IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 29.08.2023	Pronounced on : 08.09.2023

Coram:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.17619 of 2023
& Crl.M.P.Nos.11548 & 11549 of 2023

1. Mrs.P.Mallika,
   Wife of Dr.V.Elango.

2. Dr.V.Elango,
   Son of Velu.

Petitioners 1 & 2 are residing at
Door No.25, Raja Gopal Nagar,
Kuniyamuthur, Coimbatore – 641 008. ... Petitioners/Accused 1 & 2

/versus/

The Inspector of Police,
Vigilance and Anti Corruption Unit,
Coimbatore.
(In Crime No.06 of 2018) ... Respondent/Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, pleased to call for the records in relation to the proceedings in Special C.C.No.3 of 2022 on the file of the Special Court for Trial under the Prevention of Corruption Act, Coimbatore and quash the same and pass such or other orders.

For Petitioners : Mr.V.Karthick, Senior Counsel,
for Mr.M.R.Thangavel

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

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O R D E R

The first petitioner, Junior Engineer in Highways and Road Works Department (HR & WD) and her husband the Second petitioner, Professor and Head of the Department of General Surgery, Coimbatore are charged for holding assets 14% disproportionate to their known source of income during the check period 01/01/2008 to 31/12/2013. They both are facing trial before the Special Court for trial of cases under the Prevention of Corruption Act, Coimbatore in Spl.C.C.No:03/2022. In this petition, they allege malice and pray for quash of the criminal prosecution.

2. Gist of the final report:-

Based on a Detailed Enquiry report, DV&AC, Chennai registered the Regular Case in Crime No:06/2018/AC/CB against the petitioners for offences under section 13(2) r/w 13(1)(e) of P.C Act,1988. After completion of investigation, the Investigating Officer gave Final opportunity Notice (FoN) to the petitioners and on considering the explanations given by the petitioners regarding the source, being not satisfied rejected the explanation as not plausible and proceeded to get sanction to prosecute them under P.C Act.

3. After calculating the value of the assets held at the beginning of check period i.e., 01/01/2008, the value of the assets held at the end of the check period i.e., 31/12/2013, the income during the check period, the expenditure during the check period and the likely savings during the check period, the respondent had arrived at a conclusion that, the petitioners are in possession of excess wealth worth Rs.32,60,059/-, for which the source is unknown and it is 14% disproportionate to the known source.

4. The Special Court on framing charge had commenced the trial. As on date, one witness had been examined and the case is adjourned for examining further witnesses for prosecution. At this stage, the petition to quash the case alleging that, the unassailable legal evidence submitted along with the reply to the Final Opportunity Notice been ignored by the Investigating Officer. In the quash petition it is contended that, the Second petitioner, a medical practitioner apart from his salary had income from his private practise. The income from private practise does not fall within the meaning of remuneration from the Government to attract Section 13 of the Prevention of Corruption Act. The omission of income from the private practise and by adopting a strange method of calculating the value of assets and income contrarily to the guidelines given in the DV& AC Manual, the prosecution launched with malafide intention.

5. In the petition, about 57 items were listed alleging that, they were deliberately omitted from the respective schedules with malafide intentions to show as if, the petitioners have amassed wealth which is 14% disproportionate to the known source. Particularly, the petitioners contended that, many of the un-controverted income were declined to be taken into account on flimsy ground. For example, the rental income of Rs.1,80,000/- from the property though supported by rental deed, rejected on the ground that the rental agreement is not in stamped paper. Likewise, the sale proceeds of jewellery for Rs.16,11,000/- during the check period been disbelieved without proper verification. The rejection is based on the statement of Assistant Commercial Tax Officer who from the records had stated that after search from the database there is no corresponding TIN number found in the invoice of the

Rithi Jewellery issued 10 years ago and the address shown in the invoice is not in existence. Out of Rs.8,30,000 received towards the rental advance, only Rs.1,00,000/- taken as receipt and about Rs.7,30,000/- not taken into account under the statement of income during the check period on the ground these advances were presumed to have been returned to the tenants on they vacating the premises. The gifts worth Rs.24,000/- received on the birthday of second petitioner and Rs.25,000/- during the wedding anniversary of the petitioners were declared in Income Tax returns filed much prior to the registration of FIR. Yet, the same is not taken into account for not disclosing the names of the persons who gave the gift. Four fixed deposits for Rs.64,825/-, Rs.5,00,670/-, Rs.6,11,005/- and Rs.1,20,000/- not considered for the purpose of final report. These deposits were made prior to the check period and received on maturity along with accrued interest. The maturity amount has not been taken into account as income in entirety being receipts during the check period. Instead, only the interest portion is taken as income under Statement-III. The omission of principal amount received by the petitioners in Statement-III is against any of the Accounting Standards. In respect of Motor Car Hyudai purchased before check period and sold during the check period, the sale proceeds of Rs.3,00,000/- was not included as income under Statement-III, but

Rs.3,71,602/- added to expenditure as if, the second petitioner has incurred loss by selling the car worth Rs.6,71,602/-

6. The learned Senior Counsel for the petitioners submitted that, had the Investigating Officer properly taken into account the income and expenditure by correctly adopting the formula prescribed to arrive at the dis-proportionality, then the value of the assets ought not have exceeded than the likely saving during the check period.

7. The Investigation Officer has filed counter wherein, the reason for rejection of the explanations given by the petitioners as not plausible narrated item wise. In the counter the respondent contend that, the assets held before the check period and assets acquired during the check period as well the income and expenditure during the check period been taken into consideration as per the Vigilance Manual. The wealth in excess of known source alone is taken into account for arriving the percentage of dis-proportionality. Being satisfied about the incriminating materials sufficient to prosecute, the Competent Authorities have accorded sanction to prosecute the petitioners. On being satisfied with the materials collected during the investigation and placed before the Court, the Trial Court has framed necessary charges against the petitioners and had commenced the trial. P.W-1 already been examined and the case is posted for examination of further prosecution witnesses. Hence, the facts disputed in the petitions are for the trial Court to consider after trial and the petition to quash the case is not maintainable.

8. Referring the judgments of the Hon'ble Supreme Court and the Hon'ble High Courts, the respondent contend that, the petition to quash belatedly after commencement of trial is legally not sustainable.

9. Heard the Learned Counsel for the petitioners and the Learned Government Advocate for the respondent/State. Petition, Counter and other records are perused.

10. On completion of investigation, the final report filed by the respondent/State concludes as below:-

STATEMENT-I	Assets stood at the beginning of the check period	Rs.75,90,624.00
STATEMENT - II	Assets stood at the end of the check period.	Rs.2,04,74,807.00
STATEMENT-III	Income from known sources during the check period.	Rs.2,40,75,433.00
STATEMENT-IV	Expenditure during the check period.	Rs.1,44,51,309.00

STATEMENT – V

Assets acquired during the check period:-

Assets at the end of the check period (St-II)	2,04,74,807.00
Assets at the beginning of the check period(St-I)	75,90,624.00
Assets acquired during the check period (St II1=V)	1,28,84,183.00

STATEMENT – VI

Likely savings during the check period:-

Income during the check period (St-III)	2,40,75,433.00
Expenditure during the check period (St-IV)	1,44,51,309.00
Likely savings during the check period (St III - IV=VI)	96,24,124.00

STATEMENT – VII

Percentage of Disproportionate of assets:-

Assets acquired during the check period (St-V)	1,28,84,183.00
Likely savings during the check period (St-VI)	96,24,124.00
Disproportionate Assets (St V-VI)= St VII	32,60,059.00

Percentage of Disproportionate

of assets = $\frac{32,60,059.00}{2,40,75,433}$ x 100 = 13.54 @ **14%**

(Statement-VII x 100/Statement-III)

11. Before proceeding with the merits of the rival submission, this

Court remind to itself the extend and limit of the power conferred under Section 482 of Cr.P.C., qua case of disproportionate assets tried under the Prevention of Corruption Act, 1988.

12. In ***C.B.I -vs- Thommadru Hannah Vijayalakshmi and Others*** reported in ***MANU/SC/0831/2021****,* the Hon'ble Supreme Court, set aside the order of the High Court which quashed the F.I.R observing that, no case of disproportionate assets against the respondents made out since their revised income exceeded their expenditure and value of assets in the check period. The Hon'ble Supreme Court while disapproving the said decision of the High Court had observed that, "the Single Judge of the Telangana High Court had acted completely beyond the settled parameters which govern the power to quash FIR. The Single judge has donned the role of a Chartered Accountant. The Single Judge has completely ignored that the Court was not at the stage of trial or considering an appeal against a verdict in a trial. The Single Judge has enquired into the material adduced by the Respondents, compared it with the information provided by the CBI in the FIR and their counter-affidavit, and then pronounced a verdict on the merits of each individual allegation raised by the Respondents largely relying upon the documents filed by them (by considering them to be 'known sources of income' within the meaning of Section 13(1)(e) of the PC Act). This exercised has been justified on account of the Appellant not having conducted a Preliminary Enquiry and hence, not having addressed the Respondents' objections relying upon the documents adduced by them. The reasons provided by the Single Judge for entering into the merits of the dispute while quashing the FIR are specious, especially so considering our finding that the CBI need not hold a Preliminary Enquiry mandatorily. While exercising its jurisdiction Under Article 226 of the Constitution to adjudicate on a petition seeking the quashing of an FIR, the High Court should have only considered whether the contents of the FIR-as they stand and on their face-prima facie make out a cognizable offence. However, it is evident that in a judgment spanning a hundred and seven pages (of the paper-book in this appeal) the Single Judge has conducted a mini-trial, overlooking binding principles which govern a plea for quashing an FIR.

13. The above judgement rendered by Bench of three Hon'ble Judges had observed that High Court cannot conduct a mini-trial or a roving inquiry while exercising its powers under Section 482 of Cr.P.C. Nonetheless by referring the observation made by two Judges Bench in ***Gunmala Sales (P)***

Ltd -vs-Anu Mehta reported in MANU/SC/0959/2014 also reinforced and reiterated that, no restriction can be placed on the High Courts powers under Section 482 of the Code. The High Court always uses and must use this power sparingly and with great circumspection to prevent *inter alia* the abuse of the process of the Court. There is no fixed formulae to be followed by the High Court in regard and the exercise of this power depends upon the facts and circumstances of each case. Nothing prevents the High Court from taking unimpeachable evidence or tally acceptable circumstances into account which may lead it to conclude that no trial is necessary qua the petitioner.

14. The parameter for exercise of power under Section 482 of the Code to quash F.I.R equally applies while considering petition to quash the cases after completion of investigation and filing of final report. The difference in stage of the prosecution in fact, provide more particulars to test the respective contention. Further, after filing the final report and Court taking cognizance of the offence, the expectation or speculation of additional or new informations though cannot be ruled out, it is only exceptional.

15. In the instant case, both the petitioners are public servants drawing monthly salary from the Government of Tamil Nadu. They are also income tax assesses. During the relevant point of time, for a public servants in Government of Tamil Nadu, the Civil Service Conduct Rules mandate that, they should disclose their assets and liability once in five years block. In case of new acquisition in between the said period, if it is immovable property prior permission from the appropriate authority disclosing the source should be obtained. If the property acquired is movable or deposits upto Rs.80,000/- intimation of acquisition to the appropriate authority has to be made. Section 13(e) of the P.C Act and the explanation thereof says, if a public servant in possession of wealth which he is not able to satisfactorily account, and not informed about the pecuniary resources are property disproportionate to his known source of income and it is a misconduct and punishable under Section 13(2) of the P.C Act.

16. The Learned Senior Counsel appearing for the petitioners submitted that, the Investigating Officer had adopting an erroneous procedure for evaluating the assets for the purpose of ascertaining whether the petitioners had accumulated wealth disproportionate to the known source of income. The Investigating Officer had omitted deposits worth Rs.12,96,500/- held at the beginning of the check period. Certain properties held by the petitioners before check period and sold during the check period been wrongly shown as properties held at the end of the check period. A sum of Rs.98,311/- which should have been excluded from the value of the assets held at the end of the check period, wrongly included. Likewise, the principal amount of the FD's matured during the check period, rental income, rental advances, gifts received during anniversary and birthday was not added to the income. Under the caption 'expenditure', the electricity bill paid by the tenants and the loss incurred by selling the Hyundai car purchased prior to the check period had been erroneously added to the statement under expenditure during the check period. According to the petitioners, their reply regarding Statement of Income and its source deliberately omitted to be considered by the prosecution.

17. The contra statements by the petitioners regarding their assets and income is as below:-

Statement: I Totally Rs.12,96,500/- representing four deposits Rs.64,825/- Rs.5,00,670/-, Rs.6,11,005/-and Rs.1,20,000/- respectively not considered for the purpose of final report.

Statement: II The assets at the end of check period omitted to consider the closer of deposit Rs.40,958/- and sale of land worth of Rs.98,311/- was shown as assets as on 31.12.2013 totalling Rs.1,39,269/-was added with assets resulted to increase in assets causes increase in disproportion of assets submission of the petitioners not considered.

Statement: III The sources of income during the check period Representing 50 items of known source of income disclosed by the petitioners in their reply to final opportunity Notice was excluded the exclusion of sources was only to deny an fair opportunity to the petitioners that they have huge source of income during the check period. The respondent knowingly not considered/omitted Rs.70,27,150/-

18. As far as Prevention of Corruption Act is concerned, the presumption can be drawn if the public servant fails to explain the source from which the assets were acquired. However, if the explanation offered by the public servant is plausible, the presumption gets rebutted. If the material explanation is impeccable and the prosecution case is absurd or inherently improbable on the basis of which no prudent person can ever reach a just conclusion that, there is sufficient ground for proceeding against the accused. *(reference: Bhajan lal case, the locus classicus on this issue).*

19. In the instant case, both the petitioners are Public Servant. They have their own source of income and assets in their name. They are husband and wife. The Investigating Officer has thought fit to file single final report against the petitioners jointly. The percentage of disproportionate is arrived after ascertaining the assets acquired during the check period and likely savings during the check period. The savings is based on the income during the check period and expenditure during the check period. If the income and expenditure are not properly calculated, the likely savings during the check period will be erroneous, as a consequence, the percentage of dis-proportionality will go wrong. Precisely, the petitioners projection of their case is to that effect.

20. In the counter filed by the respondent, the Investigating Officer has demonstrated that the challenge to the assessment of assets, income and expenditure found in final report is only an arithmetic jargon and illusion. The first petitioner as Junior Engineer of H&RW Department and the second petitioner as Professor and Head of the Department, Coimbatore Medical College, apart from their salaried income claim to have derived income by selling the properties purchased before the check period or encashing the fixed deposits made before the check period. Further, the second petitioner claims that, he had income from his private practise. The principal amount deposited in the fixed deposits were transferred into felxi deposit from the Savings Banks account duly taken into account. In Statement-V as per the prosecution, the asset acquired during the check period (asset at the end of the check period – asset held at the beginning of the check period) is ascertained as Rs.1,28,84,183/- as per the reply given by the petitioners. In the Final Opportunity Notice, the asset acquired during the check period is declared as Rs.1,26,10,164/-. The fixed deposits which were at the beginning of the check period were taken into account and only after deducting the principal amount in the total value of the assets, the value of the asset held at the end of the check period had been derived. The interest portion is included in the income statement. Therefore, there is no omission as alleged by the petitioners. No doubt, after maturity during the check period, the petitioners have received the principal as well as the accrued interest, but the entire amount cannot be taken as income for the check period, since the principal amount is shown in the

Statement of assets at the beginning of check period and the said amount is deducted while arriving the assets acquired during the check period. The Investigating Officer from the details collected from Karur Vysa Bank, Coimbatore, had came to know that, there are 8 deposits and interest accrued on those deposits. The interest portion were taken as income in Statement–III under Serial Nos.35 to 42. Since the deposits were closed during the check period the interest taken as income and the principal amount deducted from the value of assets held at the end of check period. The disproportion is calculated, after arriving the income during the check period minus the expenditure during the check period. This provides the likely savings during the check period. The assets acquired during the check period cannot be more than the likely savings during the check period. In this case, the savings of the petitioner is Rs.96,24,124/- whereas, the assets acquired during the check period is Rs.1,28,84,183/- (Assets as on 31/12/2013 End of check period – Rs.2,04,74,807 – Assets as on 01/01/2008 beginning of check period – Rs.75,90,624). If the principal amount invested in the bank prior to the check period is to be taken into account as income during the check period, then the deduction of the said amount from the value of the assets held at the end of check period will become meaningless.

21. For illustration:- In the case of a public public servant whose salary income during the check period is Rs.10 lakhs. If he had invest in bank deposit Rs.10,000 before check period and close the deposit during the check period and get Rs.12,500/- towards principal along with the interest accrued from the said deposit made prior to the check period, then the principal amount Rs.10,000/- will form part of asset at the being of check period, but not in the end of check period. The value will be deducted from the value of total assets while calculating the asset at the end of check period, since the deposit is closed during the check period. The interest of Rs.2,500/- accrued will be shown as income during the check period.

22. When the disproportionate asset is calculated, in addition to the salary income of Rs.10 lakhs, the interest portion of Rs.2500/- will be taken under the head income. If he had acquired property worth Rs.15 lakhs during the check period and his expenditure during the check period is Rs.2 lakhs, his likely savings will be Rs.8,02,500/- While calculating asset acquired during the check period, the value of the asset held at the beginning of the check period to be deducted from the value of the asset held at the end of check period and will be shown that he had acquired assets worth Rs.14.90 lakhs during the check period (Rs.15 lakhs – Rs.10,000/-). When his known source of income is Rs.10,02,500/- and after deducting his expenditure the likely savings will be only Rs.8,02,500/-. The public servant has to explain the source for the difference amount i.e., (Rs.14,90,000 – Rs.8,02,500/-) = (i.e.,) for Rs.4,87,500/-

23. If the principal amount of Rs.10,000/- Fixed Deposit made prior to check period is included in the statement of assets held prior to the check period and also included in the income statement during the check period as claimed by the petitioners, then in the given illustration, the principle amount Rs.10,000/- will find place at two statements. One of the statement for assets at the beginning of check period as well as in the income during the check period. Thus, error of double entry for this amount will occur. First, when this amount is deducted while arriving the assets held at the end of check period. Second, this amount will also find place in the income column. If this is allowed, in the illustration given above the statements will be as under:-

A: Asset at the beginning of the check period : Rs.10,000/-

B: Asset at the end of the check period: Rs 15,00,000/-

Asset acquired during the check period (B-A) = 14,90,000/-

C: Income during the check period: Rs 10,12,500/-

(10 lakhs (salary) + 12,500/-(principal + interest)

D: Expenditure during the check period : Rs 2 lakhs.

E. Likely savings (C-D) = Rs.8,12,500/-

Asset held disproportionate to the known source of income is Rs.14,90,000 – Rs.8,12,500 = Rs.4,77,500/-

24. Therefore, if the argument of the petitioners is accepted in the case illustrated, while his total income during the check period is only Rs.10,12,500/- (inclusive of salary income and the total maturity amount on deposit with interest), after expenditure his savings will be Rs.8,12,500/-, whereas for acquiring property worth Rs.15,00,000/- with savings of Rs.8,12,500/- he will be called upon to explain the source only for Rs.8,77,500/- instead for Rs.8,87,500/-.

25. That is the reason, the prosecution has taken the interest portion as income and included under the statement of income. The principal amount which has been withdrawn shown in the statement of assets at the beginning of check period is deleted under the assets at the end of the check period. In other words, this amount when arriving at the value of asset acquired during the check period is deducted. Therefore, the amount invested prior to the check period is not included in the asset held at the end of check period and also deducted while arriving at the value of the asset acquired during the check period. Therefore what remains is the interest accrued alone. In this case in hand that is included in the income statement.

26. In the given illustration for the sake of completion, it is further explained that in case if the public servant retains the fixed deposit made before check period till the end of the check period, then the amount of Rs.10,000/- will be reflected in the statement of assets held at the end of check period. The interest accrued and withdrawn during the check period will be shown as income. In case, the purchase and sale of property within the same check period, the difference in price will be taken as income or expenditure as the case may be. (if the transaction ends in profit, the profit is taken as income. If the transaction ends in loss, the loss is taken as expenditure).

27. Now back to the case under consideration in respect of the car purchased for Rs.6,71,602/- before the check period and sold for Rs.3,00,000/- during the check period, a point of interest is raised by the Learned Senior Counsel, whether the sale price of Rs.3,00,000/- to be included under the statement of income or the loss of Rs.3,71,602/- to be recorded under the expenditure. According to the Learned Senior Counsel for the petitioners, the sale proceeds of the car Rs.3,00,000/- ought to have been included as income during the check period. Contrarily, the Learned Government Advocate say prosecution has rightly included the price difference as loss and included it in the statement of expenditure.

28. Dis-proportionality is predominantly based on the income and expenditure of the public servant during the check period viz-a-viz the asset in the hands at the end of the check period. Therefore, the question whether the value of the car purchased on 22/04/2002 by the second petitioner before check period for Rs.6,71,602/- and sold during the check period for Rs.3,00,000/- to be taken as income of Rs.3,00,000/- or expenditure of Rs.3,71,602/- gains significance. Since it will reflect in likely savings at the end of the check period. The final report shows the value of the car at Serial No: 41 of the

Statement No.I as Rs.6,71,602/- (asset at the beginning of the check period). During the check period it is sold for Rs.3,00,000/-. Thus, there was a loss of Rs.3,71,601/- in the said transaction. Hence, the prosecution has thought fit to take the loss under the Statement for expenditure at Serial No:61, Rs.3,71,602/- By the inclusion of Rs.3,71,602/- in the expenditure statement, the difference between the income and expenditure is decreased, resulting in corresponding decrease in the likely savings. Had the sale price of Rs.3,00,00/- is included in the Statement-III meant for income during the check period, the likely savings after deducting the expenditure from income would have increased and the correspondingly percentage of disproportion would have decreased.

29. When similar issue came up for consideration before the Hon'ble Supreme Court in ***Krishnanand Agnihotri -vs- State of M.P*** reported in ***AIR 1977 SC 796***, the Apex Court has clarified that, the accused a public servant who purchased a Austin car in the year 1948 for Rs.5,300/- sold it for Rs.2,500/- in the year 1954. The difference of Rs.2,800/- has to be taken as expenditure since both the purchase and sale was during the check period. In this case, the car which was purchased before the check period is valued at Rs.6,71,602/-; sold by A-2 for Rs.3,00,000/- during the check period. Thus, the assets which was held before the check period and sold during the check period, the sale proceeds of Rs.3,00,000/- ought to have been put under the Statement – III meant for income, since it is a receipt at the hands of A-2 during the check period from the investment made prior to the check period. Contrary to this, by taking into account the price paid for the car and the price sold, the difference amount is brought under the head of expenditure as if A-2 has incurred loss. This is permissible only if both the purchase and sale was done during the check period. If any asset which is purchased prior to the check period is sold during the check period, the price received is to be taken as income and the price paid prior to check period has to be deducted from the value of asset held at the end of the check period. The purchase price having been deducted from the value of the assets at the end of the check period to arrive the value of the asset acquired during the check period, further inclusion of Rs.3,71,602/- under the head of expenditure is erroneously. Instead, Rs.3,00,000/- ought to have added to the head of income. As a result, while deriving likely savings during the check period under Statement–VI, a sum of Rs.6,71,602/- falls short. The error in placing the sale proceeds of the vehicle purchased prior to the check period and sold during the check period without any doubt makes difference in arriving the percentage of disproportionate asset acquired during the check period. Nonetheless, in the instant case, the percentage of disproportional asset is approximately arrived as 14% and even after rectifying the error, the disproportion exceeds 10%. Therefore, this error will not materially alter the case of the prosecution.

30. Nonetheless, this error does not wipe away the allegation against the public servants of holding wealth disproportionate to the known source of income and their failure to satisfactorily account for its possession. Even after the rectification of the error, the prosecution will still sustain with material to substantiate *prima faciely* that the petitioners, who had asset worth Rs.75,90,624/- at the beginning of the check period and income of Rs.2,43,75,433/- during the check period, possess asset worth Rs.2,04,74,807/- at the end of check period after spending Rs.1,40,74,309/- during the check period.

31. The learned Senior Counsel for the petitioners states that the prosecution has declined to take the sale of jewels for Rs.16,11,000/- on 04/12/2009 to Rithi Jewellery, Coimbatore as a source of income. He rely on a document in the name of Rithi Jewellery, No.1580, Cross Cut Road, Gandhipuram, Coimbatore. This document is captioned as 'Invoice', with TIN number and CST number. It indicates that, the items mentioned in the invoice were received from Mrs.Malliga, Kuniyamuthur, Coimbatore (A-1). Prosecution has declined to accept this document since the investigation has revealed that the TIN number and CST number mentioned in the document are false. There is no shop in the Cross Cut Road in that name and street ends with door number 1048 and door number 1580 mentioned in the document is imaginary number. Thus, the explanation of the petitioners accounting for income is disputed and same is to be tested in the trial. Any variations in the value of the assets and the percentage of disproportion are matter to be tested in the trial. *Ex-facie* no decision about the veracity of the rival claim could be drawn without testing it.

32. Hence, without prejudice to either side and their right to canvass the respective case, the Petition is dismissed as not a fit case to quash the prosecution.

33. In the result, this ***Criminal Original Petition is dismissed.*** Consequently, connected Miscellaneous Petitions are closed.

08.09.2023

Index :Yes/No.
Internet :Yes/No.
Speaking order/non speaking order
bsm

Copy To:-

1.The Special Court for Trial under the Prevention of Corruption Act, Coimbatore
2.The Inspector of Police, Vigilance and Anti Corruption Unit, Coimbatore.
3.The Public Prosecutor, High Court, Madras.

DR.G.JAYACHANDRAN,J.

bsm

Pre delivery order made in
Crl.O.P.No.17619 of 2023

08.09.2023