IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON: 22.07.2025

JUDGMENT PRONOUNCED ON: 08.10.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Criminal Appeal No.323 of 2014

B.Pugazhenthi ... **Appellant/Accused**

Vs.

State represented by
Inspector of Police
ACB, CBI, Chennai. ... **Respondent/Complainant**

Prayer: Criminal Appeal filed under Section 374 of Code of Criminal Procedure, against the Judgment of the learned XIII Additional Judge for CBI Cases, Chennai made in C.C.No.38 of 2010 on his file dated 06.06.2014 convicting the accused / appellant herein under Section 13 (2) r/w 13 (1) (e) of the Prevention of Corruption Act, 1988 and sentencing him to undergo two years R.I.and to pay a fine of Rs.20,000/- in default to undergo 3 months simple imprisonment.

For the Appellant	:	Mr.S.Ashok Kumar Senior Counsel for V.Balu
For the Respondent	:	Mr. N.Baaskaran Special Public Prosecutor for CBI

JUDGMENT

A. The Appeal:

This Criminal Appeal is filed against the Judgment of the XIII Additional Judge for CBI Cases, Chennai, dated 06/06/2014 in C.C. No.38 of 2010, thereby finding the appellant/sole accused guilty of the offence punishable under Section 13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988 and was sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.20,000/- and in default of payment of fine to undergo simple imprisonment for three months.

B. The Case of the Prosecution:

2. The case of the prosecution is that originally upon receipt of source information a case was registered in RC. No. 60/A /2009 against 31 Customs Officers including the appellant herein (Accused No.7) who were working or connected with unaccompanied Baggage Unit of Air Customs Cargo Complex, Chennai Air Port, Chennai. During the surprise check on 24/11/2009 to 26/11/2009, it came to be known that ready made garments of commercial quantity was imported from Hong Kong and Bangkok by certain importers. They entered into a criminal conspiracy with the customs officials working in

the unit so as to avoid the duty being paid or to pay only minimum amount. The modus operandi was that the consignments were booked as unaccompanied baggage in the names of various passengers. The customs officials would then release the goods without adjudication for undervaluation. Illegal gratification is paid to these officers by the traders and thus the transactions resulted in wrong loss to the tune of several crores of Rupees to the Government of India. A charge sheet is also filed and the same is pending Trial even as on today in C.C. No. 1 of 2013 before the XIV Additional Court for CBI Cases, Chennai.

2.1 While the investigation was on in the said case, the prosecution also came across reliable information that the appellant amassed wealth to the tune of Rs. 24,94,400/- during the period01/12/2008 to 30/11/2009. As per the initial information, the prosecution believed that the Assets at the beginning of check period in the hands of the appellant was Rs.28,96,000/-. Assets in the end of Check period was Rs. 60,91,000/-. The Income during the check period was Rs. 11,06,850/-. The expenditure was Rs, 4,56,250/-. Thus, there were disproportionate assets to tune of Rs.25,44,400/- which is to the tune of 230%. Therefore, a case was registered in R.C. No.16/2010 for the alleged offence under Section 13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988 (Ex.P.160).

2.2 Mr.Sasirekha Sambasivam - PW-53 took up the case for investigation after due authorisation.(Ex.P.161). During the course of investigation, the check period was altered as 01/01/2004 to 30/11/2009. After investigation, it was found that at the start of the check period in the hands of the accused was Rs.29,32,930/-. The assets at the end of the check period was Rs. 1,19,05,886/-. The accused derived an income of RS.70,91,059/- and incurred expenditure to the tune of Rs.45,80,974 during the check period. Thus, after calculation it was found that assets to the tune of RS.64,62,871/- were disproportionate to the known sources of income and accordingly the final report was filed proposing the accused guilty of the offence.

C. The Trial & the Judgment:

3. Upon the case being taken on file, a charge alleging the above was framed on 18/02/2011 and the accused denied the Charge. In order to establish the charge, the prosecution examined PWs 1 to 54 and marked Exhibits P1 to 200. Upon being question about the incriminating evidence and circumstances on record, the accused denied the same. Thereafter, the defence examined DWs1 to 14 and Exhibits D1 to 20 were marked.

3.1 After considering the case of the parties and appreciation of evidence, the Trial Court found that the accused had assets to the tune of Rs.28,02,343/- at the start of the check period. At the end of the check period the total assets were Rs.1,11,32,376/-. The accused received an income of Rs.93,69,796/- and incurred expenditure to the tune of Rs.35,49,733/- during the check period. Thus, the Trial Court found that the accused was in possession of disproportionate assets to the tune of Rs. 25,09,970/- and as such found him guilty of the offence and sentenced as aforesaid. Hence, this appeal.

3.2 Heard *Mr. S. Ashok Kumar*, the Learned Senior Counsel appearing on behalf of the Appellant. The Learned Senior Counsel would primarily pitch his arguments relating to item 3,4 & 5 of the immovable assets taken as owned by the appellant. As far as item No. 3 , being the Plot No. 139, Door No.6, Shivashanmugam Road, West Tambaram, Chennai - 600 045 was originally purchased by PW-18 - Saradambal, the mother of the accused and PW-19 – Thiyagarajan, brother in law of the accused. It can be seen that they had their own income. Merely because it is settled on PW-49 - Karthikeyan, the son of the accused, it is erroneous taken into account. Similarly, the Plot No.10, at S. No.50/3A & 3B2 at Mahabalipuram also stands in the name of PW-18. PW-18 had landed properties and her independent sources can be know even by the evidence of PW47 and 48. DW10 also was examined and Ex.D17 lease agreement was marked. Thus the accused had established that to the level of preponderance of probability that PW-18 had independent income and if these two properties are excluded, there will be no disproportionate assets left.

3.3 The Learned Senior Counsel would then argue with reference to item No. 5, Purchase of Plot No.11 at Mahabalipuram for a sum of Rs. 18,00,000/-. In this regard, a reading of the relevant documents would prove that the entire transaction could not have happened as portrayed by the prosecution. No purchaser who had paid the entire sale consideration would do the same without execution of the sale deed. PW-16 - Pallavaraja, is said to have deposed about the return of the amount, which was also not brought on record in the present case. The Learned Senior Counsel would also submit that the item No. 25, being the gold jewels work found in the locker belongs to the wife of the accused and the conclusion that they were purchased during the check period is only a surmise without any evidence.

3.4 Per contra, Mr. N. Baskaran, the Learned Special Public Prosecutor, would point out to the evidence on record in respect of these four items of contest and would submit that the properties ultimately came back to the accused by way of settlement to his son and the returned sale consideration is also deposited in the other pending case. He would point out the evidence brought on record by the prosecution. He would submit that the disproportionate assets were so huge and the Trial Court had rightly convicted the accused.

D. The Discussion & Findings:

4. I have considered the rival submissions made on either side and perused the material records of the case. In this case, the Trial Court itself had accepted certain contentions of the accused such as initial bank balance etc., and during the course of the arguments, no major dispute was raised with reference to Statement -A, that is , the assets as the start of the check period. The serious dispute is regarding Statement -B the assets at the end of the check period, where 4 items are pleaded to be excluded and if they are done so, there would not be disproportionate assets is the contention.

Item No. 3 :

4.1 The property is a Plot No. 139, comprised in S. No. 326/1 with building bearing Door No. 6, Shivashanmugam road, West Tambaram, Chennai - 600 045. The property originally belonged to PW-41 Junath Basha. He deposes that the accused wanted to by that house. The property was sold through 4 sale deeds. The total sale consideration was Rs.

18,00,000/-. The accused was representing that he is going to buy in his father's name. Thereafter his father negotiated and purchased. The accused was also present during the registration of all the four documents at the office of the Sub-Registrar. At that time, cash was handed over by Bangarusamy. The above version of PW-41 remains uncontested by the accused. No cross examination was done.

4.2 The above property is situate at Tambaram. The property is one house, ground and premises admeasuring 2724 sq.ft. The same is sold as 1/4th undivided share in all the four sale deeds in the name of the Pw-19 – Thiyagarajan (Ex.P.66), PW-19's wife T. Shantha (EX.P-67), Bangarusamy (Ex.P68) and wife of the said Bangarusamy, Pw-18 Saradambal (Ex.P69). Subsequently all the four executed the settlement deeds in favour of the son of the accused(Ex.P.44 &45). A consideration of the evidence on record it can be seen that one Gowthaman-PW-28 who is the brother of the accused. PW-19 Thyagarajan and his wife Shantha are the in-laws of the said Gowthaman.

4.3 It is the case of PW-19 that they had their own savings to purchase. They had executed settlement deed in favour of the son of the accused on the understanding that Gowthaman, will get all the properties situated at their native at Vairachettipalayam.

Firstly, no such Family Arrangement is reduced into writing. Secondly while Exs.P.44&45 is executed in favour of the accused, absolutely no document is executed by the accused in favour of his brother with reference to Vairachettipalayam property. The joint family property continues as such. No change was attempted to made in the revenue records, including chitta. Even PW-28 Gowthaman continued to show these properties belong as his joint family property even in his declarations to the TANGEDCO where he is working. Thus, the version of the defence is nothing but false. More than anything in Ex.P44, the following statement is made by PW-19 and his wife:

> "நீ எங்களுடைய பேரன் (எங்களுடைய மகள் சத்யபாமா வயிற்று மகன்)"

Sathyabama is not their daughter. Just to execute settlement deed on the premise of love and affection, a false statement was made in Ex.P44.

4.4 Even in the evidence before Court PW-19 has stated that he has only one daughter by name Manimakalai. She is married to Gowthaman, PW-28. Actually Satyabama, is Shantha's sister's daughter. Thus, PW-19 and his wife are making a solemn false statement in a title deed so as to cheat the government. Thus, they are rank liars/fraudsters cannot be believed. The only conclusion that can be arrived at is that all four purchasers were only name lenders, and that is why they had truly and faithfully given back the property to the son of the accused. As a matter of fact, a separate FIR can be registered for Ex.P44. This is how corruption and ill-gotten money breed other crimes.

4.5 PW-18, the mother of the accused did not whisper anything about the said family arrangement. In her evidence she only talked about item 4 property and that she is only in control of the lands and from the income she purchased item no.4 with further help from Gowthaman. As far as this property is concerned, she only says:

> "தாம்பரத்தில் உள்ள வீடு ஒரு பாயிடம் இருந்து வாங்கியதை நானும் எனது சம்பந்தியும் சேர்ந்து செட்டில்மென்ட் எழுதியுள்ளோம்."

She does not depose that there was a family arrangement. Her specific claim with respect to income for purchase from her own funds is in respect of the Mahabalipuram property. The sale consideration and period of acquisition are all within the check period and as such, rightly taken into account in Statement -B.

Item No.4 & 5:

4.6 Item No. 4 and 5 are adjacent Plots bearing No.10 and 11 in S. No. 50/3A & 3B2 at Mahabalipuram. There is no dispute that these lands originally belonged to PW-16 Pallavaraja. He is the owner of Pallavaraja Properties. He is into real estate by purchasing lands and selling them after dividing into plots. He has deposed that the accused represented himself as one Ramesh and that he is working in a bank. He liked item No. 4 being plot No.10 and paid the money in respect of the same and purchased the same in the name of his mother for Rs.11,54,000/-. The entire amount was paid as cash. PW-16 had remitted the amount into his bank account. On 05/10/2009 registration was done in the name of Saradambal-PW-18. He had stated that on the same day, the accused also showed his willingness to buy the adjacent plot No. 11. In the said plot, he wanted a house also to be built. Total consideration for the land and cost for building was filed at Rs.18,00,000/-. He paid an advance of Rs.1,00,000/-. He also paid the balance in two or three instalments. Whileso, the CBI authorities came and enquired him. Until then he thought accused was only a bank officer. He handed over the entire Rs. 18,00,000/- cash to the authorities.

4.7 As a matter of fact, doubt was raised with respect to the money that was seized from PW-16 during the course of arguments in this appeal. Accordingly this court called for particulars and it is seen that the amount is deposited in the main case that is being faced by the accused along with others in C.C. No.1 of 2013, on the file of the XIII Additional Court for CBI Cases and amount was originally deposited to credit of RC 60A/2009 and is lying term deposit vide TDR No. TE/MTDN 0571856 dated 17/12/2009 in FD A/c. No.867591972 at Indian Bank, Nungambakkam Branch, Chennai. There was no necessity for PW- 16 to part away with such huge money unless paid by the accused. The only cross-examination is that, under pressure from CBI authorities, the money was paid, and the full money would not have been paid. They could not elicit any favourable answer. Thus, there is absolutely no explanation regarding item No. 5. It only demonstrates that the money is not hard-earned and was to be stealthily invested. Documentation was not even comfortable.

4.8 Regarding the purchase of the first plot, item No. 4, it is true that PW-18, the mother of the accused, claims he has sources of income from agriculture. Be that as it may, the total sale consideration is Rs.11,54,000/-. Apart from the sale of paddy, PW-18 also claims that her younger son, Gowtaman-PW28 also contributed for the purchase of the property / sale consideration. PW-28 also deposed to the said effect. Both of them are said to have given statements otherwise and treated as hostile and cross examined by the prosecution. Being the mother and brother of the accused, their version cannot be readily accepted as they tend to save the accused. But one has to look into the circumstances and corroborating materials for the version. The paddy merchant is examined as DW-11. The chitta and adangal extract is before the Court. Ex.P144 the communication from the Tahsildar shows the cultivation of at least 2 crops of paddy per year. The pass book of PW-16 Saradambal produced as Ex.D.1 shows number of monetary transactions in her account. Ex.D5 and D6 documents from chit funds is produced. The memo given by State Bank of India in favour of Gowthaman is also produced as Ex.D7.

4.9 However, there is no evidence suggesting payment by PW-18 or PW-28. On the contrary, it is the specific deposition of PW-16, vendor that it is only the accused who paid the money. In order to doubt the same, no credible evidence is let in. As a matter of fact, it can be seen that yet another property was also purchased in the name of PW-18 and immediately a power of attorney is obtained in the name of the son of the accused. If the transactions are taken cumulatively, the design of the accused to take the properties in the name of the relatives and thereafter, changing over the same in the name of his son is evident. In the instant case, before he could make documentation to item No.5 and further transactions in respect of item No.4, the CBI intervened. Thus, there is no iota of doubt whatsoever that these items 4 & 5 also belonged to the accused and have rightly been included by the trial court.

4.10 As far as the arguments relating to jewels are concerned, the trial court itself had considered the same and had taken into account only Rs. 67,250/-, which this Court also agrees.

4.11 In view of the above findings, there is no change in Statement A i.e., Assets at the beginning of the check period, as found by the Trial Court, which is Rs.28,02,343/-. As far as Statement B i.e. Assets at the end of the check period is concerned, it was found by the trial Court to be as Rs.1,11,32,376/-, In respect of one plot situated at Mahabalipuram, a sum of Rs. 11,54,540/- has to be deducted in Statement B. After deducting the value, Statement B is as follows Rs.1,11,32,376/- – Rs.11,54,540/- = Rs.99,77.836/-. Statement C i.e. the income during the check period is Rs.93,69,796/-. Statement D ie. the expenditure during the check period as found by the trial court is Rs.35,49,733/-. Therefore the disproportionate assets (B-A) –(C-D) is Rs.13,55,430/-. Thus, still the accused has got 14.4% of assets disproportionate to the known sources of income and therefore the finding of trial Court Regarding the guilt has to be confirmed.

Regarding the question of sentence, considering the age of the accused, the factual background and the circumstances of the case, I am of the view that the sentence can be reduced to minimum sentence of one year Simple Imprisonment instead of Rigorous Imprisonment for a period of two years and the fine amount shall remain the same.

E. The Result:

5. Accordingly the Crl.A.No.323 of 2014 stands partly allowed, on the following terms,

(i) The conviction and sentence as imposed on the accused for the offence under Section 13 (2) r/w 13 (1) (e) of the Prevention of Corruption Act, 1988, shall stand confirmed; the fine amount as imposed by the Trial Court (Rs.20,000/-) is also confirmed;

(ii) However, the sentence of imprisonment is modified as one year Simple Imprisonment;

(iii) The period of imprisonment already undergone, if any, by the accused shall be set off.

(iv) The accused is granted twelve weeks time to surrender before the Trial Court for undergoing the remainder of the sentence.

08.10.2025

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Neutral Citation : Yes

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.

D.BHARATHA CHAKRAVARTHY, J.

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