	Rs.30,985.00
15.	E.C.Deposit amount and E.C. Charges, collected for S.C.No.126 and 111 in the name of Tr.V.Sathyamoorthy at Melaselvanur from 1992 to 1996.	Rs.167.00 Rs.2,203.00 Rs.3,350.00 Rs.1,094.00

16.	House Rent paid by Tr.V.Sathyamoorthy for the house in plot No.A-5 and B-2 Housing Board Colony, Ramnad from 01.01.1992 to 13.05.1996	Rs.19,279.00
17.	E.C.Consumption charges collected from Tr.V.Sathyamoorthy for S.C.No.613 and 626 at A-5 and B-2 Housing Board Colony, Ramnad from 1992 to 1996.	Rs.2,290.00
18.	House Tax paid by Tr.V.Sathyamoorthy on 19.03.1995 in respect of the House in Door No.1/60/B, Melaselvanur.	Rs.50.00
19.	Telephone charges remitted by Tr.V.Sathyamoorthy for Telephone No.20790 at Ramnad from 01.06.1992.	Rs.45,934.00
20.	Telephone Charges remitted by Tr.V.Sathyamoorthy for Telephone No.66532 at Melaselvanur from 01.12.1992 to April 1996.	Rs.19,546.00
21.	Loan amount paid by Tr.V.Sathyamoorthy to Tmt.S.Sivanayee of Melaselvanur on 10.08.1992 as per document No.433/92	Rs.12,000.00
22.	Expenses for maintaining 7 race bulls by Tr.V.Sathyamoorthy from 1992 to 1994	Rs.22,400.00
	Total	Rs.31,17,909.60

ANNEXURE-V

Assets acquired by A-1 Tr.V.Sathyamoorthy During the Check Period from 01.01.1992 to 13.05.1996

Assets as per Statement No.II	Rs.52,81,671.60
Assets as per Statement No.I	Rs.1,65,280.60
Assets acquired during the check period (Statement-II (-) Statement-I)	Rs.51,16,391.00

ANNEXURE-VI

Expenditure during the check period (Statement-IV)	Rs.31,17,909.60
Income during the check period (Statement-III)	Rs.28,83,543.78
Excess Expenditures (Statement IV – Statement III)	Rs.2,34,365.82

ANNEXURE-VII

Excess Expenditure during the check period as per statement-VI	Rs.2,34,365.82
Value of assets acquired during the check period as per Statement-V	Rs.51,16,391.00
Total disproportionate Assets during the Check period (Statement VI + Statement V)	Rs.53,50,756.82

23. In the written argument filed by the appellant, it is pointed out that the Trial Court on its own arbitrarily had raised the total value of assets possessed by A-1 and A-2 at the beginning of the check period [Annexure-I] as Rs.10 lakhs as against Rs.1,65,280.60 which is the value paid to acquire those assets. The observation that the investigating officer failed to take the current guideline value of the properties mentioned in Annexure-I and attributing probable increase in value of properties after the date of their purchases, is totally wrong and against the principles of assessing the disproportional assets. Neither appreciation nor depreciation has relevancy in fixing the value of the properties held before check period. The amounts actually spent by the accused towards acquisition of properties alone has to be taken into account. Prosecution has rightly taken into account the value as shown in the concern documents. The prosecution didn't take any value arbitrarily, but gone by documentary evidence and supported by oral corroborations.

24. At para 107 of the judgment, the trial Court has observed that, the value of the property shown in the 1st schedule held by A1, A2 and their son Sundarapandiyan could have appreciated substantially during the check period. Therefore, the value of the property should have been fixed as per the valuation given by VAO on the date of prosecution. Accordingly to the trial Court, the accused have furnished VAO certificate showing the value of A1 asset is Rs.8,00,000/-, the value of A2 asset is Rs.22,00,000/-. The value of the A2 share in the Rice Mill is Rs.15,00,000/-. The VAO certificate though produced during questioning under Section 313 Cr.P.C and may be on higher side, atleast the value would have escalated to Rs.10 Lakhs. Therefore, the value of the property held by the accused prior to check period shown in the schedule-I has to be fixed atleast as Rs.10 lakhs instead of Rs.1,65,280.60/-.

25. The reasoning for enhancing the value of the property held by the accused person before the check period is illogic

and incorrect. No doubt these properties were purchased between 1975 to 1993 and the value would have been appreciated drastically but the value of these properties has been rightly shown as per the value shown in the sale deed on the date of purchase.

26. The Trial Court's method of giving advantage of Rs.10 lakhs is not only a flawed method, giving undue advantage to A-1 and A-2 but also perverse. Therefore, finding of the Trial Court may be rejected and the value arrived by the prosecution for the assets held by the accused as on the beginning of the check period may be taken into account.

27. This Court is fully in agreement with the Public Prosecutor. It is not the current value of the property held by the accused persons but the value of the property at the time of acquiring ought to have been taken note while assessing the assets held by the accused persons If the logic of the trial Court is accepted, the same yardstick will apply to all the assets possessed by the accused, acquired during the check period. This is not only inappropriate it will be detrimental to the accused if the property held by them are valued at current marked rate instead of the real value paid while acquiring it.

28. It is contended by the learned counsel for the appellant that the trial Court ought not to have reduced a sum of Rs.20,000/- from the purchase value of the property in item No. 31 and Rs.1,30,000/- from the purchase value of the properties mentioned in the Item Nos.33 to 35 in Annexure-II. In reply to this contention the learned counsel appearing for the respondent would submit that the relevant documents are Ex.P.3 in respect of Item No.31 and Ex.P.6 in respect of Item No.33. PW.76 [Tr.V.Padmanaban] the power attorney and son of the vendor had deposed that sale consideration was received prior to the execution of the sale deed and admits that his father Mr.Vadivel Thevar received the sale consideration and hand over the property to A1 as early as 1989. He as his son and power agent executed the sale deed in the year 1995. Thus, in the light of explanation put forth by the defence in respect of Item Nos.31, 33, 34 and 35 the Trial court has reduced a sum of Rs.20,000/- in respect of item No.31 and Rs.1,30,000/- in respect of item Nos.33 to 35.

29. The reasoning given by the trial Court for accepting the defence contention that the sale consideration for Item No.31 was paid prior to the check period is contrary to the

contents in registered written document. The non-examination of the vendor cannot be the reason to accept the version of the defence that the sale consideration of Rs.20,000/- was paid prior to the check period. The Trial Court has accepted the explanation given by the accused that a sum of Rs.20,000/- was given as advance before registration of the document during the agreement period. This explanation is not substantiated by any document. The alleged agreement produced by the accused persons during Section 313 Cr.P.C proceedings cannot be looked into without examining the party to the document. Unfortunately, the trial Court has looked into this document which is inadmissible without examining the party to the document.

30. As far as the value of the property covered under Item Nos. 33 to 35 of Schedule-II, the Trial Court had accepted the evidence of PW.76 who had deposed that his father Vadivel Thevar received Rs.1,30,000/- towards the cost of the property in the year 1989 similarly regarding property mentioned in Item No.24 relying upon the evidence of PW.68, the Trial Court had accepted the plea of the accused that sale consideration of Rs.47,000/- was paid to the vendor prior to the check period. In this regard, it is pertinent to point out that, any oral evidence contrary to the content of the written document is subject to Section 91 and Section 92 of the Indian Evidence Act. The sale deeds which are not only written document but also registered document will prevail over ocular evidence which is contrary to written document.

31. Ex.P.5 is the sale deed executed by [V.Pathmanban], the power agent of Vadivel Thevar in respect of the property at Survey No.131/4 at Melaselvanur village purchased in the name of A2 for sum of Rs.1,00,100/- is total extent of 2 acres 20 cents.

32. Ex.P.7 is the sale deed in respect of house sites and Rice Mill in Survey No.131/4 at Melaselvanur Village purchased in the name of A2 for sum of Rs.1,20,000/-. The power agent V.Pathmanaban in his deposition had said that the sale consideration was received by his father Vadivel Thevar in the year 1984, whereas the recital of the sale deed reveals that Vadivel Thevar has given power of attorney to Pathmanaban [PW.76] on 11.08.1995 that is during the check period and thereafter as power agent the sale consideration was received by him.

",,,,நாளது தேதியில் நான் ந.வடிவேல்தேவர் அவர்களுக்காக தங்களுக்கு ரூ.12,400 கிரையம் செய்து கொடுத்து அவர்களின் குடும்பத்துச் செலவிற்காக எற்கனவே நான் ரொக்கமாய் பெற்றுக் கொண்டபடியால்,,,,"

33. While the documentary evidence reveals that the sale consideration was received by the power agent, the ocular evidence contra to the content of the document which does not fall within the exceptions mentioned under Section 92 of Evidence Act is inadmissible in evidence. It is an afterthought in order to save the accused persons. Excluding the total value of the properties covered under Ex.31, 32, 33, 34 and 35 based on the oral evidence which is contrary to the documentary evidence is erroneous and against the Principle of law of evidence.

34. Regarding value assessed for the item No.50 which is a house constructed by A-1 during the check period at Melaselvanur village. The learned Special Public Prosecutor appearing for the appellant/state would submit that 30% rebut given to the value of the property on the ground of personal supervision is erroneous. It is contended by the learned Special Public Prosecutor that Rupees five lakhs was reduced from the value of item No.50 in Annexure-II is not appropriate.

35. The PWD's Engineers Report is marked as Ex.P.249 when there is no material to show that Bricks and timber used for construction were utilised from their own source, such an explanation without material evidence is not an acceptable explanation. The reduction of Rs.5 lakhs from the prosecution calculation value of Rs.15,44,221/- in this regard the Trial Court ought to be rejected.

36. 1/3rd cost reduction for personal supervision undoubtable is on higher side, even if the construction is made under personal supervision. The cost of the building may be lesser than the cost incurred for constructing the house through contractors, but except admission by some prosecution witnesses that the brother of A1 was a registered PWD contractor, there is no proof to establish that the house was constructed under his personal supervision. Therefore, while the trial Court has accepted the valuation of the building as found in the report Ex.P.249, it ought not to have given 30% reduction.

37. The reasoning attributed by the trial Court for deducting Rs.5 lakhs from the value of the house shown under item No.50 is not based on any material evidence. It is appalling to note that the trial Court has believed that brick, Timber and granite for constructing the house was available to the accused free of cost.

38. As far as Item No.51 is concerned the value of costly wooden furniture found in the house of A1 were reduced by Trial Court by Rs.41,491/- as against the prosecution value of Rs.1,91,491/-. When there is no evidence to show on the part of the defence that woods from their work shop was utilised for making those costly wooden furniture's, the trial Court reducing the value of furniture by Rs.41,491/- appears to be baseless. The oral evidence of PW.20 Kathiresan Achari a carpenter by profession is relied by the Trial Court to believe the fact that A1 father was running a Timber depot at Muthukurathur and Timber from his shop was used by him to make the Wooden furniture's. In the absence of proof regarding the existence of any timber depot by name Selavai Timber depot, it is unfortunate the trial Court has accepted this evidence as true.

39. Therefore, the contention of the appellant in this regard has to be accepted and the cost of furniture found in the house of A1 and valued under item No.51 of Annexure-II should be taken has Rs.1,91,491/- accepting the evaluation report Ex.P.268 and the photographs which are marked as M.O.1.

40. The other contention raised by the appellant is that when A1 house was searched 186.75 sovereigns of gold jewels were found in his possession. When the accused has failed to produce any acceptable evidence to show the source of gold jewels in his house, the trial Court had deleted Rs.2,13,600/- being the value of 66.75 sovereigns of gold jewels by accepting the claim of A1, that it was his marriage gift. Ex.P.299 is the inventory drawn during the house search of A1 [V.Sathyamoorthy] from out of 186.75 sovereigns of gold [Item No.92], 120 sovereigns of Gold being excluded by the prosecution accepting the explanation of the accused that it was his marriage gift given by his mother-in-law in the year 1974, only the rest of the jewels were taken up for valuation.

41. Similarly, item No. 73 in Annexure-II, the value of silver articles was also totally exempted by the Trial Court, accepting the plea of accused persons that they are acquired prior to commencement of the check period or received as gift from his close relatives.

42. As far as gold jewels, silver articles, cash and coins of Rs.89,755/- found during the search of the A1 [V.Sathyamoorthy] residence. The prosecution has taken the value for 66.75 sovereigns only out of total 188 Sovereigns of jewels

were found. 120 Sovereigns of jewels were in possession of the appellants prior to the check period and same is shown in Annexure-I as item Nos.31 and 32. 16 Kgs of Silver articles also shown in item No.33. So only after excluding 120 Sovereigns of Gold and 12 Kgs of Silver the value of 66.75 Sovereigns of Gold and 26 Kgs of Silver articles are shown in Annexure-II in item Nos.72, 73 and 74. The exclusion of the value of these items without any plausible reason is incorrect.

43. The cash and coins Rs.89,755/- were found during the search of the A1 [V.Sathyamoorthy] residence held 3 months after the check period. The accused has not produced any document or explained that the money was acquired after the check period. The explanation given by the accused is that they are donations given to him by his partymen. According to the defence, A1 being a Star Speaker for his party, he was paid remuneration for attending political meetings.

44. Till the launching of prosecution neither A1 [V.Sathyamoorthy] nor his wife A2 [Chandra] had disclosed the income what they claim during the trial through defence exhibits and witnesses. Even their income tax returns are filed belatedly subsequent to registering of First Information Report.

45. The Hon'ble Supreme Court in Vasant Rao Guhe Vs. State of Madhya Pradesh reported in JT 2017 (7) SC 586 has explained when a public servant could be held guilty under Section 13(1) (e) of Prevention of Corruption Act for possessing asset disproportionate to his known sources of income and who has to discharge the burden of proof. The relevant passages are extracted below for better understanding of the legal position.

Section 13(1): A public servant is said to commit the offence of criminal misconduct.

(a)

(b)

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(e) " if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income."

20. As ordained by the above statutory text, a public servant charged of criminal misconduct thereunder has to be proved by the prosecution to be in possession of pecuniary resources or property disproportionate to his known sources of income, at any time during the period of his office. Such possession of pecuniary resources or property disproportionate to his known sources of income may be of his or anyone on his behalf as the case may be. Further, he would be held to be guilty of such offence of criminal misconduct, if he cannot satisfactorily account such disproportionate pecuniary resources or property. The explanation to Section 13(1)(e) elucidates the words "known sources of income" to mean income received from any lawful source and that such receipt has been intimated in accordance with the provisions of law, rules, orders for the time being applicable to a public servant.

21. From the design and purport of clause (e) of sub-clause (1) to Section 13, it is apparent that the primary burden to bring home the charge of criminal misconduct thereunder would be indubitably on the prosecution to establish beyond reasonable doubt that the public servant either himself or through anyone else had at any time during the period of his office been in possession of pecuniary resources or property disproportionate to his known sources of income and it is only on the discharge of such burden by the prosecution, if he fails to satisfactorily account for the same, he would be in law held guilty of such offence. In other words, in case the prosecution fails to prove that the public servant either by himself or through anyone else had at any time during the period of his office been in possession of pecuniary resources or property disproportionate to his known sources of income, he would not be required in law to offer any explanation to satisfactorily account therefor. A public servant facing such charge, cannot be comprehended to furnish any explanation in absence of the proof of the allegation of being in possession by himself or through someone else, pecuniary resources or property disproportionate to his known sources of income. As has been held by this Court amongst others in State of Maharashtra

Vs. Dnyaneshwar Laxman Rao Wankhede [2009 (15) SCC 200], even in a case when the burden is on the accused, the prosecution must first prove the foundational facts.

46. The Apex Court has added further that, the prosecution to succeed in a Criminal trial has to pitch its case beyond reasonable doubt and lodge it in the ream of "must be true" category and not rest contending by leaving in the domain of "may be true".

47. If one apply the above test to the facts of the case, we find that the prosecution had pitched its case beyond reasonable doubt and lodged it in the realm of "must be true". Unfortunately the trial Court has provided whimsical reasoning's to discredit the prosecution evidence. It is understandable in case of two possible, views if the trial Court takes a view favourable to the accused, Here the trial Court had invent a view which is totally impossible, perverse, purely based on imagination, surmises and conjunctures for the sake of acquittal.

48. For easy understanding, perversity in the trial Court judgment can be summarised in nutshell as below:-

a) The prosecution had laid final report alleging the value of the assets held by the accused persons at the end of check period 13.05.1996 as Rs.83,01,948.60. The assets were listed in Annexure-II of the final report. Later in the course of trial the prosecution has conceded the properties worth of Rs.30 lakhs which stood in the name of A3 to A7 are to be excluded from Annexure-II. After such exclusion the revised calculation under Annexure-II was reduced to Rs.53,50,756.82. This calculation includes the value of the properties held by the A1 and his family on the date prior to the check period. As per prosecution the value of the asset prior to check period was Rs.1,65,280.60. The assets are listed in Annexure-I. Out of 42 items listed in Annexure-I, Item No.1 to 24 are immovable properties purchased in the names of A1, A2 and their minor son Sundarapandian. While calculating the value of these properties in Annexure-II the prosecution has rightly retained the same value. Whereas the trial Court has observed that the value of these assets would have appreciated manifold to Rs.10,00,000/- so it has to be reduced from the total value of the properties shown under Annexure-II to arrive at the value of the property acquired during the check period. When the said property was admittedly not acquired during the check period, reducing

Rs.10,00,000/- from the value of assets acquired during the check period is nothing but absurd, illogic and perverse.

b) The case of the prosecution is that the A1 had acquired assets shown as item Nos.23 to 67 in the revised Annexure-II during the check period either in his name or in the name of his wife [A2] or in the name of his minor son Sundarapandian. The accused are not disputing the acquisition of these assets. While so, the trial Court beside reducing Rs.10 lakhs from the total value of the asset acquired during the check period which is an error apparent as demonstrated above, also had reduced another Rs.11,84,846/- from the value of assets held at the end of the check period. Paragraph 99 to 107 of the judgment reveals that the trial Judge has viewed the evidence of prosecution with tainted version. The Trial Court has relied upon the oral evidence and answers given by the accused persons during Section 313 Cr.P.C questioning, disregarding the value of these properties fixed by the prosecution based on the respective sale deeds and valuation certificates.

49. Contrary to the documentary evidence, vague explanations of the defence is accepted by the Court below. All these properties were admittedly purchased during the check period. While so, contrary to the bar under Section 91 and 92 of the Evidence Act, the trial Court had overlooked the recital in the sale deed and accepted the oral evidence to hold sale consideration was made by A1 prior to the check period or the materials for construction was received at free of cost. Thus, trial Court without any rhyme or reason had arbitrarily reduced about 21 lakhs rupees from the total value of assets acquired by A1 and his family during the check period.

50. While considering the income of the public servant the trial Court has miserable failed to understand the scope and ambit of Section 13(1)(e) of Prevention of Corruption Act and the explanation there under. The first accused a former member of the Legislative Assembly and Minister had admittedly acquired wealth in his name and his family members [wife Chandra [A2] and their minor son Sundarapandian] during the check period of 4½ years. The immovable assets are shown in the revised Annexure-II as item Nos.23 to 37. The movables such as Tractors and machineries are shown as item Nos.38 to 46. The valuable securities such as share advance, Bank balance, currencies are shown as item Nos.47 to 56. The Gold and Silver articles, house hold articles are shown as item Nos. 57 to 67. The immovables held prior to the check period are shown as item Nos. 1 to 22. The House hold articles held prior to the check period are shown as item Nos. 68 to 75.

51. The known sources to purchase these assets during the check period for A1 and his family member are:-

i). Agricultural income of A1, A2 and their minor son

ii). A1 salary as MLA and Minister

iii). A2 income from Aqua culture farm [establish during the check period]

iv). A2 income from Rice Mill purchased jointly with Mayilvaganan.

52. As per code of conduct for Minister, A1 [Sathyamoorthy] ought to have declared the assets he had acquired while holding the office, which he has not done. Atleast he, his wife Chandra and his minor son Sundarapandian in whose name the assets were acquired during the check period ought to have disclosed to the Income Tax Department and paid Income Tax periodically. The Income Tax returns marked as defence Exhibits are subsequent to registration of F.I.R. The Trial Court very surprisingly had taken note of such income tax returns documents issued or created after being prosecuted. It is pertinent to note while the declared income from the known source of income of A1 and A2 was only around Rs.28 lakhs, trial Court has fixed it to whopping Rs.70 lakhs. The Trial Court has held that the minor son of A1 and A2 had total income of Rs.28,83,543.18 during the check period. It is beyond any one reasonable prudence to assume a minor who possessed before the check period only 1.31 acres of Nanja land in Pottakulam Village [item No.19 in Annexure-I], and a fixed deposit of Rs.9,000/- in Indian Bank, Assembly Extension Chennai [Item No.25 in Annexure-I in Ex.P.99] could acquired wealth worth several lakhs and income of Rs.28 lakhs immediately after his father [A1] become the MLA of the party ruling and subsequently, the Minister for Commercial Taxes. It could be seen from the trial Court judgment that the Trial Court has identified the sources of income from the ocular evidence of defence witnesses and few stray answers in the cross examination of prosecution witnesses. PW.86 who has deposed in the cross examination that minor son of A1 Sundarapandian has 180 Goats. A1 had huge income from usurfructs of tamarind trees, coconut trees and other income. The trial Court has given credit to all these sources.

53. The arithmetic of the trial Court in paragraph 112 of his judgment to arrive at the income of A2 from her Aquaculture farm reminds this Court the fable "The Milk maid and her pail". Like the milk maid, who dreamt of exchanging milk for chicken and amass wealth by selling eggs, but ending up in dropping her

pail to ground, the trial Court had taken the value of prawn seeds and value of Prawn to arrive at fabulous figure of Rs.36,21,448.48/- as income of A2 [V.Chandra] during the check period. The Trial Court had relied upon the evidence of PW.23 who had opined that for Rs.1 lakh worth prawn seeds, one can earn income of Rs.10 lakhs. The Trial Court relying upon the defence theory and few invoices created during the end of check period had computed the income for the entire 4 ½ years without ascertaining whether A2 [V.Chandra] had submitted any income tax returns for that period or disclosed the sale of prawn to the Commercial Tax Department or any other authorities. A2 [V.Chandra] had not even produced her statement of accounts which used to be kept in the normal course of business. While so, the trial Court has arrived at a fabulous figure of Rs.36,21,448.48 as income of A2 [V.Chandra] during the check period which is not even the case of the defence. The trial Court has totally ignored the explanation to Section 13(1)(e) of the Prevention of Corruption Act. Unmindful of the fact that neither A1 as a public servant nor his wife as a private individual had disclosed their source for purchase of assets in their name and their son Sundarapandian name, the trial Court has probalised the source of income which in fact not in existence or very trivial.

54. Acceptance of income tax returns by the Court in case of disproportionate asset, without independent evidence is commented upon by the Hon'ble Supreme Court in the judgment rendered in State of Karnataka vs. Selvi Jayalalitha and others [reported in 2017 (7) SCC 263] as below:

> 252. The High Court, on the other hand, readily accepted the income tax returns filed by the assessee and affirmed the claim of A1 of agricultural income of Rs.52,50,000/-. It was of the view that though the income tax returns had been filed belatedly, the same per se could not be a ground to reject the same as a proof of the agricultural income of A1 from grape garden. Thereby, the High Court enhanced the Agricultural Income of A1 to Rs.52,50,000/- permitting an addition of Rs.46,71,600/-.
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> 255. The High Court thus had proceeded not only in disregard of the evidence as a whole but also being oblivious of the legal postulations enunciated by this Court that income tax returns/orders passed thereon are not binding on criminal Court and that the facts involved are to be proved on the basis of independent evidence and that the income tax returns/orders are only relevant and nothing further.

55. On analysis of the evidence and the finding of the trial Court, this Court find that the trial Judge has unreasonably bend upon to accept readily all and sundry explanations offered by the defence to justify the accumulation of assets beyond their legally known sources. The trial Court has tinkered the valuation statements to an extend that accused were found deficit balance. The trial Judge has boosted the income under Annexure-III and had reduced the value of assets held at the end of check period in Annexure-II by assigning fallacious reasons. The acceptance of documents relied by the defence which does not carry any probative value renders the trial Court finding unsustainable.

56. The charge against the appellants and other accused was for possession of asset worth Rs.83,01,948.60 disproportionate to the known source. The prosecution has deleted item Nos.37 to 49 in the original Annexure-II which listed 90 items of assets. Also deleted the value of the Ambassador car and Contessa Car shown as item Nos.52 and 53. Only after giving due reduction to these items and 120 sovereigns of Gold jewels it has arrived the value of the asset acquired during the check period as Rs.51,16,391/-. While the known source of income of the appellants during the check period and expenditure was more or less equal, the assets they acquired during the check period are undoubtedly only from the income through unknown source. While the income from known source is less than Rs.30 lakhs during that period no amount of concession or liberal computation of valuation will justify the acquisition of assets worth above Rs.50 lakhs during the check period.

57. In the result, this Appeal against the acquittal of A1 and A2 is allowed. The order of acquittal passed by learned XII Additional Judge/Special Judge No.2, Chennai in C.C.No.17 of 1997 dated 18.08.2000 is hereby set-aside. This Court holds A1 guilty of offence under Section 13(1)(e) punishable under Section 13(2) of the Prevention of Corruption Act and A2 guilty of offence under Section 109 IPC r/w 13(1)(e) of Prevention of Corruption Act.

06.06.2018

On completion of the argument of the counsels on 17.04.2018 this Court reserved judgment. After summer recess, through the Registry the respondents were informed about the date of judgment and accordingly the respondents 1 and 2 were present today.

2 After pronouncing the judgment, the respondents 1 and 2 were heard on question of sentence. The respondents through their counsel submitted that the first respondent is aged about 73 years old and the second respondent is aged about 62 years old, both have medical history of ailment which may be taken note as a mitigative circumstances for awarding lesser sentence.

3 It is also submitted by the learned counsel that the crime took place nearly 20 years ago, therefore, lesser sentence may be imposed on the respondents. The learned Public Prosecutor submits that there is no conviction or criminal case pending against the respondents.

4 Considering the submissions made by the learned counsel for the respondents and the nature of the case, this Court while holding both guilty, for the offence under Section 13(1)(e) of the Prevention of Corruption Act, A1 is sentenced to undergo Rigorous Imprisonment for a period of five years and to pay a fine of Rs.5,00,000/-, in default to undergo one year Simple Imprisonment. A2 is found guilty of offence under Section 109 IPC and Section 13(2) read with 13(1)(e) of the Prevention of Corruption Act, sentenced to undergo two years Rigorous Imprisonment and to pay a fine of Rs.5,00,000/-, in default to undergo one year Simple Imprisonment. Period of imprisonment already undergone, if any, shall be set off.

-s/d-

Assistant Registrar(CSIV)

True Copy

Sub-Assistant Registrar

bsm

To

1. The XII Additional Judge/Special Judge No.2, Chennai.
2. The Deputy Superintendent of Police, Vigilance & Anti Corruption,
Ramanathapuram.
3. The Special Public Prosecutor, High Court, Madras.

4.The Director Directorate of Vigilance and anti Corruption Chennai

5.The Superintendent Central Prison, Puzhal
Chennai

6.The Superintendent Central Prison for Women,
Puzhal Chennai

7.The Section Officer Criminal Section
High Court Madras-104

8.The Director General of Police
Mylapore Chennai-4

Criminal Appeal No.33 of 2001

aa06/06/2018