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IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON: 29.07.2025

JUDGMENT PRONOUNCED ON: 07.10.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Criminal Appeal No.245 of 2015

Ashokan ... **AppellantAccused No.1**

Vs.

The Inspector of Police
CBI/ACB/Chennai. ... **Respondent/Complainant**

Prayer: Criminal Appeal filed under Section 374 of Code of Criminal Procedure, to call for the records from the file of the Court of XIII Additional Special Judge for CBI Cases, Chennai, in C.C.No.15 of 2002 dated 18.04.2015 and set aside the order of conviction and sentence and pass such further or other orders.

For the Appellant	:	Mr.R.Shanmugasundaram Senior Counsel for Mr.V.Krishnakumar
For the Respondent	:	Mr. N.Baaskaran Special Public Prosecutor for CBI

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JUDGMENT

A. The Appeal:-

This Criminal Appeal challenges the judgment of the learned XIII Additional Special Judge / Special Court for CBI Cases, Chennai, dated 18.04.2015, in C.C.No.15 of 2002. The trial court found the appellant / accused No.1 guilty of an offense under Section 13 (2) read with Section 13 (1) (e) of the Prevention of Corruption Act, 1988, and sentenced him to three years of rigorous imprisonment along with a fine of Rs.50,000/-; failing to pay the fine, he was to serve an additional six months of simple imprisonment. Additionally, the court ordered the confiscation of disproportionate assets accumulated by the appellant, totaling Rs.12,72,961/-, in favor of the government. Regarding this amount, the court directed that Rs.5,03,000/- and Rs.7,40,850/- seized from the accused be appropriated, and the remaining Rs.29,111/- be returned to the first accused.

B. Case of the Prosecution:

2. The case of the prosecution is that the 1st accused/appellant was a public servant, working as Assistant Commissioner of Customs at Mumbai in 1998. On 11.01.1998, when he alighted from a flight from Mumbai to Chennai at Meenambakkam Airport, CBI officials searched him based on information. At that time, Rs.5,03,000/- in cash was seized

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from him. Further enquiry revealed that the accused joined the service in 1982 as an Appraiser and became an Assistant Commissioner of Customs in 1992. He was working in Mumbai and Chennai from 1982 to January 1988. During this period, he received a total income of Rs.28.86 lakhs from all known sources and had an expenditure of about Rs.4.46 lakhs, leaving savings of Rs.24.40 lakhs. However, the accused was found in possession of assets worth Rs.36.33 lakhs as of the check period, i.e., on 19.01.1998. Therefore, there was a disproportionate asset of Rs.11.93 lakhs. Accordingly, a case was registered in RC MA No.1/1998 A 0014 on 12.03.1998 - Ex.P163 by P.W.75 – *Prabakaran*. He subsequently completed the investigation and filed a final report, proposing the appellant and his wife guilty. The case was taken on file as C.C.No.15 of 2002.

C. Charges levelled against the accused:

3. The following two charges were framed against the 1st accused / appellant and his wife – *Bharathi Asokan*, the 2nd accused,

> "Firstly, that you A1 and 2 during the period of 01-9-1989 and 19-01-98 at chennai, Mumbai and other places agreed to do or caused to be done an Illegal act namely criminal misconduct and in pursuance of the criminal conspiracy you A1 abusing or misusing your official position of by corrupt or illegal means acquired pecuniary assets as mentioned in the charge sheet in your name and in the name of your family members to a tune of Rs.21.40,140.39P. which is disproportionate to the known sources of your income and you A1 and A2 could not satisfactorily explain the said disproportionate assets of Rs.21.40,140.39 P. and you A2 in

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pursuance of the conspiracy allowed A1 for acquiring the assets in your name out of illgotten money and thereby you A1 and A2 committed offence punishable U/s 120-B r/w 13(2) r/w 13(1)(e) of PC Act, 1988 and within my cognizance.

Secondly, that you A1 being a public servant employed as Appraiser and Assistant Director, Directorate of Revenue Intelligence, at Mumbai, Chennai and other places during the period between 01-9-89 and 19-1-98 acquired assets which were disproportionate to your known sources of income and on or about 19-01-1998 you had been in possession of pecuniary resources of Property in your name and in the name of your wife A2 and family members as detailed mentioned in the charge sheet to the extent of Rs.21,40,140.39P. which were disproportionate to your known sources of income and you A1 and A2 could not satisfactorily account for and thereby you A1 committed offence punishable u/s 13(2) r/w 13(1) (e) of PC, Act, 1988 and within my cognizance."

D. The Trial :

4. The accused pleaded not guilty and stood trial. To establish the charges, the prosecution examined P.Ws. 1 to 75 and marked documents as Exs. P1 to 219. When questioned about the incriminating material evidence on record under Section 313 of Cr.P.C., the accused denied it as false.

4.1. On behalf of the defence, D.W.s.1 to 24 were examined and Exs. D1 to 73 were marked. The appellant examined himself as D.W.24.

4.2. The Trial Court found the explanation offered by the 2nd accused regarding the properties and pecuniary resources said to have been acquired in her name to be justifiable

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and acquitted her of the charges.

4.3. The Trial Court then considered the case of the prosecution and the accused, examining the Statements A to D presented by the prosecution along with the evidence on record. It found that assets worth Rs.12,72,961/- were in excess, amounting to 55.02% of disproportionate asset and accordingly convicted and sentenced the appellant as previously stated. An appeal has been filed against this decision.

E. The Submissions:

5. *Mr.R.Shanmugasundaram,* the learned Senior Counsel representing the appellant, first argues that the initial seizure of Rs.5,03,000/- at Meenambakkam Airport was unlawful. No First Information Report (FIR) was registered at the time of the seizure, instead FIR (Ex.P163) was registered two months later, on 12.03.1998. Even then, the recovered money was deposited into the Indian Overseas Bank and was not reported to the Court. No specific details about the suspected money were presented before the Court. Consequently, the case's origin violates the fundamental rights of the accused. The Investigating Officer, P.W.75, admitted that the airport seizure was based on an oral order. A review of the seizure mahazar in Ex.P2 shows that the registered sale deed was also

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found along with other documents. Thus, the initial stages of the investigation itself raise serious doubts.

5.1. The learned Senior Counsel, pointing out the seizure made from the locker of the appellant, would submit that P.W.75 opened the locker and recovered a sum of Rs.7,40,850/- on 03.04.1998. It can be seen that P.W.16 had deposed that the locker was jointly owned by both accused persons. Therefore, the prosecution has a duty to prove that the money belonged to the appellant. It is also evident that the seizure took place on 03.04.1998, which was not during the check period finally fixed by the prosecution, from 01.09.1989 to 19.01.1998. The appellant explicitly stated during the 313 questioning that the amounts belonged to A2 alone. A2 also claimed the money, referring to Question No.22 in her 313 statement. It is notable that P.Ws.20, 50, 62, and 64 all testified that they paid cash to A2 as part of the sale consideration for the property. Thus, the entire amount should not be considered as assets of the appellant during the check period.

5.2. *Mr. Shanmugasundaram,* the learned Senior Counsel, further submits that regarding the value of the Kilpauk flat, it must be noted that A1 purchased it along with his brother D.W.23. Therefore, only 50% of the property's value, i.e., Rs.4,11,285/-, should be

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considered A1's share. The entire property was valued at Rs.8,22,570/- and was mistakenly regarded as the property of the appellant, which is contrary to the sale deeds on record, marked as Ex.P121 and Ex.P122. The case of the prosecution was based on the contents of these documents, and as such, under Section 92 of the Indian Evidence Act, 1872, it is liable to be rejected.

5.3. The learned Senior Counsel then submits regarding the bank deposits and investments. He states that a bank deposit of Rs.43,589/- and fixed deposit investments totaling Rs.59,680/- were available in the joint account of A1 and A2 as of 01.09.1989, as evidenced by the passbooks of that period. However, the Trial Court failed to consider these amounts.

5.4. More importantly, the learned Senior Counsel relied heavily on the agricultural income of Accused No. 2, certified by P.W.67 – the Village Administrative Officer, and P.W.53 – the Deputy Tahsildar, through Ex.P125 – the Income Certificate. The record clearly shows that the land could produce an agricultural income of approximately Rs. 40,000 per month. However, the Trial Court, ignoring the Income Certificate, estimated the agricultural income to be only Rs.50,000/- in total, which conflicts with the Rs.2,30,000/-

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claimed by Accused No. 2 via her income certificate. The prosecution also incorrectly calculated the agricultural income during the check period as Rs.2,50,000/-. But, if the income is correctly considered as per the certificate, it should be Rs.4,52,533/-.

5.5. The senior counsel then pointed out that the appellant's Hindu Undivided Family (HUF) income should be considered. He argued that the appellant, as the Kartha of the HUF, is entitled to the entire HUF's agricultural and rental income, which amounted to Rs.5,00,000/- and Rs. 2,66,020/- respectively. However, the Trial Court did not take this income into account. The defence presented sufficient evidence from D.Ws.20 and 23 to support this claim. Despite this, the Trial Court wrongly considered only 1/5th of the share, which contradicts the evidence on record.

5.6. The senior counsel further argued that the prosecution failed to account for a total sum of Rs.54,03,671/-, representing income received by A1 and A2 through various savings accounts, mainly from the sale of shares and rental income. If the Trial Court had properly considered all these amounts, as shown in Exs.D23, D28, D30, D34 and D38—the Passbooks—it would have significantly affected the findings regarding the alleged disproportionate assets.

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5.7. *Per contra, Mr. Baaskaran,* the learned Special Public Prosecutor, would submit that none of the grounds argued by the learned Senior Counsel are tenable. Regarding the seizure, it was based on a tip-off, and the source information need not be revealed or marked. There was no valid explanation for the amount of Rs. 5,03,000/-. When the accused claims to have sold a property in Chennai, it is evident that the corresponding amount was actually brought from Mumbai. The case against receipt of bribe was not registered and pursued solely due to lack of clinching evidence. However, the evidence reveals disproportionate assets by the public servant and his wife, and hence, the case.

5.8. Specifically with reference to agricultural income, the learned Special Public Prosecutor would submit that the defence did not prove the same. Regarding the Kilpauk property, the learned Special Public Prosecutor would submit that the appellant's brother is only a name lender. Concerning each and every entry argued by the learned Senior Counsel, the learned Special Public Prosecutor presented his submissions with a detailed statement, which includes the particulars of the property, the year of acquisition, the prosecution's version, the defence version, the relevant witnesses and documents pertaining thereto, the findings of the trial court, and his further submissions. This has

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been organised in the form of a tabulated statement, which is reproduced hereunder for ready reference.

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ANNEXURE-A

CHECK PERIOD – 01.09.1989 TO 19.01.1998
A1 – ASHOKAN

S. No	DETAILS OF THE PROPERTY	YEAR OF ACQUISITION	AS PER CBI	AS PER DEFENCE	PROVED BY WITNESS AND DOCUMENTS	REMARKS BY TRIAL COURT	REMARKS BY PP
1			700	700		700	700 (No Change)
2			4500	4500		4500	4500 (No Change)
3			4500	4500		4500	4500 (No Change)
4	Bank Balance of Ashokan as on 1.9.1989 **1.**Bank of India Passbook 457,8730, 14426	1.9.1989	NIL	43,589.53	DW24, PW16 & EX.P.45, DW28, DW29, DW34, 35 36 38 AND DW 70 **EX.P.38(HC 1754)**	NOT TALLYING AND HENCE REJECTED	**18,281** other bank accounts not given by DW.
5	Investments and fixed deposits	1.9.1989	NIL	59,680	DW25, EXE.28	NOT TALLYING AND REJECTED	This amount will not be taken in to consideration as this amount is during the check period, it will be shown only in the asset.

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							(statement II)
6	Agricultural Income	1.9.1989	NIL	2,30,000/-	PW.53,55,59 & **PW67 - HC 2173, 2174 EX.P.125** EX.P127 AND 128 DW1 AND 17	COURT CORRECTLY STATED THAT THE AGRICULTURE INCOME WILL NOT TAKEN IN TO **CONSIDERATION AS THEY DID NOT PRODUCE ANY ADANGAL DOCUMENT.** EVENTHOUGH COURT CALCULATED 50,000/- PER YEAR	THE AMOUNT 2,30,000 IS NOT PROVED BY THE DEFENCE COUNCIL, EVENTHOUGH WITHOUT ANY DOCUMENT THIS 50000 WAS TAKEN INTO CONSIDERATION BY THE TRAIL COURT, **WHICH SHOULD NOT HAVE BEEN CONSIDERED BY THE TRIAL COURT, AS THE PROPERTY WAS TRANSFERRED TO BHARATHI ONLY IN THE YEAR 1993**
	TOTAL		9,700	3,42,969.53		59,700/-	9700 + 18,821 =**28,521**

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ANNEXURE-B (MOVABLE ASSET)

S. NO	DETAILS OF THE PROPERTY	YEAR OF ACQUISITION	AS PER CBI	AS PER DEFENCE	PROVED BY WITNESS AND DOCUMENTS	REMARKS BY TRIAL COURT	REMARKS BY PP
1	CASH FOUND IN THE POSSESSION OF ASHOKAN	11.1.1988	5,03,000/-	23,000/-	**PW2 – HC 8 PW75 EX.P.2**	TRAIL COURT DENIED THE STATEMENT OF DEFENCE AS CONCORTED STORY 5,03,000/-.	THE AMOUNT WAS SEIZED FROM SRI ASHOKAN AT MEENAMBAKKAM AIRPORT. THE TRAIL COURT VERSION WAS ACCEPTED 5,03,000/-
2.	CASH FOUND IN THE LOCKER		7,40,850	3,70,425		7,40,850	7,40,850
3 TO 9	-	-	28850 7500 7500 10000 10000 10000 10000 = 83,850/-	28850 7500 7500 10000 10000 10000 10000 = 83,850/-		28850 7500 7500 10000 10000 10000 10000 = 83,850/-	28850 7500 7500 10000 10000 10000 10000 = 83,850/- NO CHANGE
10	INVESTMENT IN KOTHARI BLUECHIP	06.01.1997	12,030/-	10,000/-	PW15 EX.P37 TO P44 **EX.P42 EX.P43 – HC 431 (vol.2)**	10,000/-	**EX.P43 – HC 431 –** BLUE CHIP – **12,030** IS CALCULATED BASED ON THE INVESTMENT DATE 06.01.1997

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13	KOTHARI TAXSHIELD 96		10000/-	9600/-		9600/-	**9600/- ACCEPTED**
14 & 15	AMOUNT INVESTED IN UNIT 64	-	23,560 16,290 = 39,850	23,560 16,290 = 39,850	-	23,560 16,290 = 39,850	23,560 16,290 = 39,850
16	100 SHARES		5000/-	1000/-	**EXP. 189 HC 2174**	1000/-	**1000/- ACCEPTED**
17 TO 36	-		10,000 1000 10,000 10,000 **5,26,125.38** 10,000 10,000 1000 3000 5000 5000 20000 950 2500 10,000 2000 1300 20,000 13,000 19,500 =1,54,250	10,000 1000 10,000 10,000 **5,26,125.38** 10,000 10,000 1000 3000 5000 5000 20000 950 2500 10,000 2000 1300 20,000 13,000 19,500 =1,54,250	-	10,000 1000 10,000 10,000 **5,26,125.38** 10,000 10,000 1000 3000 5000 5000 20000 950 2500 10,000 2000 1300 20,000 13,000 19,500 =1,54,250	10,000 1000 10,000 10,000 **5,26,125.38(CLOSING BANK BALANCE OF A1 IS TAKEN INTO CONSIDERATION. HENCE, CANNOT CLAIM UNDER ANY OTHER HEAD)** 10,000 10,000 1000 3000 5000 5000 20000 950 2500 10,000 2000 1300 20,000 13,000 19,500 =1,54,250

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37	KARUR VYSYA BANK		24,125/-	NIL	PW.63 EX.P.145 TO EX.P 150 **EX.P149 – HC 880 (VOL.3)** **Read - HC 2174**	24,125/-	**24,125/- (A1 ALONG WITH ONE VENKATESAN HAVE PURCHASED 50 SHARE SHARES FOR RS.48,250/-. SO A1'S SHARE OF RS.24,125/- HAS TO BE CONSIDERED)**
38	-	-	875/-	875/-	-	875/-	875/-
	Total		11,21,130	7,79,250		11,14,700	11,16,730

ANNEXURE-B (IMMOVABLE ASSET)

S. NO	DETAILS OF THE PROPERTY	YEAR OF ACQUISITION	AS PER CBI	AS PER DEFENCE	PROVED BY WITNESS AND DOCUMENTS	REMARKS BY TRIAL COURT	REMARKS BY PP
39	Flat No.1 PALACE GARDEN, 21 RAMATHAN STREET, KILPAUK		8,22,057/-	4,11,285/-	PW 49, EX.P.119 TO 122	8,22,057 COURT CORRECTLY MENTIONED **(HC-2175)**	**8,22,057 (TRIAL COURT CATEGORICALLY HELD THAT THE PROPERTY EAS PURCHASED ONLY BY A1**

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							OUT OF HIS MONEY AND HIS BROTHER IS MERE NAME LENDER. THEREFORE , IT IS REASONABLE THAT THE ENTIRE VALUE HAS TO BE CONSIDERED UPON A1)
40	VACANT SITE -S.SNO. 347 PLOT NO. 35 A AND 35D KRANTHI NAGAR MADURAVOYAL SAIDAPET TALUK 2009 SQ FT		1,63,488/-	1,63,488/-	PW 29, EX.P.80 EX P80 HC 541	1,63,488/-	1,63,488/-
41	VACANT SITE – S. NO. 22/1 PLOT NO. 86 VALASARAVAKKAM VILLAGE, RADHA AVENUE CHENNAI		1,40,359/-	1,40,359/-	PW 29, EX.P.81 HC 552	1,40,359/-	1,40,359/-
42	COST OF THE BUILDING - NO. 35B AND 35C KRANTHI NAGAR, MADURAVOYAL,		6,48,487/-	NIL	PW 29, **EX.P79 - HC 531** PW62	NIL TRAIL COURT AFTER MENTIONING THE PROPERTY AS JOINT	**NIL TRAIL COURT VERSION IS ACCEPTED**

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					PW 50 AND 51	FAMILY PROPERTY AND DID NOT TAKEN THE TOTAL AMOUNT INTO CONSIDERATION	
43	AGRICULTURE LAND – S.NO. 151/1, JAHAIRAMMA PALAYAM PUNCHAI, 9.58 HECTARES DATE OF REGISTERATION **DATE 06.09.1989** IN FAVOUR OF BHARATHI ASHOKAN		1,44,656/-	NIL	PW56 **EX.P 129 (VOL.2) HC 699** **EX.P218 – POWER OF ATTORNEY DATED 23.11.1990 EXECUTED BY BHARATHI ASHOKAN HC 1242, 1243 (VOL. 4)**	1,44,656/-	**1,44,656/-** **LAND IS SOLD ONLY AFTER THE CHECK PERIOD**

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44	HOUSE AT DOOR. No.5/B4, IV STREET, SHANMUGHA PURAM, VILLUPURAM IN THE NAME OF BHARATHI ASHOKAN		1,85,659/-	NIL		1,85,659/-	NO DOCUMENT
	TOTAL		21,04,706	7,15,132		14,56,219	12,70,560

TOTAL ASSETS (MOVABLE & IMMOVABLE PROPERTY) INCORRECT CALCULATION PROVIDED TO TRIAL COURT BY DEFENCE

ASSESTS	AS PER CBI	AS PER DEFENCE	TRIAL COURT
MOVABLE PROPERTY	21,19,955.38	16,09,584	
IMMOVABLE PROPERTY	21,04,706/-	10,01,084/-	
TOTAL ASSEST	42,24,661/-	26,10,668/-	35,69,144

TOTAL ASSEST (MOVABLE & IMMOVABLE PROPERTY) NEW CALCULATION

ASSESTS	AS PER CBI	AS PER DEFENCE	AS PER TRAIL COURT	REMARKS BY RESPONDENT
MOVABLE PROPERTY	11,21,130	7,79,250	11,14,700	11,16,730
IMMOVABLE PROPERTY	21,04,706	7,15,132	14,56,219	12,70,560
TOTAL ASSETS	32,25,836	20,64,359	25,70,919	23,87,290

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INCOME

S.NO.	DETAILS OF BANK ACCOUNT	AS PER CBI	AS PER DEFENCE	PROVED BY	AS PER TRAIL COURT	REMARKS BY RESPONDENT
1	SALARY	5,17,108/-	5,17,108/-		5,17,108/-	5,17,108/-
2	OTHER RECEIPTS	3,70,550/-	4,88,965/-	**EX. D6 HC 1262**	4,88,965/- ACCEPTED THE DEFENCE VERSION	**3,70,550/-** **NO OTHER DOCUMENT, EXCEPT REWARD FOR RS. 3,70,550/-**
3 TO 30	-	4,00,847.30	4,00,847.30	-	4,00,847.30	4,00,847.30/-
31	AGRICULTURE INCOME	2,50,000/-	4,52,533/-	PW 60, EX.P. 134 **EX.P125 - HC 665 AGRICULTURAL INCOME FROM 1993 OF RS 50,000 PER YEAR, AMOUNTS TO ONLY RS 2,50,000**	2,50,000/- DENIED THE DEFENCE VERSION AND CORRECTLY STATED THE POINTS	**2,50,000/- ACCEPTED THE TRAIL COURT VERSION (AS THE LAND CAME TO BHARATHI ASHOKAN ONLY IN THE YEAR 1993)**
32 TO 36		300000 33941 253629.50 50000 962.50 =	300000 33941 253629.50 50000 962.50 = 6,38,533/-		300000 33941 253629.50 50000 962.50 = 6,38,533/-	300000 33941 253629.50 50000 962.50 = 6,38,533/-

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		6,38,533/-				
37	RENTAL INCOME OF ASHOKAN AS 1/5TH SHARE FROM HUF PROPERTY FROM 1.09.1989 TO 31.12.1997	66,505/-	3,32,525/- NO SPECIFIC DOCUMENT ARY EVIDENCE FOR THE CLAIM ONLY ORAL EVIDENCE	PW 75 EX.P. 188 **EXP.211 HC 1090**	66,505/- SINCE THIS PROPERTY IS A JOINT FAMILY PROPERTY THE TRAIL COURT CORRECTLY DENIED DEFENCE VERSION	**66,505/-** **THE TRAIL COURT VERSION TO HELD CORRECT AS THERE IS NO OTHER SPECIFIC DOCUMENTARY EVIDENCE FOR THE CLAIM OF DEFENCE - ONLY ORAL EVIDENCE**
38	AGRICULURAL INCOME OF 1/5TH SHARE FROM HUF PROPERTY FOR THE PERIOD 01.09.1989 TO 31.12.1997	1,00,000/-	5,00,000/- NO SPECIFIC DOCUMENT ARY EVIDENCE FOR THE CLAIM ONLY ORAL EVIDENCE	PW 75 EX.P. 188 **EXP.211 HC 1090**	1,00,000/- SINCE THIS PROPERTY IS A JOINT FAMILY PROPERTY THE TRAIL COURT CORRECTLY DENIED DEFENCE VERSION	**1,00,000/-** **NO SPECIFIC DOCUMENTARY EVIDENCE FOR THE CLAIM ONLY ORAL EVIDENCE**
39		85354	85354		85354	85354

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40	TOTAL	24,28,897.30	34,15,865		25,47,312	24,28,897.30

INCOME NOT TAKEN INTO ACCOUNT BY CBI

S.NO	INCOME WAS NOT TAKEN INTO ACCOUNT	AS PER CBI	AS PER DEFENCE	WITNESSES AND DOCUMENTS	REMARKS BY RESPONDENT
1 TO 3	BANK OF INDIA STATEMENTS	NIL	51041.55 19366.92 34828.13		STATEMENT NOT PROVIDED
4		NIL	14417.03		ONLY DEPOSIT SLIPS COMPLETE STATEMENT OF PASS BOOK FOR THE RELEVENT PERIOD NOT PRODUCED
5		NIL	56451.70		10543
6		NIL	7932		ONLY DEPOSIT SLIPS COMPLETE STATEMENT OF PASS BOOK FOR THE RELEVENT PERIOD NOT PRODUCED
7		NIL	311425.70		54406 STATEMENT NOT PRODUCED
8		NIL	5500		NO PROPER DOCUMENT
9.		NIL	224800		NIL NO DOCUMENT ONLY ORAL EVIDENCE
10.		NIL	3000		NIL

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11.		NIL	300000	**EX.P137 HC 713**	NIL AFTER THE CHECK PERIOD CANNOT BE CONSIDERED
12.		NIL	455000	**EX.P137 HC 713**	NIL AFTER THE CHECK PERIOD CANNOT BE CONSIDERED
13.		NIL	500000 PROPERTY REGISTERED AND SOLD ON 30.03.1998		NIL AFTER THE CHECK PERIOD CANNOT BE CONSIDERED
	TOTAL	NIL	19,83,810		64,949

ANNEXURE – D (EXPENDITURE)

S.NO	**DETAILS OF EXPENDITURE**	**AS PER CBI**	**AS PER DEFENCE**	**WITNESSES AND DOCUMENTS**	**TRIAL COURT**	**REMARKS BY RESPONDENT**
1	TUTION FEE PAID TO MS. ANITHA ASHOKAN	15078	6420			
2 TO 5	-	2575 2669 3222 5594 =14060	2575 2669 3222 5594 =14060		2575 2669 3222 5594 =14060	2575 2669 3222 5594 =14060
6	INTEREST = PRINCIPAL PAID FOR LOAN IN LOAN A/C NO. 001984	135844	63360.50	PW 49,75 EX.P119 TO 121 DW15,23 EX.D 2,3,12,22		135844

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7	PROCESSING FEE PAID FOR LOAN IN LOAN A/C NO. 001984	5400	2700			5400
8 AND 9	TUTION FEE	4005 4360 = 8365	4005 4360 = 8365		4005 4360 = 8365	4005 4360 = 8365
10	TV CABLE SUBSCRIPTION	2900	2250			2250
11 TO 14	-	5750 369 2260 2481 =10,860	5750 369 2260 2481 =10,860		5750 369 2260 2481 =10,860	5750 369 2260 2481 =10,860
15	TELEPHONE BILLS	7678	3000			7678
16	WATER CHARGES	1170	585			1170
17	WATER AND SEWARGE TAX	1318.74	659.37			1318.74
18 AND 19	-	7500 155132.40 =162632.4	7500 155132.40 =162632.4		7500 155132.40 =162632.4	7500 155132.40 =162632.4
20	BANK LOCKER CHARGES	4881	4755			4881
21	PROFESSIONAL FEE PAID TO CHARTERED ACCOUNTANT	3000	3000		3000	3000
22	PROPERTY TAX PAID	3604	1802			3604
23	AMOUNT PAID TO HDFC	42884	NIL DEFENCE			

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	LOAN IN A/C NO. 977869		CLAIM AS IF THE BHARATHI ASHOKAN HAS **ONLY LENT HER NAME**. SO, LOAN REPAYMENT WILL GO SANKAR ADHIMOOLAM			**(NAME LENDING PRACTICE)**
24	TUTION FEE PAID TO MASTER ANAND	604	517			604
	TOTAL	420279.10	284966.3			410758.14

<u>COMPUTATION OF DISPROPORTIONATE ASSETS</u>

S.NO.	PARTICULARS	AS PER CBI	DEFENCE	REMARKS BY RESPONDENT
1	INCOME (C)	24,28,897.30 (24,28,897.30+0)	5,399,675 (34,15,865+19,83,810)	24,93,846.30 (24,28,897.30+64,949)
2	EXPENDITURE (D)	4,20,279.10	2,84,966.3	4,10,758.14
3	LIKELY SAVINGS	20,08,618.2	25,70,919	20,83,087.90
4	ASSETS AT THE BEGINNING OF CHECK PERIOD	9,700	3,42,969.53	28,521
5	ASSETS AT THE END OF CHECK PERIOD	32,25,836	20,64,359	23,87,290
6	ASSETS	32,16,136	17,21,389.47	23,58,769

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7	DA		+ 849,529.53	2,75,681.1
8	PERCENTAGE OF DA	37.5%		11.68%

For all the above reasons, the Trial Court had rightly convicted the appellant and he would pray that the appeal be dismissed.

F. Consideration and Findings of this Court:

6. I have considered the rival submissions that are made and perused the material evidence on record.

6.1. There is no dispute regarding the fact that the appellant is a public servant, and the check period is from 01.09.1989 to 19.01.1998. Regarding the Statement A, that is, the assets in the hands of the Accused at the start of the check period, it is the claim of the prosecution that it was only Rs.9,700/-. The Trial Court determined the same as Rs.59,700/- adding a sum of Rs.50,000/- towards agricultural income.

6.2. As far as the agricultural income is concerned, it can be seen that the calculation was made jointly by combining the income and expenditure of A1 and A2.

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While the prosecution claimed only Rs.9,700/- under Statement 'A', the appellant is claiming a sum of Rs. 4,52,533/-, based on the agricultural income accruing to the accused persons. The accused's claim is supported by the evidence of P.Ws.55, 59, and 67, as well as Exs.P125, 127, 128, and D17.

6.3. In this regard, it can be seen that the concerned Village Administrative Officer was examined by the prosecution as P.W.67. Through him, a certificate in Ex.P.125 was marked. According to that, in Palacode Taluk, in Athimutlu Revenue Village, the accused No.2 possessed lands in Survey No.71/5, which was Nanja (wet land). The land contained coconut and plantain crops, and as per Ex.P.125, the annual income from this land, after expenses, would be approximately Rs.40,000/- per year. Similarly, in Survey No. 61/1, two acres were purchased by Accused No. 2, which had coconut trees. Ex. P.125 states that the income from these coconut crops was modest, but they also cultivated paddy, tomatoes, etc. The income from these crops, as per Ex.P.125, would be Rs.10,000/- per year. Therefore, without relying on the exaggerated claims of the accused, the Court will consider only the version of the prosecution witnesses and the documents presented by the prosecution.

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6.4. Firstly, the Trial Court restricted the said income from the year 1986 onwards, on the ground that the '*adangal*' was not produced on behalf of the accused. However, it can be seen from Ex.P.125, which was produced by the prosecution itself, that copies of the *pattas* and *chittas* were annexed to Ex.P.125. However, no explanation was provided by the prosecution as to why these annexures were not found when Ex.P.125 was produced. Furthermore, only a conservative estimate has been made by the VAO, who is a prosecution witness, and Ex.P.125 explicitly states that the amount can be calculated after deducting all expenses. The first land is used for coconut cultivation/plantain and covers an extent of 0.69.5 hectares, and another 2 acres are owned by the accused No.2. Initially, the Trial Court, having decided to consider the agricultural income from the year 1986 onwards at Rs.50,000/- per year, should have combined the total agricultural income for the three years from 1986 to 1989 as Rs.1,50,000/-, but it only considered Rs.50,000/- due to oversight or a calculation error. Secondly, the Trial Court failed to consider Ex.P.125, and therefore, the income should be considered from the year 1983. Therefore, I believe that only a total of Rs. 3,00,000/- should have been considered as agricultural income by the Trial Court, whereas it only considered Rs. 50,000/-. However, with reference to HUF income, I reject the submission that the Kartha will be entitled for the entire income.

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6.5. The next submission is with respect to the money available with the accused in the bank account and fixed deposits. It is the case of the accused that a total deposit amounts in the bank is Rs.43,589/- and Rs.53,680/- which are available as fixed deposits. While some of the documents marked by the defense are in the nature of deposit challans, it can been seen that Ex.D.34 is the passbook of Indian Bank S/B Ac/No.15927 in the name of the appellant - Asokan and it can be seen that as on 01.09.1989, a sum of Rs.8,678.84ps. was lying in the credit. Similarly vide Ex. D-38, passbook in respect of Bank of India SB Account No.8730, it can be seen that a sum of Rs.18,282.81 ps. was in the credit of the account, as on 01.09.1989. Thus, though the prosecution denies the claim of the accused on the ground that the statement does not tally, certainly their projection that only a sum of Rs.9,700/- was in the hands of the accused is proven to be incorrect. In this regard, with the above and coupled with the challans and the oral evidence of the accused, it is probable that the accused was having another sum of Rs.43,589/- in the bank account. Similarly, certain deposit receipts, investment certificates or share purchase certificates are marked on behalf of the defense. While there is no clinching proof, again, it can be seen that these documents, coupled with the oral evidence of the accused, it can be held as probable. Thus, I modify the finding of the Trial Court with reference to Statement

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A from Rs.59,700/- to Rs.4,06,969/-.

6.6. With reference to Statement -B, the Trial Court found in paragraph No.22 that, regarding the flat purchased at Flat No.1-D, Palace Garden, 21 Ramanathan Street, Kilpauk, Chennai, it is solely the appellant's asset and rejected the defense's claim that 50% undivided interest in the property belongs to A1's brother, *Shankar*. Although the title deeds support the defense's version, the Trial Court dismissed their case, noting that a loan of Rs.3 Lakhs was taken from ICICI Bank and the EMI was paid exclusively from the bank account of the accused No.1 in Mumbai. Furthermore, the entire rental income was shown as the income of the 1st accused in Statement 'C', under entries 29 and 30. Accordingly, the Trial Court concluded that D.W.23 was merely a name lender and that the property belonged to the accused.

6.7. In this regard, Ex.P119 is the letter given by the builder to the Investigating Officer. Exs.P120 and 121 are the sale deeds executed separately in the name of the appellant and D.W.23. The sale deeds categorically mention that the sale consideration was received from the appellant as well as D.W.23 respectively. On behalf of the defence, Ex.D2 series and D3 were produced as the receipts issued by the builder for payment of the

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amounts. For instance, the receipts in Ex.D2 clearly mention the Cheque No.782971 from the Karur Vysya Bank, Chennai. D.W.23 has claimed in his evidence that the cheques were issued from his Karur Vysya Bank account. Even in the cross-examination, it turns out that the Karur Vysya Bank account cheque is a cheque for a sum of Rs.20,000/-, which is claimed to be that of D.W.23. The same is the version of cross-examination of D.W.23. If the said Cheque No.782971 of the Karur Vysya Bank is admitted to belong to D.W.23, then even as per Ex.P119, there are two other cheques from the same Karur Vysya Bank, carrying similar serial numbers, i.e., 782961 and 782962, of the Karur Vysya Bank Limited, Chennai, each for a sum of Rs.75,000/-. Therefore, it cannot be said that D.W.23 is a name lender. He has also entered the witness box and deposed that he is an engineering graduate, was employed at the relevant time, and was also in possession of other properties. Under these circumstances, the version of the accused that there were certain dealings between D.W.23 and the appellant, who were brothers, appears more probable than the prosecution's version that the sale deed was obtained as a benami transaction in the name of D.W.23. Merely because the entire rental income was claimed to be that of A1, the Trial Court ought not to have held that the property belonged to the appellant alone. As the brothers are claiming cash transactions between themselves and considering that the title deed, viz., construction agreement, the receipts, and the registered sale deeds

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regarding undivided shares are all categorically in the names of both the appellant and D.W.23, I am unable to sustain the findings of the Trial Court with regard to considering the entire asset as belonging to the appellant. The value of the flat is Rs.8,22,570/-. 50% of the same would be Rs.4,11,285/-, which has to be deducted from the total calculation of Rs.35,69,144/- which would be Rs.31,57,859/-.

6.8. Regarding the income shown for the accused, during the check period, once this Court finds that the property also belongs to D.W.23 jointly with the accused No.1, the rental income of Rs.1,92,000/- must be halved. Similarly, the advance amount of Rs.80,000/- mentioned in Sl.No.30 should also be halved. Therefore, Rs. 1,36,000/- will be deducted from the accused's income. Accordingly, (Rs.26,56,292/-) - (Rs.1,36,000/-) = Rs. 25,20,292/-, which is the total income of the accused during the check period, and 'Statement C' is calculated accordingly. The total expenditure as per Statement D is Rs.4,19,809/-.

6.9. As per the findings above, the conclusion shall be as follows:

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1.	The assets in the hands of the appellant accused at the start of the Check Period – Statement -A	**Rs.4,06,969/-**
2.	The total assets at the end of the Check Period – Statement -B	**Rs.31,57,859/-**
3.	The total income as per known sources of the accused during the Check Period – Statement -C	**Rs,25,20,292/-**
4.	The expenditure of the accused during the Check Period – Statement -D	**Rs.4,19,809/-**
5.	The disproportionate asset : (B-A) – (C-D)	**Rs.6,50,407/- (25.8%)**

6.10. Thus, it can be found that though the trial court may not be correct in holding that the appellant possessed disproportionate assets worth Rs.12,72,961/-, this Court still finds that the accused was in possession of disproportionate assets worth Rs.6,50,407/-, that is 25.8%. Accordingly the finding of guilt in respect of the Offense punishable under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 shall stand confirmed.

F. The Sentence:

7. In this case, I consider the fact that even though the money was seized from the accused on information, the prosecution did not find any evidence of any other offense

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being committed, either *prima facie* or otherwise, and no first information report was registered, except in the present case of disproportionate assets. The appellant is now aged 72 years and has been facing the proceedings since 2002. Therefore, the sentence of imprisonment can be reduced to the minimum sentence of simple imprisonment for a period of one year. Similarly, the amount of forfeiture also stands modified to Rs.6,50,407/-. The fine amount shall remain the same.

<u>G. The Result:</u>

8. The Criminal Appeal No. 245 of 2015 stands allowed in part on the following terms:

(i) The conviction of the appellant for the offense punishable under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act,1988, stands confirmed;

(ii) The appellant is sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.50,000/-, and the said fine amount already paid is recorded.

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(iii) Of the total sum of Rs.12,43,850/- seized from the appellant/accused, a sum of Rs.6,50,407/-, with proportionate accrued interest, if any, shall be forfeited and paid out to the Government. The balance amount, along with the proportionate accrued interest, if any, shall be paid out to the accused.

07.10.2025

Neutral Citation : Yes

Jer

To
1.The XIII Additional Special Judge for CBI Cases, Chennai.
2.The Inspector of Police
CBI/ACB/Chennai.
3.The Special Public Prosecutor
High Court of Madras.
4.The Section Officer
High Court of Madras.

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D.BHARATHA CHAKRAVARTHY, J.

Jer

Criminal Appeal No.245 of 2015

07.10.2025