



Criminal Appeal No.222 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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JUDGMENT RESERVED ON: 23.06.2025

JUDGMENT PRONOUNCED ON: 08.08.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Criminal Appeal No.222 of 2018

Royappan Lourdu Jayaseelan

.. **Appellant/Accused - 1**

Vs.

State Represented by
Inspector of Police
SPE:CBI:ACB:Chennai
Sastri Bhavan, Chennai – 6.
(R.C.54(A)/2009)

.. **Respondent/Complainant**

Prayer: Criminal Appeal filed under Section 374(2) of Code of Criminal Procedure, to set aside the Judgment passed against the appellant/accused – 1, by the learned XIV Additional Special Judge for CBI Cases, Chennai, by the Judgment dated 28.03.2018 made in C.C. No.21 of 2010 acquit them from all the charges.

For the Appellant

: Mr.K.Shankar

For the Respondent

: Mr.K.Srinivasan
Special Public Prosecutor
(CBI Cases)



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A.The Appeal:

This criminal appeal contests the judgment of the learned XIV Additional Special Judge for CBI Cases, Chennai, delivered in C.C.No.21 of 2010 on 28.03.2018. In that case, two persons were tried: *Royappan Lourdu Jeyaseelan* (Accused No.1/appellant) and his wife, *Little Flower*.

1.1 The first accused / appellant was convicted of the offence under Section 13(2) read with Section 13(1) (e) of the Prevention of Corruption Act, 1988. The second accused, charged with abetment of the offence, was acquitted. The appellant was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.10,000/-; in default, to undergo simple imprisonment for three months. Aggrieved by the conviction and sentence, the present criminal appeal is filed.

B.Case of the Prosecution and Trial:

2. The case of the prosecution is that on 22.10.2009, there was reliable information on record indicating that, with reference to the check period from

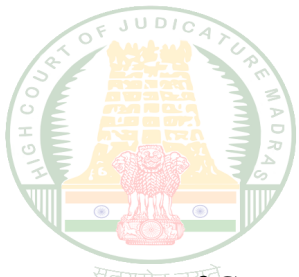


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25.07.2007 to 24.07.2009, the appellant, who is a public servant working as an Upper Division Clerk in the office of the Protector of Emigrants, Ministry of Overseas Indian Affairs, Government of India, accumulated wealth through illegal means. Assets amounting to Rs.12,50,723/- were found to be disproportionate to his known sources of income. His wife, who was a teacher, was found to be aiding and abetting him. The particulars of the assets at the beginning and end of the check period, income and expenditure during the period, and the disproportionate assets as per the information were also calculated.

2.1. Based on the said information, a regular case in RC MA1 2009 A 0054 was registered on 22.10.2009 by *S. Murugan*, Superintendent of Police, SPE:CBI: ACB: Chennai. Later, *M. Raja* – P.W.36, the Inspector of Police, completed the investigation and filed a final report proposing that the appellant and his wife be found guilty of an offence under Section 13 (2) read with Section 13 (1) (e) of the Prevention of Corruption Act, 1988, and under Section 109 IPC read with Section 13 (2) read with Section 13 (1) (e) of the Prevention



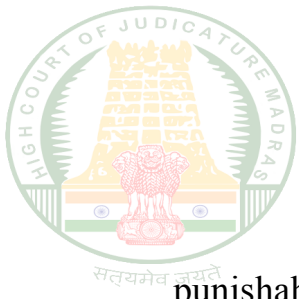
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of Corruption Act, 1988.

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2.2 The case was taken on file as C.C.No.21 of 2010. On 28.01.2013, charges were framed against the appellant and his wife. The charge against the appellant is that while working as an Upper Division Clerk in the office of the Protector of Emigrants, Ministry of Overseas Indian Affairs, Government of India, Chennai, he accumulated wealth and assets in his own name and in his wife's name, amounting to Rs.24,38,637/-, during the check period from 25.07.2007 to 24.07.2009. This amount was disproportionate to his known sources of income, which he could not satisfactorily explain. Therefore, he committed an offense punishable under Section 13 (2) read with Section 13 (1) (e) of the Prevention of Corruption Act, 1988.

2.3 For the same facts, the appellant's wife, the second accused, was charged because assets and pecuniary resources were also acquired in her name, which are disproportionate to the known sources of income and for which she could not satisfactorily account. Consequently, she committed an offence

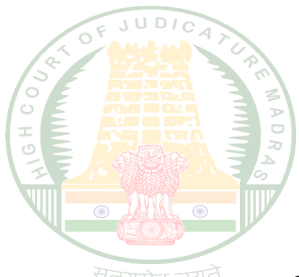


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punishable under Section 109 of the IPC read with Section 13 (2) read with Section 13 (1) (e) of the Act. The accused denied the charges and stood trial. To establish the charges, the prosecution examined witnesses P.Ws. 1 to 36 and marked documents under Exs. P.1 to 110.

2.4 Upon being questioned about the incriminating evidence that is on record under Section 313 of the Code of Criminal Procedure, the accused denied it as false. Thereafter, on behalf of the defence, D.Ws.1 to 5 were examined and exhibits, Exs.D1 to 10, were marked. The Trial Court found the explanation offered by the second accused regarding the properties and pecuniary resources said to have been acquired in her name to be justifiable, as she was working as a teacher and had an independent source of income, and acquitted her of the charges.

2.5 Regarding the appellant / accused, the Trial Court found that the assets were disproportionate by Rs.18,37,031/-, which is 181% more than the known sources of income, and therefore convicted and sentenced the appellant



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as stated above.

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C.The Arguments:

3. Heard *Mr.K.Shankar*, the learned counsel appearing for the appellant, and *Mr.K.Srinivasan*, the learned Special Public Prosecutor appearing for the respondent CBI.

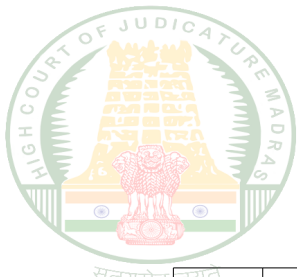
3.1. *Mr.Shankar*, the learned counsel appearing on behalf of the appellant, would immediately guide this Court through the various statements relied upon by the prosecution and highlight the disputed portions. He would specifically draw the Court's attention to the comparative statements concerning Statement A, which are reproduced below:-

Statement A

(Check Period:25.07.2007 to 24.07.2009)

Assets of Shri R.L.Jeyaseelan and Smt.Little Flower at the beginning of check period, as per final report

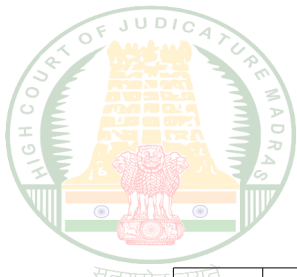
<i>Sl. No.</i>	<i>Description</i>	<i>By CBI</i>	<i>As per Defense</i>	<i>Trial Court Judgment</i>	<i>Difference to be added</i>	<i>Remarks</i>
	Immovable Assets: Nil					



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Sl. No.	Description	By CBI	As per Defense	Trial Court Judgment	Difference to be added	Remarks
Movable Assets:						
1.	House hold articles inventoried at Home on 24.7.09	3,30,000	3,30,000	3,30,000	0	No dispute
2.	Little Flower J, ICICI Bank a/c No.027601506493 maintained at Nelson Manickam Branch, Chennai	1,675	0	0	0	No dispute HC:799 Trial Court separated wife account
3.	RL Jeyaseelan, ICICI Bank a/c No.603301500668	39,918	39,918	39,918	0	No dispute
4.	House Rent Advance given in 2005 while occupying No.84, Baba Foundation, Choolaimedu, Chennai	45,000	45,000	45,000	0	No dispute
Added	Personal Loan taken by Shri RL Jeyaseelan, from ICICI Bank, Besant Nagar Branch, Chennai on 09.11.2006. Ex.P.30, PW12.	-	96,900	96,900	0	No dispute
Added	Sale proceed of House on 08.01.2003. The house was sold for Rs.8.55 Lakh out of which Rs.3 Lakh was paid to LIC towards Housing Loan. The Balance of Rs.5.55 Lakh is		5,55,000	5,55,000	0	No dispute



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<i>Sl. No.</i>	<i>Description</i>	<i>By CBI</i>	<i>As per Defense</i>	<i>Trial Court Judgment</i>	<i>Difference to be added</i>	<i>Remarks</i>
	to be taken. Ex.P.109, Sale Deed, IO says it in chief spoke about LIC loan paid by purchaser.					
Added	Income from Private Tuition Rs.50,000/- each year for 6 years (2002 to 2007) Ex.P.42, Car application: additional income		3,00,000	Not taken	3,00,000	Ex.P.42 HC:459 Car Loan application. Trial Court did not speak about this fact.
	TOTAL	4,16,593	13,66,818	10,66,818	3,00,000	

3.2. Thus, he would submit that, according to the version of the Central Bureau of Investigation, the initial asset was Rs.4,16,593/-, while the defense's claim is Rs.13,66,818/-. The Trial Court accepted everything else as proposed by the defense, except the income from private tuition, which was calculated at Rs.50,000 per year. In fact, he relies on Ex.P42, the car loan application, in which the income from private tuition was shown. Although the Trial Court itself dismissed the Rs.3 lakh income, it did not discuss Ex.P42.

3.3. With reference to the Statement 'B', the learned counsel would submit



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that, while the prosecution considered both the income of accused No.1 and No.2 together and concluded that the total assets at the end of the check period amounts to Rs.11,21,204/-, the defence claimed that it was only Rs.6,00,754/-, a claim accepted by the Trial Court. There is no dispute regarding the Trial Court's finding related to Statement 'B', as the Court agreed with the defence's version and distinguished the wife's income and accounts from those of the first accused.

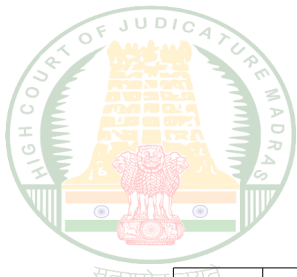
3.4. With reference to Statement 'C', that is, the total income during the check period, the learned counsel will present the details in the form of the following tabular column,

Statement : C

(Check period : 25.07.2007 to 24.07.2009)

INCOME DURING CHECK PERIOD

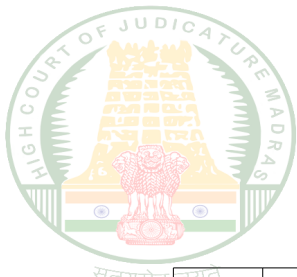
<i>Sl. No.</i>	<i>Description</i>	<i>By CBI</i>	<i>As per Defense</i>	<i>Trial Court Judgment</i>	<i>Difference to be added</i>	<i>Remarks</i>
1.	Net Salary received by R.L.Jeyaseelan including DA arrears, Bonus, etc. from POE, Chennai.	3,55,886	3,55,886	3,55,886	0	No dispute



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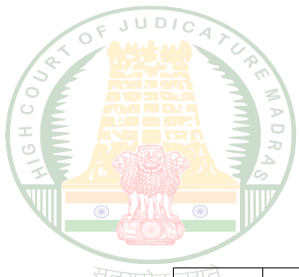
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Sl. No.	Description	By CBI	As per Defense	Trial Court Judgment	Difference to be added	Remarks
2.	Net Salary received by Smt.Little Flower J from Fatima Mat.Hr.Sec.School, Kodambakkam, Chennai (07/2007 to 06/2009)	2,05,440	0	0	0	No dispute. Trial Court separated wife account. Rs.2,05,440 should be added as Family Unit Income.
3.	Net Salary received by Sh.John Peterson J. S/o Sh.RL.Jeyaseelan from Oct.08 to June, 09 from M/s Inforsys Technologies Ltd., Mahendra World City, Chennai.	1,54,323	1,54,323	1,54,323	0	No dispute. HC 353 / Ex.P.106
4.	Car Loan availed by Smt.Little Flower for Mahendra Logan Car TN10U0639 from ICICI Bank A/c No.LACHE 000 12465725	3,00,000	0	0	0	No dispute. Trial Court separated wife account.
ADD ED	Income from Private Tuition Rs.75,000/- each year for 2 years (06/2007 to 05/2009) Ex.P.42, Car Application:Addl.in come	Not taken	1,50,000	Not taken	1,50,000	Ex.P.42, HC:459 Car loan Application. Trial Court did not speak about this fact.
ADD ED	Hand loan taken from Smt.Josephine Lily (D.W.1) younger sister of	Not taken	2,50,000	Not taken	2,50,000	HC:803-804 Trial Court Discussion



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<i>Sl. No.</i>	<i>Description</i>	<i>By CBI</i>	<i>As per Defense</i>	<i>Trial Court Judgment</i>	<i>Difference to be added</i>	<i>Remarks</i>
	Sh.RL.Jeyaseelan towards booking a plot for his son.					
ADD ED	Hand loan taken from Smt.Amalorpava Claramary	Not taken	5,00,000	Not taken	5,00,000	HC-804 Trial Court Discussion. IT sheets Ex.P.762-767
ADD ED	Hand loan taken from Sh.R.Thomas (D.W.3) Elder brother of Sh.RL Jeyaseelan towards booking a plot for his son	Not taken	2,50,000	Not taken	2,50,000	HC-804 Trial Court Discussion. IT sheets Ex.P.759-761
ADD ED	Hand loan taken from Sh.R.Selvam (D.W.4) younger brother of Sh.RL Jeyaseelan towards booking a plot for his son	Not taken	2,50,000	2,50,000	0	HC-805 Trial Court Discussion.
ADD ED	Loan from Sh.R.James (D.W.5) Brother of Sh.RL Jeyaseelan towards purchase of Car by his wife Smt.Little Flower Jeyaseelan	Not taken	1,50,000	Not taken	1,50,000	HC-805 Trial Court Discussion. IT sheets Ex.P.768-772
ADD ED	Loan from Sh.R.James (D.W.5) Brother of Sh.RL Jeyaseelan towards medical expenses	Not taken	1,00,000	Not taken	1,00,000	HC-805 Trial Court Discussion. Ex.P.768-772
ADD ED	Hand loan from Sh.R.James (D.W.5) younger brother of Sh.RL Jeyaseelan	Not taken	2,50,000	2,50,000	0	HC-805 Trial Court Discussion. Ex.P.768-772



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Sl. No.	Description	By CBI	As per Defense	Trial Court Judgment	Difference to be added	Remarks
	towards booking a plot for his son					
	TOTAL	10,15,649	24,10,209	10,10,209	14,00,000	

3.5. Thus, the learned counsel submits that while the prosecution states the total income was Rs.10,15,649/-, the defence claims it was Rs.24,10,209/-. The Trial Court did not consider the hand loan from D.Ws.1, 2, and 3, accepting only the transaction from D.W.4 & 5. If the Rs. 14 Lakhs hand loan received by the accused and subsequently repaid to his family members is taken into account, there would be no disproportionate assets. The learned counsel will argue this point in detail.

3.6. The learned counsel would specifically argue regarding the transaction, which is in the nature of an agreement of sale, entered into by the accused No.1 for the purchase of 1212 sq.ft in Survey No.77/4 Moovarasanpet Village, Tambaram Circle, Kanchipuram District, with P.W.32 – *Vivekananthan*. The learned counsel would submit that it can be seen that on 03.04.2009, P.W.32 – *Vivekananthan* entered into an agreement of sale with one *Udyakumar* – P.W.31 for a sum of Rs.24 Lakhs and received an advance of Rs.50,000/- from

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the said *Udyakumar*. On 25.04.2009, P.W.31 paid another Rs.10 Lakhs to P.W.32, and the third installment of Rs.5 Lakhs was paid on 26.06.2009. Fifteen days thereafter, on 10.07.2009, the sale agreement was canceled, and the sale advance of Rs.15,50,000/- was returned to P.W.31. The learned counsel then points to Ex.P.86 and notes that the said *Udyakumar* – P.W.31 in turn made an agreement with the first accused to sell the property for a total consideration of Rs.27 Lakhs and received Rs.10 Lakhs as an advance. On 25.06.2009, *Udyakumar* received another Rs.5 Lakhs as the second installment from the first accused. When the first accused was unable to mobilize further funds, *Udyakumar* returned the amount of Rs.15,50,000/- before the due date, and the first accused immediately returned the money to his sisters and brothers during the check period itself.

3.7. The learned counsel would submit that the Trial Court itself disbelieved Ex.P.89. Ex.P.89 was not executed by the first accused, and it was not a genuine document. Hence, the prosecution's version that the sale advance was not returned until the end of the check period should be rejected outright. He would further submit that, in fact, the entire transaction was not reflected in



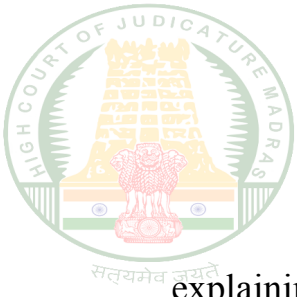
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the First Information Report or in the original statements prepared by the prosecution. The appellant/accused had voluntarily disclosed the entire transaction of entering into a sale agreement, its cancellation, borrowing from his family members, and the subsequent return of an amount. While the prosecution relied solely on the agreement, failing to gather other evidence to substantiate the allegation of disproportionate assets, it selectively ignored other parts of the statement made by the appellant/accused. The Trial Court, while believing part of the statements with reference to some witnesses, should have also believed that the entire transaction as described by the appellant/accused was credible. The logic used to believe in the hand loan received from *Selvam*, the younger brother of the appellant, and another loan from *James*, another younger brother (D.Ws.4 and 5), should similarly apply to D.Ws.1, 2, and 3, as well as to the other two loan amounts from D.W.5. All of these witnesses are well-off and able to help the first accused, especially considering the urgency of the transaction. If this is taken into account, then there is no evidence of disproportionate assets.

3.8. *Per contra*, Mr.Srinivasan, the learned Special Public Prosecutor, by

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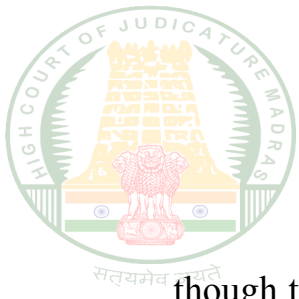


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explaining the various reasonings of the Trial Court, would submit that the statements A, B, C, and D were considered item-wise by the Trial Court. Even though some prosecution items were not accepted and some of the defence's projections were accepted, the Trial Court still correctly calculated the assets at the beginning and end of the check period, as well as the income, expenditure, and the extent of disproportionate assets during that period. The disproportionate assets were as high as 181%. Even after the arithmetic mistake pointed out by the learned counsel for the appellant, there remains a significant disproportionate asset amount, which exceeds the permissible limit of 10%.

3.9. Regarding the claims related to tuition income, the appellant/accused has conveniently raised the same during the prosecution. However, no documentary evidence, such as income tax returns reflecting such tuition income for the relevant years, was produced either before the Investigating Officer or the Trial Court. Therefore, these claims cannot be considered. When the appellant/accused provided the amount during the check period for the purchase of an immovable property, which was not returned during that period, it is now conveniently claimed that the amount was returned during the same period, even



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though the prosecution has marked the relevant agreement in Ex.P.89, where the amount was to be refunded after the sale of the property, well beyond the check period. As a result, Rs.14 Lakhs must be credited as being advanced by the accused for the property purchase. The family members are likely to testify in favour of the appellant/accused, who are members of the same family, and their evidence should not be accepted blindly. No supporting material such as banking transactions was produced to prove that the amount was borrowed. The income tax returns and other relevant documents of the family members were not presented to support the loan transactions. The Trial Court thoroughly examined each transaction and, therefore, has disbelieved most of the borrowings now presented before the Court. The other discrepancies, related to minor amounts, are such that there will be assets disproportionate to known sources by more than 10%. Thus they remain inconsequential. Thus, this Criminal Appeal warrants dismissal.

D. The Discussion & Findings:

4. I have considered the rival submissions made on either side and



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perused the material records of the case. At the outset, there is a calculation mistake made by the Trial Court, and it made the calculation as under :

1.	Assets at the beginning of check period (Statement A)	Rs.10,66,818/-
2.	Assets at the end of the check period (Statement B)	Rs.6,00,754/-
3.	Assets acquired during the check period (B-A)	Rs.-4,66,064/-
4.	Income during the check period (Statement C)	Rs.10,10,209/-
5.	Expenditure during check period (Statement D)	Rs.23,81,176/-
6.	Likely saving during the check period (C-D)	Rs.-13,70,967/-
7.	Extent of disproportionate Assets (B-A) – (C-D)	Rs.18,37,031/- (181 %)

4.1. As a matter of fact, (B-A)-(C-D) should only be Rs.9,04,903/-, which would be 89.5%. To understand this differently, at the start of the check period, the accused was in possession of assets worth Rs.10,66,818/-, of which only Rs.6,00,754/- was available at the end. This means assets worth Rs.4,66,064/- were liquidated and added to his income, totaling Rs.14,76,273/-. His



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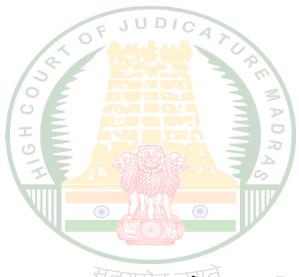
expenditure was Rs.23,81,176/-, thus leaving a deficit of Rs.9,04,903/-.

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Therefore, the finding of the Trial Court that there are disproportionate assets amounting to Rs.18,37,031/-, which is 181%, is incorrect.

4.2 In this case, regarding the income in Statement 'C', the prosecution did not believe the appellant's version that he had borrowed a sum of Rs.15 Lakhs from his family members, namely, D.Ws.1 to 5, to raise the advance amount paid to P.W.32 through P.W.31. However, the amount paid was included in the expenditure statement, and it was the prosecution's original case that the amount was not returned during the check period. The transaction was cancelled only by Ex.P89, on 24.07.2009, that is, on the last date of the check period, and the amount was returned only thereafter. The Trial Court disbelieved Ex.P89. Before considering Ex.P89, it is necessary to first examine the explanation offered by the appellant.

4.3. It is the case of the appellant / accused that he had sourced the amount of Rs.15 Lakhs by borrowing Rs.2,50,000/- from D.W.1, his younger



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sister, *R. Josephine Lily*; D.W.2, his elder sister, *Amalorpava Clara Mary*, who is said to have advanced Rs.5 Lakhs; D.W.3, his elder brother, *Thomas Royappan*, who is said to have advanced Rs.2,50,000/-; D.W.4, his other elder brother, *Selvam Royappan*, who is said to have advanced Rs.2,50,000/-; and D.W.5, his younger brother, *R. James Fernando*, who is said to have advanced Rs.2,50,000. Additionally, D.W.5 also mentions the loan of Rs . 1,50,000/- and Rs . 1 Lakh for the purchase of a car and the medical treatment of the accused's son. D.Ws.1 to 5, being the siblings of the accused, may tend to help him in light of the case filed on allegations of disproportionate wealth. Therefore, their testimonies should be scrutinized carefully and cannot be accepted uncritically unless supported by corroborating evidence.

4.4. The Trial Court adopted the approach and found that, regarding the sum claimed to have been advanced by D.Ws.4 and 5, it is not based solely on their *ipse dixit*, but supported by corroborating evidence showing their ability to provide the loan. D.W.4's income for the year 2009 was proven through Ex.D6. For D.W.5, the Form-16 and the income tax statement for the relevant year were



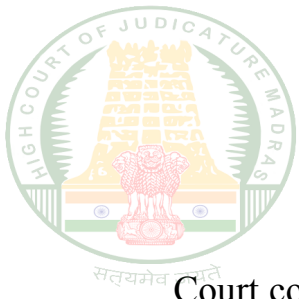
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marked as Ex.D9. Consequently, the Trial Court held that the first accused obtained a loan of Rs . 5 Lakhs, i.e., Rs -.2,50,000/- from each of D.Ws.4 and 5, and added this amount to the otherwise accepted prosecution income of Rs.5,10,209/-, resulting in a total income of Rs.10,10,209/-.

4.5. The learned counsel for the appellant submits that when the Trial Court has believed the accused regarding borrowal from family members, it should have also believed the borrowal from other family members. This argument cannot be accepted. It is for the defence to establish its sources to the level of the preponderance of probability. Therefore, the mere *say-so* of the family members cannot be relied upon, and unless there is some further corroboration to show that the borrowing is probable, the accused's plea cannot be accepted. In this regard, the Trial Court has already accepted the plea concerning D.Ws.4 and 5.

4.6. As far as D.W.5 is concerned, he has also deposed that apart from a sum of Rs.2.5 Lakhs, which he had advanced as a loan at the time of purchasing the immovable property, he had lent Rs.1.5 Lakhs for buying a car. The Trial



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Court considered that the purchase of the car and related expenditure were those of the appellant's wife, and therefore, the same cannot be taken into account. However, the medical expenses were included in the expenditures incurred by Accused No.1. Therefore, when the Trial Court believed in D.W.5's capacity and the transactions involving Rs.2,50,000/- for the purchase of the plot, the additional transaction of Rs.1,00,000/- loan towards medical expenses of the appellant's son can also be considered probable.

4.7 Now, let us consider the plea of the accused regarding the borrowal from D.Ws.1 to 3. Concerning the evidence of D.W.1, she was working as a Marketing Officer at AMC Company, a vessel manufacturing firm. She states that her husband is employed as an Assistant Executive Engineer at the Tamil Nadu Electricity Board in Coimbatore. She was cross-examined in detail. It was established that her son was studying Engineering, and another son was enrolled in a private school. Firstly, she claims that she used her own savings and pledged gold to provide money to the accused.



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4.8 As far as DW3 is concerned, he is involved in buying, selling, and repairing old generators. He did not provide any financial proof of his capability. The only document marked is Ex.D.4 – Family Card. Considering the cross-examination, the Trial Court rightly disbelieved D.W.3's version.

4.9 Regarding D.W.1 – *Josephine Lily*, apart from her oral testimony, her Central Bank of India savings account passbook was marked as Ex.D1. The passbook relates to her Savings Account No. 3022018569 at the Trichy Road Branch, Coimbatore. The relevant pages showing entries during the period in question, i.e., from June 2009 when the alleged transactions occurred, were also marked and produced before the Court. It is evident that in May 2009, Rs.50,000/- was transferred to her account, which she withdrew as cash. Similarly, Rs.50,000/- was transferred to her account in August 2009, and she withdrew that amount as well. Therefore, her passbook reflects financial transactions during the relevant period, suggesting it is possible that D.W.1 is also capable of lending a sum of Rs.2,50,000/-. When proof is based on the preponderance of probability and not proof beyond a doubt, the Trial Court



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could have accepted the borrowing claim from D.W.1 using the same reasoning applied to D.W. 4 and 5.

4.10 Regarding D.W.2 – *Amalorpava Clara Mary*, originally Ex.D.3 —the income tax return for the assessment year 2017–2018, was marked. This is merely a SARAL statement showing the final income amount and the tax paid, without details about the nature of the income, etc. After cross-examination, the Ex.D7 series, which are income tax returns filed by her for the assessment years 2011–2012 to 2015–2016, were marked. These were also SARAL statements. If the original statement of accounts had been filed, the Court could have verified whether she owned the property, etc. These are all nil returns, in which she reported some income from 2011 onwards and claimed deductions, but did not pay any income tax. No documents were filed for 2009, the year in which the amount was allegedly advanced. Therefore, in the absence of any proof, the Trial Court rightly rejected D.W.2's claim that she had advanced Rs. 5 Lakhs.

4.11 On the findings above, the disproportionate asset must be



recalculated by this Court. The calculation will be as follows:-

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1.	Assets at the beginning of check period (Statement A)	Rs.10,66,818/-
2.	Assets at the end of the check period (Statement B)	Rs.6,00,754/-
3.	Assets acquired during the check period (B-A)	Rs.-4,66,064/-
4.	Income during the check period (Statement C)	Rs.13,60,209/-
5.	Expenditure during check period (Statement D)	Rs.23,81,176/-
6.	Likely saving during the check period (C-D)	-Rs.10,20,967/-
7.	Extent of disproportionate Assets (B-A) – (C-D)	Rs.5,54,903/- (22.8%)

4.12 The aforementioned exercise would have been unnecessary if the prosecution had been diligent during the trial. It is their case that when the advance for the purchase of the property was made pursuant to Ex. P.88, it can be seen that the accused paid the amount to one *A.M.Udyakumar* (P.W.-31), who was an agreement holder of *K.Vivekananthan* (P.W.-32). The agreement between P.W.-31 and P.W.-32 is Ex. P86. According to the prosecution's case, the

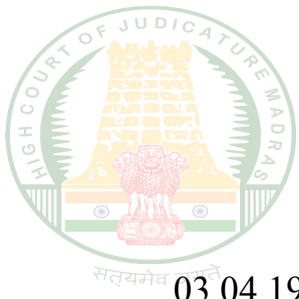


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agreement was valid until the check period and was only cancelled on 24.07.2009 (the last day of the check period), after which the money was agreed to be repaid.

4.13 In this case, during the course of investigation, 164 statement of PW-32 was originally recorded on 26.04.2010 by P.W.35, the Learned Magistrate. In the said statement, *Vivekananthan*, the owner, does not mention any document of cancellation of the agreement. However, he states that he had entered into Ex.P86 only with *Udyakumar*, P.W.31. The advances were paid to him in June 2009. When the transaction was not completed, he questioned *Udyakumar* in the last week of July 2009. It was then that *Udyakumar* revealed that he had entered into a transaction with the accused, received money from him, and paid P.W.32. The accused came to him, and they stated that due to financial difficulty, the accused was not in a position to complete the transaction and requested a refund of the advance. *Vivekananthan* replied that since he had spent the money, by selling the property to third person, he would re-pay the advance.

4.14 However, when he was examined as a witness, he did not stick to this version. He merely stated that he entered into an agreement with *Udyakumar* on



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03.04.1999. Of the total sale consideration of Rs.24 lakhs Rs.50,000/- was given as an advance, Rs.10 lakhs as the second installment, and Rs.5 lakhs as the third installment. However, within 15 days thereafter, he could not complete the transaction, and it seems that the party he had arranged could not pay the amount, so he repaid the amount to them. Thus, the dates were carefully omitted. His version that he did not even know of the transaction with the accused was omitted. His statement that he would soon arrange to settle the amount was also omitted. His entire statement leaves an impression as if the amount could have been returned even during the check period. The prosecution ought to have treated him as hostile and cross-examined him, which was not done.

4.15 Be that as it may, the matter becomes further complicated as the prosecution sought to produce Ex.P89, a document claiming to cancel the sale agreement. Firstly, the document is oddly written unilaterally by the buyer. It is well known that although such unilateral agreements of sale or cancellation are typically executed/written by the seller, in this case, it appears to be written by the purchaser. The accused denied signing the said document, pointing out

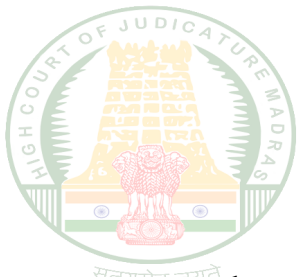


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visible differences when comparing it to his admitted signatures. Additionally, the original of the document was not produced. According to Ex.P90, this photocopy (Ex.P89) was handed over to the Investigating Officer on 05.11.2009. Strangely, P.W.31 - *Udayakumar* signed the document only on the same day, 05.11.2009.

4.16. Another crucial factor to note is that, regarding the connected case, a search was conducted at the House of the Accused on 24.07.2009, vide Ex.P80. During this time, the accused is said to have executed Ex.P89 on the same day. The date of search, 24.07.2009, was set as the end of the check period. By producing the alleged photocopy in Ex.P89, the prosecution has complicated the case itself. Unfortunately, the investigating officer had passed away after filing the charge sheet. She had only collected these documents and presented them before the Court. No other officer is aware of this or can explain these facts on behalf of the prosecution, leaving doubts about whether the amount was refunded or remains outstanding as of the last day of the check period. Therefore, the accused must be given the benefit of doubt, although, according



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to the calculations, his disproportionate assets exceed the permitted limit of 10%.

E.The Result:

5. In view thereof, the Criminal Appeal is allowed.

(i) The conviction of the appellant and the sentence imposed on him by the judgment of the learned XIV Additional Special Judge for CBI Cases, Chennai, dated 28.03.2018, made in C.C. No.21 of 2010, are set aside, and he is acquitted of the charges by granting the benefit of doubt.

(ii) the amount of fine, if any, already paid, is ordered to be refunded.

(iii) bail bond, if any, shall stand cancelled.

08.08.2025

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Neutral Citation : Yes



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To

1. The XIV Additional Special Judge for CBI Cases
Chennai.
2. The Inspector of Police
SPE:CBI:ACB:Chennai
Sastri Bhavan, Chennai – 6.
3. The Special Public Prosecutor
High Court of Madras.
4. The Section Officer
Criminal Section
High Court of Madras.



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D.BHARATHA CHAKRAVARTHY, J.

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