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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :10.04.2023 Pronounced on:20.04.2023

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Appeal No.662 of 2015

1.R.Varadharajan
2.Mrs.V.Vasantha
3.V.Sivarama Krishnan .. Appellants

/versus/

State rep.by
The Inspector of Police
Vigilance and Anti Corruption
City Special Unit-III
Chennai 600 020.
Crime No.11/AC/2004/CC-II .. Respondent

Prayer : Criminal Revision Case has been filed under Section 374(2) of Cr.P.C., to set aside the judgment and sentence passed by the Special Judge and Chief Judicial Magistrate, Thiruvallur in Special Case No.6/2007, dated 12.10.2015.

For Appellants :Mr.K.Sukumaran

For Respondent :Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

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JUDGMENT

This Criminal Appeal is preferred by Varadharajan, a public servant, his wife Mrs.Vasantha, and his son Mr.Sivaramakrishnan. The first appellant while serving as Stores Custodian in the Tamil Nadu Electricity Board was charged for the offence under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988. The second and third appellants, who are his wife and son, were charged for abetting him an offence punishable under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988 r/w 109 of the Indian Penal Code.

2.The sum and substance of the charge was that the first appellant Varadharajan, who was a public servant while working as Stores Custodian Grade-I in the Tamil Nadu Electricity Board during the check period between 01.01.1995 and 31.12.2000, had acquired wealth worth of Rs.12,40,533/- in excess to his known source of income for which, his wife and son has aided by lending their name for the investment. The trial Court, on appreciating the evidence adduced by the prosecution, held the appellants guilty and sentenced them as below:-

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Rank of the accused	Convicted under Section by the trial Court	Sentenced them by the trial Court
A1	Under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act,1988	To undergo 4 years RI and to pay fine of Rs.1,00,000/- in default, to undergo 6 months SI.
A2 and A3	Under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988 r/w 109 of IPC	To undergo 4 years RI and to pay fine of Rs.1,00,000/- in default to undergo 6 months SI.

The period of incarceration during trial was ordered to be set off under Section 428 of Cr.P.C.

3. The case of the prosecution as spoken by its witnesses reveal that, A1-Varadharajan entered into the Government Service on 01.01.1976 in Tamil Nadu Electricity Board as a temporary Super Numery Helper and later, gradually promoted as Stores Custodian Grade-II in General Construction Circle Store at Ambattur from 05.07.1995. Being satisfied in the preliminary enquiry that the accused has accumulated assets over and above the known source of income during the check period between 01.01.1995 and 31.12.2000 a detailed enquiry was conducted. Mr.M.Prabaharan, Inspector of Police, Vigilance and Anti-Corruption, City Special Unit-III, Chennai, submitted his detailed enquiry report

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leading to registration of the First Information Report in No.11/AC/2004/CC-II by the Vigilance and Anti-Corruption, City Special Unit-III, Chennai-20.

4. As per the detailed enquiry report, during the check period from 01.01.1995 to 31.12.2000, the accused has accumulated wealth in his name and in the name of his wife and also in the name of his son. Both his wife and son had no independent income and they are solely depending on the accused. Except the ancestral property a residential house at Palani Chettipatti Taluk, inherited by the public servant from his father, the other assets are acquired by the accused. As per the detailed enquiry at the beginning of the check period i.e. on 01.01.1995, the accused had assets worth Rs.42,081/-. At the end of the check period i.e on 31.12.2000, the value of the assets acquired by the public servant has been assessed at Rs.11,53,311/-. His total income during the check period was assessed as Rs.5,35,873/- and the expenditure during the said period for him and 3 of his family members was around Rs.4,78,224/-. While his likely savings during the check period roughly was about Rs.57,649/-, the value of the assets acquired by him at the end of the check period was

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around 196.6% disproportionate to the known source of income.

5. The investigation was done by Mr.R.Rajasrinivas, Inspector of Vigilance and Anti-Corruption, City Special Unit-III, Chennai, pursuant to the authorisation given under the proceedings dated 29.09.2004, the Superintendent of Police, Central Range, Vigilance and Anti-Corruption, Chennai-28. On completion of investigation, final report filed and based on the final report, charge against A1 for the offence under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988 for possessing worth of property Rs.12,40,533/- in excess of his known source of income was framed. For abetting A-1 to acquire the disproportionate assets, A2 and A3 were charged for the offence under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988 r/w 109 of IPC. The accused were found guilty of charges by the trial Court on being satisfied with the evidence for prosecution, sentenced A1 to A3 as stated above.

6. Being aggrieved, the present Criminal Appeal has been filed.

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7. The learned counsel appearing for the appellants submitted that the First Information Report was registered on 28.09.2004 after the detailed enquiry and charge sheet was filed more than two years thereafter. There was inordinate delay in getting the sanction to prosecute and the filing of final report. The sanction order marked as Ex.P1, on the face of it, will prove that the sanctioning authority namely, Mr.N.Seenivasagan, Superintending Engineer, Tamil Nadu Electricity Board, has not applied his mind independently before granting sanction to prosecute A-1, but acted upon the report given by the Director of Vigilance and Anti Corruption. It is apparently seen from the admission of PW-1 in the cross examination that he has not perused the documents regarding the valuation of old two wheeler (bullet) which was purchased prior to the check period and he has not seen the receipt in respect of the jewels mentioned in the list of the assets acquired during the check period. He is not aware whether the valuation report (Ex.P13) issued by the Executive Engineer (PW-24) was in accordance with the Public Works Department guidelines and also PW-24 has not signed the report marked as Ex.P13. Therefore, it is not a valid valuation certificate.

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8. PW-1 Mr.N.Seenivasagam, in the sanction order (Ex.P1) has referred about the explanation given by the first appellant regarding the assets held by him. However, the said explanation was not produced before the Court for proper appreciation. The trial Court failed to take note of the fact that similarly, the statement of the accused recorded by the Investigating Officer was not placed before the trial Court. The valuation report E.P13, admittedly, was pursuant to the inspection by Mr.A.Shanmugam (PW-24), Executive Engineer attached to PWD, done in the presence of Mr.G.Elango, Inspector of Police, Vigilance and Anti-Corrutpion, City Special Unit-III, Chennai, who registered the First Information Report against the accused. The valuation report indicates that the construction was made in the year 2001-2002 i.e, after the check period. Further, the valuer Mr.A.Shanmugam has not signed the report to authenticate the genuineness. Only the Assistant Engineer, who accompanied him has signed the report and therefore it has no evidentiary value for appreciation. The trial Court, however, miserably failed to consider the fact that in Ex.P13 the author of the valuation certificate has not signed and according to the report, the period of the construction is after the check period. Hence, the same ought to have been ignored.

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9. The learned counsel also submitted that the preliminary enquiry in this case was conducted by one Mr.G.Elango, Inspector of Police. According to PW-24, on 16.04.2002, when he went to inspect the property of the accused situated at No.22, Srinivasa Nagar, Thirumullaivoyal, the said Mr.G.Elango, Inspector of Police, also accompanied him. However, the said Mr.G.Elango not examined by the prosecution and the same is fatal to the case of the prosecution.

10. According to the learned counsel for the appellants, the trial Court failed to take note of the loan raised by the accused to the tune of Rs.4,85,000/- by mortgaging his property with PW-9 [Mrs.Guruvayi Ammal]and the loan raised from his GPF account. The learned counsel also found fault with the assessment of income during the check period for not taking into account the income derived from the house at Theni Town at the rate of Rs.300/- per month and also for erroneous calculation towards the expenditure.

11. The learned counsel further submitted that in any event, the trial

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Court ought not to have convicted the A2 and A3 against whom there is no incriminating material to prove that they abetted A1 to commit the offence under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988. No incriminating evidence available against them and no question for abetment put to the second and third appellants.

12. The learned counsel also submitted that PW-3 was hardly 19 years college going boy and he had not abetted A1 in any manner to commit the alleged offence.

13. Per contra, the learned Government Advocate(Crl.Side) submitted that the first appellant employed as Stores Custodian Grade I in Tamil Nadu Electricity Board is a public servant and PW-1 is the competent authority to remove him from service. On perusing the papers filed by the Directorate of Vigilance and Anti-Corruption and on applying his mind independently, sanction was granted and there is no infirmity in appreciation of document by PW-1. Since for process of ascertaining the exact excess assets time taken to lay down the final report and the delay was reasonable and it cannot be attributed to the investigating agency

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alone. The authenticity of explanation given by the accused consumed time for the investigating officer to arrive at a right conclusion. No doubt, the valuation report-Ex.P13 has not been signed by PW-24. However, in the witness box, he had deposed that it is the report prepared by him on inspecting the said premises and in the report, two of his team members who are the Assistant Executive Engineers of PWD had signed. Therefore, there can be no doubt about the authenticity of the valuation report marked as Ex.P13. In the report, though the period of construction mentioned as 2001-2002, in the witness box, PW-24 has corrected and has deposed that the building was constructed in the year 1998-99. To show that A1 raised loan of Rs.4,85,000/- from PW-9, no other plausible explanation placed before the Court by the accused for the sufficient source.

14. The learned Government Advocate (Crl.Side) submitted that the evidence of PW-9 is wholly unreliable since she is the mother-in-law of the accused and the alleged mortgage is not a registered deed. Further, he submitted that the evidence of PW-9 regarding the unregistered mortgage deed is not corroborated by any other reliable witness except PW-13, who

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is none other than the son of PW-9 and brother of A2.

15. The learned Government Advocate (Crl.Side) further submitted that neither the second accused nor the third accused can be exonerated from the offence of abetting the public servant to acquire disproportionate asset since as wife and son knowingly assisted A1 to amass wealth in their name. The vacant land in Thirumullaivoyal was purchased in the name of the second and third accused in the year 1998 and 1999. The construction worth of Rs.9,50,000/- put up on the vacant land and the valuer in his report marked as Ex.P27 has stated that the said valuation is the exclusive of the cost of the land. In fact, the third accused has raised loan from one Amudhammal for Rs.50,000/- by executing a pro-note on 11th January 2000 for family expenses and for construction of the house and for the said amount, he has also executed security of the property on the same date. Both these documents are marked as Ex.P51 and Ex.P52. Therefore, he cannot be construed as mere name lender for his father without knowing the consequence.

16. Relying upon Ex.P46, the advice slip issued by the Tamil Nadu

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Electricity Board dated 17.08.2000 in the name of the third accused for S.F.No.549, Plot No.2, Srinivasa Nagar, Solambedu, the learned Government Advocate (Crl.Side) submitted that the building at Plot No.2, Srinivasa Nagar, completed before the check period and the electricity service was obtained during the month of August 2000 by the third accused. Except the alleged borrowing under the pornote Ex.P51 for Rs.50,000/-, there is no other source for A3 to put up the construction worth of Rs.9,50,000/-. Therefore, the learned Government Advocate (Crl.Side) submitted that the trial Court judgment to be confirmed.

17. Heard the learned counsel appearing for the appellants and the learned Government Advocate (Crl.Side)appearing for the State and perused the records.

18. The point for determination is whether the assets held by A1 at the end of the check period is 31.12.2000 was disproportionate to A1's known source of income. In addition, whether the sanction to prosecute A-1 is valid.

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19. Sanction to prosecute:-

Ex.P1 is the proceeding of the Superintending Engineer/CEDC/Central/Chennai-34, Tamil Nadu Electricity Board. The sanctioning authority Mr.Seenivasagan, Superintending Engineer, has mounted the witness box and examined as PW-1. There is extensive reference to the report of the Director of Vigilance and Anti-Corruption, but it does not mean that the sanction was accorded on the report of the Director of Vigilance and Anti-Corruption alone. Referring the report and the other statements, PW-1 has arrived at an independent conclusion that the first accused hold the property worth Rs.11,43,455/- over and above the his known source of income during the check period between 01.01.1995 and 31.12.2000. PW-1, in his testimony, has also categorically deposed that from the material placed before him, he was satisfied that the first accused is liable to be prosecuted, subjective satisfaction of the sanctioning authority requires no further objective test on his discretion, when there is *prima facie* material available to proceed against the public servant for the alleged misconduct.

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20. The learned Government Advocate (Crl.Side) referring Sub-Section (3) of Section 19 of the Prevention of Corruption Act, 1988 stated that the plea of defective sanction order at the appeal stage not sustainable under Section 19(3) of the Prevention of Corruption Act, 1988 reads as below:-

> "*19. Previous sanction necessary for prosecution:-*
>
> *(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—*
>
> *(a) no finding, sentence or order passed by a special Judge shall be reversed or altered by a Court in appeal, confirmation or revision on the ground of the absence of, or any error, omission or irregularity in, the sanction required under sub-section (1), unless in the opinion of that court, a failure of justice has in fact been occasioned thereby;*
>
> *(b) no court shall stay the proceedings under this Act on the ground of any error, omission or irregularity in the sanction granted by the authority, unless it is satisfied that such error, omission or irregularity has resulted in a failure of justice; (c) no court shall stay the proceedings under this Act on any other ground and no court shall exercise the powers of revision in relation to any interlocutory order passed in any inquiry, trial, appeal or other proceedings."*

21. This Court on reading Ex.P-1 does not find any infirmity which

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will vitiate the prosecution. Hence, the plea of the appellants counsel on this score not sustainable.

22. (ii)Non-examination of Mr.G.Elango, Inspector of Police:-

The case of the prosecution is that Mr.G.Elango, Inspector of Police, conducted preliminary enquiry and thereafter, a detailed enquiry was ordered by another officer after registration of the First Information Report on 28.09.2004. It is also borne by record that during the preliminary enquiry, the building stood in the name of the third accused at Thirumullaivoyal was valued by PW-13 and Mr.G.Elango, Inspector of Police, accompanied the valuer Mr.A.Shanmugam, Executive Engineer, Public Works Department. Since the preliminary enquiry report has culminated in a detailed enquiry and thereafter registration of the First Information Report and final report, the non-examination of Mr.G.Elango, Inspector is no way prejudice to the accused. There is nothing to indicate that Mr.G.Elango, in his preliminary enquiry, has given a clean chit to the accused or contrary to the preliminary enquiry report, detailed enquiry was conducted. It is also not the case of the appellants that at the time of preliminary enquiry, they have satisfactorily explained about the source of

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income for the assets acquired by them during the check period.

23. From the materials placed by the prosecution indicates that even before registration of the First Information Report (Ex.P24), sufficient enquiry been conducted and only after being satisfied that the appellants are in possession of assets disproportionate to the source of income, investigation has been conducted.

24. On 25.07.2001, before the preliminary enquiry commenced, the accused has given the property statement (Assets and Liabilities) to the authorities as required under the Service Rules. The said property statement is marked as Ex.P31. A-1 in Ex.P31 has declared that he purchased the vacant land measuring to an extent of 2510 sq.ft., at Srinivasa Nagar, Thirumullaivoyal in the name of his wife Vasantha (A2) and another plot measuring to an extent of 1195 sq.ft. in the name of his son V.Sivaramakrishnan(A3). While the property purchased in the name of his wife on 04.05.1998, the other property purchased in the name of his son on 26.03.1999, to purchase these properties he has stated that he mortgaged his ancestral property at Palanichettipatti, Theni District. He

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has also declared that he has purchased motorcycle on 30.07.1989 on instalment basis and a scooty on 29.04.1999 on instalment basis. Admittedly, A2 and A3 had no income of their own. However, Ex.P10, Bank pass book for the account in the name of A2(Vasantha) at Andhra Bank reveals that, she has been effectively transacting in the bank regularly with inward and outward. Though the said transactions are in hundreds or few thousands, the active bank transaction indicates that a person with no income transacting with debits and credits regularly to accommodate her husband income. Whether it was done with her knowledge or without her knowledge is a fact which is exclusively with the knowledge of the accused. No adverse prosecution can be drawn in view of the fiduciary relationship.

25. According to the prosecution, at the beginning of the check period as on 01.01.1995, the assets held by the accused and his family members was worth Rs.39,359-55. Out of which, 120 grams of gold jewels and 1 kg of silver articles given to the second accused at the time of marriage not been valued though included. During the check period on 14.05.1998 plot No.16, Srinivasa Nagar, Thirumullaivoyal measuring to

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an extent of 2510 sq.f.t purchased by the first accused in the name of his wife the second accused for Rs.80,000/- and another plot No.1, Srinivasa Nagar, Thirumullaivoyal, measuring to an extent of 1195 sq.f.t, purchased by the first accused in the name of the third accused on 26.03.1999 at a costs of Rs.64,530/-. In his statement of Assets and Liabilities marked as Ex.P31, the first accused has said that to purchase these properties, he had mortgaged his ancestral property at Palanichettipatti, Theni District. The documents seized during house search and marked indicates jewels were pledged at Kamakshi Benefit Fund Limited as per Ex.P11. The statement of Account maintained by A2 at Andra Bank discloses deposits of Rs.10,000 and Rs.15,000/- in the month of August 2000 by cash and the Bank Account of the first appellant Varadharajan maintained at Indian Overseas Bank, Palace Road, Madurai which is marked as Ex.P4 also discloses several cash transactions inwards and outwards regularly.

26. During the check period, the first appellant has purchased TVS scooty in Hire Purchase Scheme with one M/s Bagvan Motor Agencies, apart from two wheeler, household electrical articles, refrigerator, washing machine and vacuum cleaner purchased. The total value of the asset

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including cash on hand is assessed at Rs. 11,82,505/-, out of which, the value of the construction at Thirumullaivoyal, Srinivasa Nagar constitutes Rs.9,50,000/-.

27. The accused has attempted to justify the source for the construction through an unregistered mortgage and a pro-note. According to the accused, the source for purchase and for construction is the borrowing from his mother-in-law besides, mortgage deed which is unregistered. The date of those documents does not inspire the confidence about its genuineness, because Ex.P47 is the pro-note executed by Varadharajan in faovur of his mother-in-law Tmt.V.Guruvajiammal for Rs.4,85,000/-. This document is dated 11.02.1998. This transaction has not been disclosed by A1 in his assets and liabilities statement given to the department in the year 2001 which is marked as Ex.P31. That apart, according to prosecution, the first accused has borrowed money for constructing new house on 11.02.1998. Whereas, he has purchased the plots only on 04.05.1998 and 26.03.1999. It appears that he has borrowed Rs.4,85,000/- from his mother-in-law on 11.02.1998 itself in anticipation. The trial Court for this reason has rightly disbelieved the defence and

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justification given by the accused.

28. There is no good reason to reverse the finding of the trial Court since the reasoning is acceptable.

29. Similarly, Ex.P48 is the mortgage deed dated 11.02.1998. In this mortgage deed, the said Tmt.Guruvaijiammal for advancing a loan of Rs.4,85,000/- had reserved her right to enjoy the rent from the ancestral property of A1 at Palanichettipatti Taluk, Theni District for three years. It is an unregistered document, which gives the right of enjoyment of the rent from the property for the period of three years. The known of source of income means, it should be a lawful source and believable one. There is no evidence to show Tmt.Guruvaiyammal had resource to advance Rs.4,85,000/- to A1.

30. As far as the case in hand is concerned, except the salary and the rental income from the ancestral property, A1 had no other lawful source of income.

31. From the statement of pay drawn particulars obtained during the

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course of investigation, which is marked as Ex.P2, the legal source of **income of the appellants is as below:-**

Sl. No.	Description	Amount (Rs.)
1.	Net Salary, Allowances and other arrears of A1 for the check period	4,07,873-00
2.	GPF loan received by A1 on 18.06.1996	9,780-00
3.	GPF loan received by A1 on 19.12.1996	7,400-00
4.	GPF loan received by A1 on 19.06.1997	8,150-00
5.	GPF part final received by A1 on 23.01.1998	13,000-00
6.	GPF part final received by A1 on 14.06.2000	38,000-00
7.	Rental income derived from the house situated in Palani Chetti patti in Door 13-5-1A, 13-1-242 and 13-1-238 between 1/95 and 12/2000 at Rs.300/- per portion for three portions (900x12 months)	64,800-00
8.	Amount received by Thriru.Varadharajan (A1) on 26.06.2000 by pleading jewels	1,500-00
9.	Amount received by wife of A1 on 26.11.2000 from matured recurring deposit from Kamatchi Benefit Fund Limited Chennai	6,545-00
	Total	**5,57,048-00**

32. The relative of A1, who was examined as PW-5 had deposed that from the ancestral house, the first accused was earning the rental income of Rs.1,300/- per month. Contrary to the evidence of PW-5, PW-9, who is the mother-in-law has deposed that a sum of Rs.1,100/- is earned

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as income from the said property. Apart from these two contradictory statement by these two interested witnesses, there is no other evidence to show the rental income of the house was above Rs.900/- p.m. The trial Court has therefore accepted the rental income shown by the prosecution. While the total income during the check period was around **Rs.5,57,048/-,** the first appellant had spent for education of his son and daughter. Taking into consideration Ex.P12, the average consumption expenditure for a members of the family furnished by the Economics and Statistics Department, the trial has accepted the version of the prosecution about the expenditure incurred by A1, during the check period to meet out the domestic expenditure and the education expenditure of the children. His family consisting of four members viz., the public servant, his wife, his son and daughter. The expenditure during the check period is assessed as **Rs.6,54,435.70** average of Rs.1,10,000/- per year. After spending for the family to meet out the day to day expenditure from out of his known source of income, the likely savings during the check period is only **Rs.97,387/-.** However, the accused besides spending for his family out of Rs.5,57,048/- was able to invest on the property worth **Rs.11,43,145/-.** The explanation from the accused through PW-8, PW-9, PW-12 and PW-

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15, that they all had surplus money to lend A1 and A2 against pro-note and the unregistered mortgage deed on the face of it appears to be a fabricated document for the sake of defending the accused. Being a public servant, the source must be legal and the same should have been disclosed to his employer as per the Service Rules. Ex.P31 which is the Assets and Liabilities Statement given by A1 to the higher authority in the year 2001, remains silent about these loan transactions. Only after registration of the case against him and in the course of the investigation, these documents been prepared and placed to probabilise the source of income. These witnesses, who claim to have enough money to lend the accused, had not substantiated their source to lend money on unregistered mortgage or on pro-note. The *Ipse dixit* explanation given by the accused through his relatives fairly been placed by the prosecution by examining them as prosecution witness. Therefore, though the alleged explanation given by the accused at the time of arrest or the statements given to the investigation officer during investigation not been placed before the Court, the explanation and defence been spoken through PW-8, PW-9, PW-12 and PW-15 and Ex.P46 to Ex.P54 for appreciation by the Court. These witnesses and documents stands to be rejected for multiple reasons

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as stated above. Therefore, the non production of his explanation or the statements of the accused given to the investigation officer during the investigation, no way prejudice the accused persons, since it has been spoken through the witnesses as stated above and the documents marked speaks for itself. It could be inferred from not producing any documentary or oral evidence on behalf of the accused, they have no further evidence either oral or document.

33. Therefore, this Court finds that all opportunity been given to the accused to explain the source of accumulating wealth as found in the charge, however, the accused has failed to give explanation satisfactorily. Hence, this Court finds no error in the finding of the Court below regarding the misconduct of the public servant for possessing assets disproportionate to the known source of his income.

34. As far as A2 and A3 are concerned, the learned counsel appearing for the appellants submitted that they both are innocent and family members of A1. The properties were purchased by A1 in their name from out of the income of A1. The charge that they abetted A1 to

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commit the offence under Section 13 (2) r/w 13(1) (e) of the Prevention of Corruption Act, 1988 is not supported by any oral or documentary evidence.

35. This Court finds that the two plots at Thirumullaivoyal been purchased in the name of A2 and A3. The construction worth about Rs.9,50,000/- been made by A1. The loan alleged to have been availed by the appellants through Exs.P46 to P54 starting from 1998 to 2000 does not co-relate with the investment made by the appellants. However, there is an element of doubt whether the 2nd and 3rd appellants as wife and son of the 1st appellant has actively abetted A1 to amass wealth through unknown source. Being the wife and the son under the fiduciary capacity, if they lend their name for purchasing property for the purpose of investing the ill-gotten money, the other accused A2 and A3 cannot be convicted for abetment, particularly, A3, 19 years old boy was pursuing his course in the college, penalising him for the act of his father may not be appropriate. Therefore, this Court extends the benefit of doubt to A2 and A3, while upholding the guilt of A1 for the offence under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988.

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36. In the result, ***this Criminal Appeal is partly allowed***. The judgment of conviction in respect of the first accused/first appellant passed by the Special Judge and Chief Judicial Magistrate, Thiruvallur made in S.C.No.6 of 2007 dated 12.10.2015 is hereby confirmed. As far as the 2nd and 3rd accused/2nd and 3rd appellants are concerned, the judgment of conviction against them is hereby set aside. Fine amount, if any paid by the 2nd and 3rd appellants shall be refunded back to them. Bail bond, if any executed by the 2nd and 3rd appellants shall stand cancelled. The respondent police is directed to secure the 1st accused/1st appellant and commit him to the prison to undergo the remaining period of sentence as ordered by the trial Court and subsequently confined by this Court in this appeal.

20.04.2023

Index:yes
Speaking order/non speaking order
ari
To:
1.The Special Judge and Chief Judicial Magistrate, Thiruvallur.
2.The Public Prosecutor, High Court, Madras.

Dr.G.JAYACHANDRAN, J.

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delivery judgment made in
Crl.A.No.662 of 2015

20.04.2023