



Crl.R.C.Nos.710 and 711 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 18.12.2024

Orders Pronounced on : 10.01.2025

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.Nos.710 and 711 of 2016

and

Crl.M.P.Nos.5126 and 5127 of 2016

--

The State represented by
Deputy Superintendent of Police
Vigilance & Anti-Corruption,
Vellore
(Crime No.16 of 2012)

.. Petitioner in both the revision petitions

Vs.

Tmt.M.V.Mekala Gnanasekaran

.. Respondent in Crl.R.C.No.710 of 2016

Tr.C.Gnanasekaran
Formerly MLA,
Vellore Constituency

.. Respondent in Crl.R.C.No.711 of 2016

Criminal Revision Case No.710 of 2016 filed under Sections 397 and 401 of Cr.P.C. against the order dated 29.02.2016 passed in Crl.M.P.No.1881 of 2013 in Spl.Case No.6 of 2013 on the file of the Special Judge/Chief Judicial Magistrate, Vellore.

Criminal Revision Case No.711 of 2016 filed under Section 397 and 401 of Cr.P.C. against the order dated 29.02.2016 passed in Crl.M.P.No.1436 of 2013 in Spl.Case No.6 of 2013 on the file of the Special Judge/Chief Judicial Magistrate, Vellore.

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For petitioner in both the revision petitions : Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)

For respondents in both the revision petitions : Mr.V.Gopinath, Senior Counsel,
assisted by Mr.Swami Subramanian

COMMON ORDER

Both the revision petitions arise out of the common order, and therefore, these revision petitions are heard and disposed of together by this common order.

2. Crl.R.C.No.710 of 2016 is filed under Sections 397 and 401 of Cr.P.C. against the order dated 29.02.2016 passed in Crl.M.P.No.1881 of 2013 in Spl.Case No.6 of 2013 on the file of the Special Judge/Chief Judicial Magistrate, Vellore.

3. Crl.R.C.No.711 of 2016 is filed under Sections 397 and 401 of Cr.P.C. against the order dated 29.02.2016 passed in Crl.M.P.No.1436 of 2013 in Spl.Case No.6 of 2013 on the file of the Special Judge/Chief Judicial Magistrate, Vellore.



4. The case of the prosecution is as follows:

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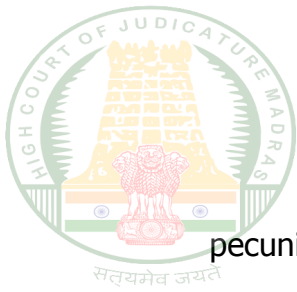
(a) There was information that C.Gnanasekaran, formerly MLA, Vellore Constituency, from 13.05.2006 to 14.05.2011 being public servant, during the check period between 01.04.2007 and 31.03.2008, had acquired and has been in possession of pecuniary resources and properties in his name and in the name of his wife (A.2) Megala Gnanasekaran, disproportionate to his known sources of income

(b) Based on the information, enquiry was conducted and based upon such enquiry, a case in Vellore Vigilance and Anti-Corruption Crime No.16 of 2012 under Sections 13(2) read with 13(1)(e) of the Prevention of Corruption Act, was registered against Gnanasekaran and duly investigated taking the period between 01.04.2007 and 31.03.2008 as check-period while he was a Member of Legislative Assembly (i.e. MLA), Government of Tamil Nadu.

(c) The investigation revealed the following facts:

(i) At the beginning of check period, i.e. as on 01.04.2007, A1 was in possession of pecuniary resources and properties worth about Rs.1,25,78,703/- in his name and in the name of his wife A2 and hence, charge-sheet was filed before the jurisdictional Court.

(ii) At the end of check period, i.e. as on 31.03.2008, A1 had acquired properties in his name and in the name of his wife A2 and was in possession of



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pecuniary resources and properties worth about Rs.3,15,07,577/-.

WEB COPY (iii) Thus, during the period between 01.04.2007 and 31.03.2008, A1 had acquired and was in possession of properties and pecuniary resources worth about Rs.1,89,28,874/- in his name and in the name of his wife A2.

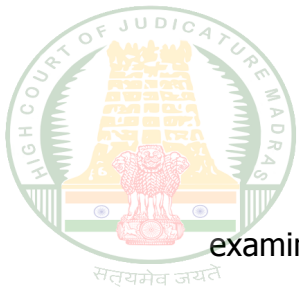
(iv) During the check period, the total income of A1 and A2 from their known sources of income of Rs.28,83,338/- and during the same period, the expenditure of A1 and A2 as assessed income amounts to Rs.13,58,660/-.

(v) The likely savings of A1 and A2 at the end of the said period, i.e. as on 31.03.2008 was Rs.15,24,678/-.

(vi) A1 is found to have acquired and in possession of pecuniary resources and properties in his name and in the name of his wife A2, which were disproportionate to their known sources of income as on 31.03.2008 to the extent of Rs.1,74,04,196/-, i.e. the assets acquired during the check period, likely savings is equal to disproportionate assets, i.e. Rs.1,89,28,874/- less Rs.15,24,678/- = Rs.1,74,04,196/-. Even though A2 Mekala Gnanasekaran is a separate Income Tax assessee and has her own sources of income, she is dependent on her husband A1 Gnanasekaran and allowed her husband to acquire assets in her name and thus, abetted A1.

5. During the course of investigation, the investigating officer had

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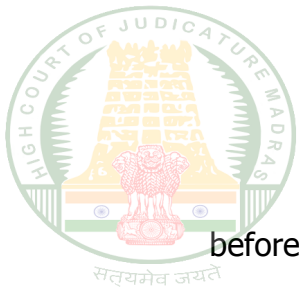
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examined 31 witnesses and collected 61 documents. The investigation conducted by the investigating officer revealed that A1 being a public servant during the check period between 01.04.2007 and 31.03.2008, acquired assets and was in possession of pecuniary resources and properties, totalling Rs.1,74,04,196/- in his name and in the name of his wife A2, which was disproportionate to their known sources of income. Hence, opportunity was given to A1 and A2 to explain the source of income for possession of the assets, which is disproportionate to their known sources of income, but both A1 and A2 could not satisfactorily account for the same.

6. Thus, A1 had committed the offence punishable under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act and A2 being the wife of A1, had intentionally abetted A1 in acquisition and possession of pecuniary resources and properties in her (A2) name. Therefore, A2 committed the offence punishable under Section 109 IPC read with Section 13(2) read with Section 13(1)(e) of the said Act. Accordingly, final report was filed before the trial Court.

7. As against the final report, A1 and A2 have filed petitions under Section 239 Cr.p.C., vide Crl.M.P.Nos.1436 and 1881 of 2013 in Spl. Case No.6 of 2013

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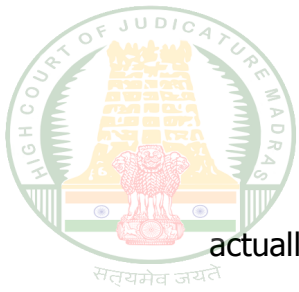
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before the Special Court/Chief Judicial Magistrate, Vellore, praying to discharge them from the charges levelled against them. When the above said petitions came up for hearing on 29.02.2016, the Special Court allowed the above petitions and discharged both A1 and A2 of the charges levelled against them, against which, the present Criminal Revision Petitions are filed by A1 and A2.

8. Learned Government Advocate (Criminal Side) appearing for the petitioner/State submitted as follows:

(i) In the impugned common order passed by the trial Court, in paragraph No.8(xxv) to (xxvii), it is stated that the income of A1 and A2 was purposely clubbed and A2 is an Income Tax assessee and the stand taken by the prosecution is perplexed and diametrically opposite to their stand.

(ii) The trial Court failed to take note of the decision of the Supreme Court in the State of Tamil Nadu Vs. N.Suresh Rajan and others (reported in 2014 (11) SCC 709), in which, it was held that while passing the order of discharge, the accused who are none other than two Ministers, have been assessed to Income Tax and paid Income Tax, and the same cannot be relied upon to discharge the accused, particularly, in view of the allegation made by the prosecution that there was no separate income to amass such huge properties. The property in the name of an Income Tax assessee itself cannot be a ground to hold that it



actually belongs to such an assessee. The Apex Court further held that in case the proposition is accepted, it will lead to disastrous consequences. It will give an opportunity to the corrupt public servant to amass the property in the name known persons, and pay the Income Tax on behalf and then be out from the mischief of law.

(iii) The trial Court did not notice that the investigating officer is not either the enquiry officer, or a Judge to hear the explanation given by the accused or to consider the genuineness of the transaction made by the accused.

(iv) The trial Court failed to note the observations of the Apex Court in State of Tamil Nadu Vs. Suresh Rajan (reported in 2014 (11) SCC 709), wherein it has been held that paid Income Tax cannot be relied upon to discharge an accused person. Further, this was not the stage where the Court should have appraised the evidence and discharge the accused.

(v) The trial Court wrongly concluded that the prosecution had knowingly omitted the source of income of A1 earned through Hindu Undivided Family (HUF). In spite of verification from the Income Tax Department and coming to knowledge of the other source of income of A1, it must have been included in the statement of assets. It is not the case of the prosecution that the HUF income cannot be considered. They have, in fact, taken into consideration the relevant particulars which are useful to them and left out which are against



them.

WEB COPY (vi) Only during the course of trial, the accused could substantiate his claim by producing adequate evidence regarding their sources of income before the trial Court. As he failed to do so, when both the accused were given an opportunity to offer their explanation for acquiring disproportionate assets held by them before laying the final report before the trial Court.

(vii) The trial Court failed to consider the fact that there are more than sufficient materials available on record produced by the prosecution to proceed with the framing of charges, as prima-facie case is made out by the prosecution.

(viii) The trial Court erroneously accepted the contention of the accused regarding the Bharat promoters firm which was nothing but newly introduced story of the accused just to overcome the clutches of law.

(ix) The trial Court has erroneously arrived at a finding that A2 is not dependent of her husband A1 and the prosecution charged A1 that he acquired assets in the name of his wife--Mekala Gnanasekaran who abetted her husband in doing so. When it is the specific charge of the prosecution that A2 abetted A1 in accumulation of disproportionate assets, reliance on Income Tax Returns alone to discharge the accused is improper and against the principles of law, as enunciated by the Supreme Court of India in State of Tamil Nadu Vs. Suresh Rajan (reported in 2014 (11) SCC 709).



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(x) The trial Court failed to consider that the prosecution has established its case by providing all material evidence to frame charge against the accused.

(xi) The trial Court failed to consider the fact that the accused had not given any authenticated document before the competent authority while filing Income Tax Returns in support of their claim. Neither A1 produced any valid document, nor offered any reasonable explanation to substantiate his claim. But, all the income as declared by A1, vide his individual as well as HUF status income tax Returns, were taken into account for the purpose of calculation. A reply given by A1 in response to the final opportunity of notice, had been filed along with the charge-sheet. Hence, no prejudice is caused to the accused persons.

(xii) The trial Court failed to consider the fact that A1 has not produced any documentary evidence for his active practice as an Advocate. At the time of check-period, A1 was a public servant and he performed public duties cast on him by the Constitution of India and his electorate and during the tenure, he received salary and other allowances in the whole of his term of office, and he cannot claim that he was not a public servant or a full time Government servant.

(xiii) The trial Court failed to take into consideration the fact that the evidence collected both oral and documentary, are enough to prove the case of the prosecution.



9. Learned Senior Counsel appearing for the respondents/A1 and A2

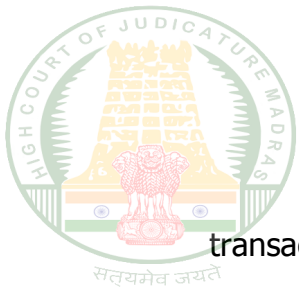
submitted that A1 was not a full-time Government servant during the check period, who was a practising Advocate and also doing the real estate business with other partners. A1 is having separate income, one in his individual account, and another is that he is a member of the HUF. The prosecution clubbed the assets and liabilities of A1 and A2 together. The methodology adopted by the prosecution to establish the disproportionate assets of both the accused persons with reference to known sources of income, is absolutely erroneous. The investigating officer who filed the final report, having relied upon the income derived by A1 and A2, had wantonly and deliberately omitted to take into account the income produced before the Income Tax Authority, and the Income Tax Returns are public documents accepted by the Income Tax Department. A1 had also given suitable reply to the final opportunity notice, in which they have plausible and justifiable explanation for their genuine income and investment to the HUF and the Income Tax Returns of A1. A1 had still access to the source of income as per his Income Tax Returns. The Income Tax Department is the competent authority to assess the income while considering the quantum of income as per the Income Tax records and there was disproportionate assets at the hands of A1. The source for acquiring the properties, are satisfactorily accounted for in the explanation. The charges levelled against him is groundless.



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A detailed explanation given by A1 has not been considered by the investigating officer while filing the final report. A1 was not guilty of criminal misconduct and there are no materials to show that he accepted the illegal gratification other than the legal remuneration in his capacity as MLA. Further, A1 being right through a Member of the opposition, has no scope to access any influence using his office and earned wealth by illegal means. A1 has an independent source of income, and therefore, the trial Court rightly considered the material objects and discharged both A1 and A2.

10. Learned Senior Counsel for A2 submitted that A2 is having independent source of income and assets and business separately, which has got nothing to do with A1. She is an independent income tax assessee having separate Pan Card and she is an assessee from the year 2001 onwards. The final report shows that the immovable property owned by A2 as on 31.03.2008 in the statement No.11, item Nos.14 to 27, and item Nos.14 to 19 were all purchased by her prior to the check period, i.e. before 2007. The check period was fixed to run from 01.04.2007 to 31.03.2008 and item No.26 is a vacant land measuring 20.01 acres at Thirumullaivoyal, Ambattur, Chennai and that she has got 1/7th share as it was purchased by seven partners on 29.10.2007. A2's share was only Rs.16,35,064/-. In 2023 itself, A2 paid a sum of Rs.7,93,684/- as advance to the



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transaction and the balance amount was paid by her by way of two Demand Drafts drawn on Centurion Bank, Vellore, dated 26.10.2007 at the time of registration. A1 gave a sum of Rs.10 lakhs as loan to A2 from his HUF amount to purchase the said land. HUF has got separate income tax assessment and it is an assessee and they have paid separate income tax. A2 had also Fixed Deposit of Rs.27 lakhs in Indian Bank, Anna Nagar, Chennai and cash of Rs.41,29,000/- and A2 had also cash in Bank for Rs.3,85,364/- and Rs.10,379/-, which is mentioned in Sl.Nos.28 to 31 in Statement-II and cash in Bank was shown in Income Tax Returns and accepted by the Income Tax Department. She paid a sum of Rs.25,559/- as Income Tax during the check period. A2 is neither a Government servant, nor a public servant and since she has a separate source of income and she is an Income Tax assessee and therefore, the abetment to the public servant would not attract. The income of A2 is clubbed with A1 in order to boost up the disproportionate assets, which is only with mala-fide intention. However, the methodology adopted by the investigating agency to establish that the proportionate assets of both the accused with reference to known sources of income, is absolutely erroneous. The trial Court cannot be made a mere post-office and cannot blindly accept the version of the prosecution and direct the accused to face the trial.

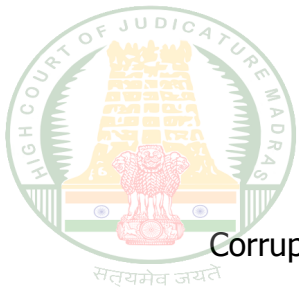


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11. Learned Senior Counsel further stated that the investigating officer who has filed the final report, having relied upon the income derived by A1 and A2, has wantonly and deliberately omitted to take into consideration the same, as the income has any independent assessment made by the Income Tax Department. The trial Court has rightly applied mind and considered the entire materials available on record and discharged A1 and A2, as there is no merit in the revision petitions and the grounds taken by the revision petitioners are without any purpose and the revision petitions are liable to be dismissed as such.

12. Heard both sides and perused the materials available on record.

13. Admittedly, the petitioner/A1 was MLA during the check period. The check period fixed for this case, was from 01.04.2007 to 31.03.2008. Based on the information, the investigating officer, after preliminary enquiry, found that A1 was MLA from 13.05.2006 to 14.05.2011 and he was selected for Vellore Constituency. During the check period between 01.04.2007 and 31.03.2008, had acquired and had been in possession of pecuniary resource and properties in his name and in the name of his wife disproportionate to his known sources of income. Therefore, a case was registered in Crime No.16 of 2012 for the offences under Section 13(2)(iv) read with Section 13(1)(e) of the Prevention of



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Corruption Act.

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14. During investigation, for the purpose of ascertaining the disproportionate assets, the check period was fixed between 01.04.2007 and 31.03.2008. Though the petitioner as A1 was not a Government servant, however, as per the said Act, as MLA, he was a public servant. The charge against A2 was that she being the wife of A1, abetted A1. Though, after investigation, the explanation was also offered, the accused sent the explanation which was not satisfactory to the investigating officer, and therefore, he laid a charge-sheet for the offences stated above.

15. Though one of the main contention was taken by A1 was that the property at Thirumullaivoyal, Chennai, an extent of 20.01 acres vacant land, was purchased by A1 in A2's name and it is not the individual property of A1 and it was purchased in the name of partnership firm and the petitioner/A1 is having only 1/7th share. He has paid only the 1/7th of his share only and he has not spent money for the entire transaction and the same is not acceptable for the reason that a perusal of the document shown as Document No.36 in the list of documents, clearly is in the name of A1 alone and the document does not show that the property was purchased in the name of the partnership firm or the

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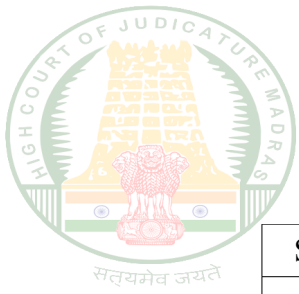


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amount spent from the partnership firm was firm's account. Though the subsequent document is for the purpose of this case, A1's presence is there for introducing the said story, but however, the property was purchased in the name of A1 on 29.07.2007 and it does not reveal that the said property was purchased in the name of the partnership form or the amount spent for the partnership firm. However, at the time of discharge, the Court has to see the case of the prosecution, but the Court need not look into the defence of the accused. In the very same way, both the accused stated that the HUF which is an income tax assessee and A1 and A2 have independently paid the income tax and both of them independently are the income tax assessees and they paid the income tax. However, all the defences taken by the accused need not be looked into at the stage of discharge and the trial Court failed to consider the proposition of law and traversed beyond the scope of Section 239 Cr.P.C. and the investigating officer has clearly annexed with all the documents along with the final report, and also the statement has to be contemplated under the Income Tax Act and as per the prosecution, the income earned is as follows:

Statement No.	Details	Amount
Statement-I	Assets at the beginning of the Check period as on 01.04.2007	Rs.1,25,78,703/-
Statement-II	Assets at the end of the check period as on 31.03.2008	Rs.3,15,07,577/-
Statement-III	Income during the check period	Rs.28,83,338/-
Statement-IV	Expenditure during the check period	Rs.13,58,660/-

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Statement No.	Details	Amount
Statement-V	Assets acquired during the check period from 01.04.2007 to 31.03.2008	Rs.1,89,28,874/-
Statement-VI	Likely savings during the check period between 01.04.2007 to 31.03.2008	Rs.15,24,678/-
Statement-VII	Quantum of disproportionate assets	Rs.1,74,04,196/-
Percentage of DP assets	Quantum of DP assets x 100 / total income	604%

16. Learned Additional Public Prosecutor placed reliance on the judgment of the Supreme Court in the case of P.Nallammal Vs. State (reported in 1999 (6) SCC 559) for the proposition that the trial of non-public servant for abetment of offence under Section 13(1)(e) along with public servant by the Special Judge, is not barred. The learned Additional Public Prosecutor next relied on a judgment of the Supreme Court in the case of State of T.N. Vs. N.Suresh Rajan (reported in 2014 (11) SCC 709), in which it was held that the Court has to see the prosecution case and not the defence of the accused. Lastly, the learned Additional Public Prosecutor relied on a judgment of the Apex Court in the case of State of T.N. Vs. R.Soundirarasu (reported in 2023 (6) SCC 768) in which, the Supreme Court held that at the stage of Section 239 Cr.P.C., the Court has to only look into the prima-facie case and decide as to whether the case put up by the prosecution, is groundless.

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A reading of the entire materials available on record and the grounds taken by A1 and A2 and also the submissions of the learned counsel for the petitioner/State, shows that, admittedly, during the check-period, A1 was MLA of Vellore Constituency and during the check period, based on the charge-sheet, it is seen that he had acquired disproportionate assets. Though A2 is none other than the wife of A1, from the Statements I to VII and the amounts involved as stated supra, it is clear that the percentage of assets acquired is 604%. Though the accused persons have taken a stand that they have independent sources of income and also the partnership firm and HUF, and are income tax assesseees, a perusal of the materials on record, though the accused persons have not denied the income and also the properties and liabilities and assets, they have taken a ground that they have independent sources of income. They have also submitted the income tax Returns and the same was also assessed by the Income Tax Authority. The investigating officer has referred to all the materials and brought the Statements I to VII, and therefore, the judgments relied on by the learned Additional Public Prosecutor for the State, is clearly applicable to the facts of the present case on hand and whatever the defence taken by the accused persons, is only a matter of defence and it can be decided only after recording of evidence during trial by the trial Court. Though it



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is the duty of the trial Court that it has to apply its mind, the trial Court need not be a mute spectator or merely a post-office whatever the case submitted by the prosecution, has to be accepted, but at the same time, while deciding the application for discharge either under Section 339 Cr.P.C. or under Section 227 Cr.P.C., the Court has to see the materials produced by the prosecution and not the defence taken by the accused. The trial Court cannot traverse beyond the scope of the provisions of law and the trial Court, without considering the same, adopted its own methodology stating that the methodology adopted by the prosecution, is not correct. As stated earlier, the investigating officer, during investigation, gathered materials and based on the materials, they have formed an opinion and filed the charge-sheet. But the accused persons have also accepted the same, but their defence is that they have independent sources of income and they are the assesseees and have been assessed to Income Tax also and they have separate income and sources of income, which can only be decided at the time of trial and the version of the accused cannot be taken into consideration at the time of deciding the discharge petition. The methodology adopted by the trial Court for discharging the accused, is not acceptable and the methodology adopted by the investigating agency is to be testified only during trial, after recording the evidence and not at the stage of deciding the discharge application.

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18. In the above context, it is pertinent to refer the relevant portions of the decisions relied on by the learned Government Advocate (Criminal Side) appearing for the petitioner/State :

(a) P.Nallammal Vs. State: 1999 (6) SCC 559 :

"10. Thus, clause (b) of the sub-section encompasses the offences committed in conspiracy with others or by abetment of "any of the offences" punishable under the PC Act. If such conspiracy or abetment of "any of the offences" punishable under the PC Act can be tried "only" by the Special Judge, it is inconceivable that the abettor or the conspirator can be delinked from the delinquent public servant for the purpose of trial of the offence. If a non-public servant is also a member of the criminal conspiracy for a public servant to commit any offence under the PC Act, or if such non-public servant has abetted any of the offences which the public servant commits, such non-public servant is also liable to be tried along with the public servant before the Court of a Special Judge having jurisdiction in the matter.

12. It is true that Section 11 deals with a case of abetment of offences defined under Section 8 and Section 9, and it is also true that Section 12 specifically deals with the case of abetment of offences under Sections 7 and 11. But that is no



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ground to hold that the PC Act does not contemplate abetment of any of the offences specified in Section 13 of the PC Act. Learned counsel focussed on Section 13(1)(e) to elaborate that by the very nature of that offence it pertains entirely to the public servant concerned as there is no role for the co-accused for discharging the burden of proof. "

(b) State of T.N. Vs. N.Suresh Rajan : 2014 (11) SCC 709:

"29. We have bestowed our consideration to the rival submissions and the submissions made by Mr Ranjit Kumar commend us. True it is that at the time of consideration of the applications for discharge, the court cannot act as a mouthpiece of the prosecution or act as a post office and may sift evidence in order to find out whether or not the allegations made are groundless so as to pass an order of discharge. It is trite that at the stage of consideration of an application for discharge, the court has to proceed with an assumption that the materials brought on record by the prosecution are true and evaluate the said materials and documents with a view to find out whether the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. At this stage, probative value of the



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materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed the offence. The law does not permit a mini trial at this stage."

(c) State of T.N. Vs. R.Soundirarasu - 2023 (6) SCC 768 :

"81. The High Court has acted completely beyond the settled parameters, as discussed above, which govern the power to discharge the accused from the prosecution. The High Court could be said to have donned the role of a chartered accountant. This is exactly what this Court observed in *Thommandru Hannah Vijayalakshmi* [CBI v. *Thommandru Hannah Vijayalakshmi*, (2021) 18 SCC 135 : 2021 SCC OnLine SC 923] . The High Court has completely ignored that it was not at the stage of trial or considering an



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appeal against a verdict in a trial. The High Court has enquired into the materials produced by the accused persons, compared with the information compiled by the investigating agency and pronounced a verdict saying that the explanation offered by the accused persons deserves to be accepted applying the doctrine of preponderance of probability. This entire exercise has been justified on account of the investigating officer not taking into consideration the explanation offered by the public servant and also not taking into consideration the lawful acquired assets of the wife of the public servant i.e. Respondent 2 herein.

82. By accepting the entire evidence put forward by the accused persons applying the doctrine of preponderance of probability, the case put up by the prosecution cannot be termed as "groundless". As observed by this Court in *C.S.D. Swami* [*C.S.D. Swami v. State*, AIR 1960 SC 7] that the accused might have made statements before the investigating officer as to his alleged sources of income, but the same, strictly, would not be evidence in the case.

83. Section 13(1)(e) of the 1988 Act makes a departure from the principle of criminal jurisprudence that the burden will always lie on the prosecution to prove the ingredients of the offences charged and never shifts on the accused to disprove the charge framed against him. The legal effect of Section



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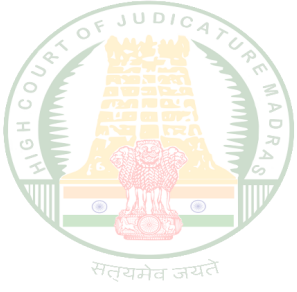


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13(1)(e) is that it is for the prosecution to establish that the accused was in possession of properties disproportionate to his known sources of income but the term "known sources of income" would mean the sources known to the prosecution and not the sources known to the accused and within the knowledge of the accused. It is for the accused to account satisfactorily for the money/assets in his hands. The onus in this regard is on the accused to give satisfactory explanation. The accused cannot make an attempt to discharge this onus upon him at the stage of Section 239 CrPC. At the stage of Section 239 CrPC, the court has to only look into the prima facie case and decide whether the case put up by the prosecution is groundless."

19. Therefore, on a reading of the entire materials on record, this Court finds that the above decisions referred to by the learned Additional Public Prosecutor appearing for the petitioner/State, are squarely applicable to the facts of the present case on hand and the impugned order of the trial Court is liable to be set aside. The grounds taken by the accused persons in the discharge petitions, are all matters of defence and it cannot be decided by accepting the defence of the accused persons at the time of deciding the discharge petition.

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WEB COPY 20. Hence, these revision petitions filed by the State, are allowed, setting aside the impugned common order of the trial Court. The trial Court is directed to frame the charges and the accused persons are at liberty to take all their defences during trial. The miscellaneous petitions herein are closed.

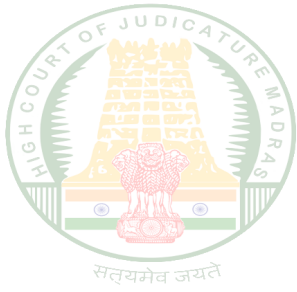
10.01.2025

CS

To

1. Deputy Superintendent of Police,
Vigilance & Anti-Corruption,
Vellore (Crime No.16 of 2012)
2. The Special Judge/Chief Judicial Magistrate, Vellore.
3. The Public Prosecutor, High Court, Madras.

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P.VELMURUGAN, J

CS

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Order delivered
on 10.01.2025

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