



Crl.O.P.No.9339 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 12.06.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.O.P.No.9339 of 2025
and Crl.M.P.No.6199 of 2025

1. K.Jayaraman
2. Shanthi
3. J.S.Arun Keerthi

.. Petitioners

Versus

The State,
Additional Superintendent of Police,
Vigilance and Anti-Corruption,
City Special Unit-I,
Chennai.

.. Respondent

Prayer : Criminal Original Petition filed under Section 528 of BNSS r/w 482 of Cr.P.C., to call for the entire records pertaining to the case in C.C.No.14 of 2021 on the file of the learned Special Judge for Prevention and Corruption Act Cases, Chennai and quash the same as against the petitioners.



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For Petitioners : Mr.V.Krishnakumar

For Respondent : Mr.A.Gokulakrishnan,
Additional Public Prosecutor



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ORDER

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The prayer in the Criminal Original Petition is to call for the records pertaining to the case in C.C.No.14 of 2021 on the file of the learned Special Judge for Prevention of Corruption Act Cases, Chennai and to quash the same.

2. The case of the prosecution is that the first accused, *K.Jayaraman*, is the public servant, working as Chief Engineer, during the check period 2007-2016. The second accused is his wife. The third accused is his son. The fourth accused was an employee/manager under the first accused.

3. When the matter is taken up for hearing, the learned Counsel for the petitioners would bring to the notice of this Court that in the very same case, the fourth accused had filed a discharge application and the same was dismissed. Aggrieved thereby, he preferred Criminal Revision in Crl.R.C.No.1933 of 2024. By the order, dated 21.12.2024, this Court



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considered the difference between statement-III and statement-VII and the fact that the prosecution has calculated the disproportionate assets as 12.12%. Thereafter, this Court considered the error that is made in arriving at the corrected value in statement-VI and recalculated the entire disproportionate assets in paragraph No.13 of the said order and calculated the difference as 9.76%. Therefore, in view of the judgment of the Hon'ble Supreme Court of India in ***Krishnanand Agnihotri Vs. State of Madhya Pradesh***¹, since the disproportionate wealth is less than 10%, the discharge application has already been allowed, the same would follow in respect of the other accused in this case also. Therefore, the present quash application is moved.

4. The learned Counsel for the petitioners would submit that the said order of this Court in Crl.R.C.No.1933 of 2024 applies in all force to the other accused also. As a matter of fact, the decision reached by this Court is that the case need not be pursued further. Therefore, he would pray that the

¹ (1977) 1 SCC 816



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Criminal Original Petition be allowed.

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5. The learned Additional Public Prosecutor for the respondent, opposing the above said submissions, would submit that firstly, the respondent is aggrieved by the order in Crl.R.C.No.1933 of 2024 and they are preferring an appeal to the file of Hon'ble Supreme Court of India. He would also further submit that the petitioners had earlier filed a quash application in Crl.O.P.No.3684 of 2022, wherein, the same ground was raised and dismissed. Therefore, he would submit that when the excess amount involved is more than a crore, the percentage that it is only 9.76% need not be strictly applied in this case and even if it is rounded off, it would amount to 10% enabling the organisation to continue the proceedings. Even otherwise, the calculation that is made by this Court is erroneous in law and therefore, they are approaching the Hon'ble Supreme Court of India.

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



perused the material records of the case.

7. It is relevant to extract the relevant portion of the order, dated 21.12.2024 in Crl.R.C.No.1933 of 2024 and paragraph Nos.3 to 13 are extracted hereunder for ready reference:-

"3. After investigation, the respondent had laid its final report. The quintessential allegations which the investigating agency explained with its multiple Statements (Statement I to Statement VII) is that between 01.01.2007 to 31.01.2016 (the check-period) the four accused persons have amassed assets worth Rs.2,28,04,824/- in excess of their combined known sources of income during the said period. The details of the statements are as below:

Statement No.	Statement what it deals with	Total Value (Rs.)
Statement - I	The combined value of the assets of A1 to A4 at the beginning of the check period (as on 31.12.2006)	65,64,033.00
Statement - II	The combined value of the assets of A1 to A4 at the closing of the check period (as on 31.01.2016)	14,99,55,323.00
Statement - V	Statement II -	14,33,91,290.00



	Statement I (value of the assets acquired during the check period)	
Statement - III	The combined income of A1 to A4 during the check period (from 01.01.2007 to 31.01.2016)	18,81,56,287.00
Statement - IV	Expenditure during the check period	6,75,69,821.00
Statement - VI	Differential sum between Statement III & IV (likely savings during the check period)	12,05,86,466.00
Statement - VII	Statement V - VI (the difference between the value of assets acquired during the check period minus a likely savings made by A1 to A4 during the check period.	2,28,04,824.00

Since it is judicially settled that 10% tolerance is allowable between the value of the assets acquired during the check period and the income during the same period, the prosecution proceeds to determine the percentage of difference between Statement-III and Statement-VII. Its calculation in terms of the final report runs as below:

$$\text{Statement-VII} \times 100 = \text{Rs. } \underline{2,28,04,824} \times 100 = 12.12\%$$



Statement-III Rs. 18,81,56,287

Apparently the value of the asset acquired during the check period is in excess by 2.12% beyond the tolerance level of 10%, the prosecution alleges that the accused persons, including the petitioner herein of acquiring wealth beyond the known sources of income to the extent of 2.12%.

4. The endeavour of the petitioner before the trial Court has been that even in terms of the final report, atleast two entries in Statement III, on the face of it, are erroneous. These entries relate to the cash-inflow into the account of the petitioner during the check period pursuant to sale of two items of immovable properties described as Items 86 and 87 in Statement III (the Statement of Income of the accused persons during the check-period). Instead of showing the actuals as declared and brought into account by the petitioner, the investigating agency has shown only the profit earned by the sale of these two items of properties by reducing the cost of acquisition of these properties as is done by the Income Tax Department for ascertaining the taxable income on capital gains. This is explained:

Item No.	Date & cost of acquisition		Date & sale consideration received		Difference (4) - (2)
	Date (1)	Amount (2)	Date (3)	Amount (4)	
III (86) Detailed in Statement I (2) and (3)	16.09. 1992	Rs.22,4 6,265	16.05. 2013	Rs.2,25,0 0,000	Rs.2,02 ,53,535
III (87) Detailed in	06.05. 2004	Rs.17,9 7,405	12.06. 2009	Rs.29,00, 000	Rs.11,0 2,595



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Statement I (7)					
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5. Per contra, the learned prosecutor explained that when an asset at the opening of the check period (Statement I) is not sold and is retained by the accused at the closing of the check period (Statement II) then the value addition during the check period will be nil. If however, a property is sold during the check period, the entire sale proceeds cannot be brought in but it must be reduced by the cost of acquisition of the asset, since what is required to be reckoned is not the sale consideration obtained, but the net income that was obtained. This net income is but the profit made by an accused from the sale of asset during the check period, and this precisely has been done by the investigators in this case, and indeed, it is always done.

Discussion & Decision

6. Howsoever, this Court tries to persuade itself to appreciate the argument of the learned prosecutor, it still struggles to reconcile with the unreality of its content.

7. What is the core issue in any case involving an accusation that an accused has acquired wealth disproportionate to the known sources of income during a specific perific period □the check period, computing the legitimate accountable cash inflow in the hands of the accused during the check period is critical. To make it clear, it is not the net income that matters but the legitimate cash-inflow. Therefore, it cannot be confined to salary, or earning through one-s physical labour, or rental incomes, or profits from business etc., but also any inflow of money through loan or gift. To this may have to be added sale consideration brought into account by the sale of any assets: movable or immovable.

8. It is here the investigator has blundered, and blundered egregiously. The investigator at all times needs



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into probe just a solitary fact: *Was the accused legitimate and accounted money in his hand during the check period to acquire assets during the check period?*

9. Turning to the two specific entries Statement III (86) and (87), the investigator has brought in the profits made by the sale of immovable properties and not the actual cash inflow into the account of the accused during the check period due to the sale of these assets. He is not an Income Tax Officer to assess the gain obtained due to sale of a capital asset for taxation purposes.

10. Similarly unless an asset is purchased and sold during the check period, capital gain obtained may not be relevant to reckon the actual cash-inflow during the check period.

11. The investigator needs to realise value accretion of assets happen in different ways:

a) In case of actual cash in hand, ordinarily it cannot enlarge without the knowledge of the person holding it. In case of bank deposits, except the interest component which the bank gives, there may not be a possibility for accretion to the deposits made.

b) In the case of investments made in stocks and shares, gold, or immovable properties, the current value of the past investment read it as the value of these assets during the check period on which investments were made prior to the check period, depends on market conditions. In other words the market decides what their value is, and the accused will not have any control over the value fluctuations, more so in cases of stocks and shares and immovable properties since gold has not shown tendencies to fluctuate vastly or as violently as the other two.

c) Another aspect that determines the value of gold or immovable property is how desperate one is keen to sell. Such distress-sales generally does not fetch value addition. Alternatively, if a purchaser is desperate to buy a property for his own purposes, then a property may even fetch a



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premium.

But broadly it is the market that decides. In the context of a case where the prosecution alleges that the accused possesses assets disproportionate to his known sources of income, for an accused to make a windfall through a sale of an immovable property acquired before the check period but sold during the check period, all that he is required to do is to preserve the property over a period of time. He needs to do nothing more than preserving it. The investigators of this class of crime needs to realise it.

12. Let it be understood in the factual context of the case, with reference to the table in paragraph 4. The cost of acquisition of Item III(86) in 1992 was Rs.22,46,265 and the cash inflow through its sale in 2013 is Rs.2.25 crores. What is the contribution of the petitioner to the value accretion? A building was constructed prior to check period and it stops there. And, if a windfall was made only because he preserved the property. The investigator need not worry about the profits he had made. It is plainly not his job. He needs to ascertain as to whether the petitioner had the money in his hand ☐ legitimate and accounted, to acquire assets during the check period. If so considered, then the respondent has reduced the total cash-inflow by Rs.40,43,870/- which represents the combined cost of acquisition of item 86 and 87 in Statement III without any justification. His poor knowledge on accounting cannot trouble the petitioner. This amount must now be added to the income statement, and if so added, then the total income (total cash-inflow is a better expression) during the check period as disclosed in Statement III has to be adjusted. It will now read Rs.18,81,56,287/- + Rs.40,43,870/-, and accordingly, the total income of the petitioner during the check period must be reckoned at Rs.19,22,00,157/-.

13. Now, if the asset to income ratio during the check period is reworked, it will be as follows: First to the numerator part. It is Statement VII. But Statement VII is



(Statement V - Statement VI). And Statement VI is Statement III Statement IV. Due to the change in value of Statement III, Statement VI has to be reworked.

(a) Arriving at the corrected value of Statement VI

State- ment	III	IV	VI
Value	Rs.19,22,00,157* (Change in value)	Rs.6,75,69,821 (No change in value)	Rs.12,46,30,336** (Change in value)

* Statement III (Rs.18,81,56,287 + Rs.40,43,870).
See: Para 12 above.

** Since Rs.40,43,870 is added to Statement III,
Statement VI will also have a value addition by said sum.

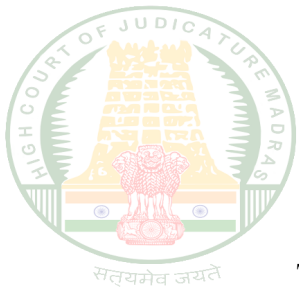
(b) Arriving at the corrected value of Statement VII

State- ment	V	IV	VII
Value	Rs.14,33,91,290 (No Change in value)	Rs.12,46,30,336 (change in value)	Rs.1,87,60,954* (Change in value)

* Since value of Statement VI has increased by Rs. 40,43,870, necessarily the value of Statement VII will be reduced by the like sum.

(c) Calculation of DPA based on corrected value:

$\frac{\text{Statement-VII}}{\text{Statement-III}} \times 100 = \text{Rs. } \frac{1,87,60,954}{19,22,00,157} \times 100 = 9.76 \%$



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Thus, it can be seen that the Court considered the manner of calculation, by which, the prosecution claimed an excess of 12.12% and how the same was erroneous and ultimately, found that the excess was only 9.76%.

8. I do not see any reason to defer with the said findings that are made in detail in the said Criminal Revision Case. Even though an argument is made that the respondents are preferring Special Leave Petition, it can be seen that the order is dated 21.12.2024 and now, we are in the month of June, 2025. Even this case was adjourned on repeated occasions earlier. In view thereof, when a view has been taken, especially considering the fact that it is the case of the prosecution that the excess is 12.12% and the calculation as per the said judgment is 9.76%, no further extension of time need be given in the matter.

9. As far as the arguments relating to the second quash application are



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concerned, the first application was dismissed on 12.04.2022 and subsequently, on 21.12.2024 the order was passed in Criminal Revision Case. Therefore, in view of the subsequent order, considering the change of circumstances, wherein, the very same plea has been entertained and answered in the affirmative on a prayer made by the other accused in the same case, I am of the view that the second quash application is maintainable.

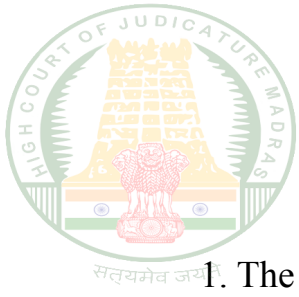
10. Accordingly, finding merits, this Criminal Original Petition stands allowed. The case in C.C.No.14 of 2021 on the file of the learned Special Judge for Prevention of Corruption Act Cases, Chennai, shall stand quashed.

12.06.2025

Neutral Citation : no
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To

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1. The Special Judge for Prevention of Corruption Act Cases,
Chennai.

2. The Additional Superintendent of Police,
Vigilance and Anti-Corruption,
City Special Unit-I,
Chennai.

3. The Public Prosecutor,
High Court of Madras.



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D.BHARATHA CHAKRAVARTHY, J.

grs

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