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CRL A No. 37 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 19.06.2026

JUDGMENT PRONOUNCED ON : 03.07.2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL A No. 37 of 2019

1. R.Murali
S/o.Ramachandran,
No.80, K.C.Swamy Street,
Virubakshipuram,
Vellore-632 002.

2. M.Valarmathi
W/o.R.Murali,
No.80, K.C.Swamy Street,
Virubakshipuram,
Vellore-632 002.

..Appellant(s)

Vs

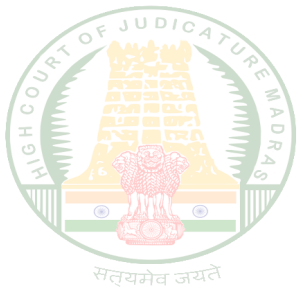
State Represented By
The Inspector Of Police,
Vigilance And Anti Corruption,
Vellore.
(Cr.No.10/2003).

..Respondent(s)

PRAYER: Criminal Appeal is filed under Section 374(2) of the Code of Criminal Procedure, praying to set aside the conviction and sentence imposed upon them by the Special Judge cum Chief Judicial Magistrate in Special Case No.02 of 2008 dated 07.01.2019 and allow the appeal.

For Appellant(s): Mr.K.Nirmal Kumar

For Respondent(s): Mr.R.Ganesh Kumar,
Counsel for Government of Tamil Nadu
(Crl. Side)



J u d g m e n t

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This Criminal Appeal has been filed by the appellants to set aside the conviction and sentence imposed upon them by the Special Judge cum Chief Judicial Magistrate in Special Case No.02 of 2008 dated 07.01.2019 and allow the appeal.

2.The case of the prosecution is that the first accused and the second accused are husband and wife. The first accused, while serving as a public servant during the period between 01.01.1990 and 31.01.2001, acquired assets in his name as well as in the name of the second accused, which were disproportionate to his known sources of income, to the tune of Rs.53,30,682/-. The second accused abetted the first accused in the commission of the offence. Based on the information received, the respondent registered an FIR in Crime No.10 of 2003, for the offences under Section 109 of the Indian Penal Code and Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act.

3.After the Trial Court took cognizance of the case, the prosecution examined PW1 to PW21 and marked Exs.P1 to P37. On the side of the accused, no witness was examined and no document was marked. Upon appreciation of the evidence on record, the Trial Court found the first accused guilty of the offence under Section 13(2) read with Section 13(1)(e) of the



Prevention of Corruption Act and sentenced him to undergo rigorous imprisonment for five years and to pay a fine of Rs.2,500/-, in default to undergo rigorous imprisonment for three months. The second accused was convicted of the offences under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act and Section 109 of the Indian Penal Code, and was sentenced to undergo rigorous imprisonment for four years and to pay a fine of Rs.2,500/-, in default to undergo rigorous imprisonment for three months. Aggrieved by the said judgment of conviction and sentence, the present appeal has been preferred.

4.The learned counsel for the appellants submitted that there were two accused in this case. The first accused, who was the husband of the second accused, died during the pendency of the proceedings. The second accused was not a housewife but was engaged in the real estate business. Although she was not a public servant, she had an independent source of income to purchase the properties. She was also an agent of the Life Insurance Corporation of India and an income-tax assessee. Therefore, the second appellant had sufficient independent income to acquire the immovable properties in her name.

5.The learned counsel further submitted that the Deputy Superintendent of Police conducted the preliminary enquiry, whereas the final report was filed by the Inspector of Police. The Investigating Officer who conducted the



investigation was not examined by the prosecution. Further, there was a clear violation of Sections 17 and 19 of the Prevention of Corruption Act. That apart, the prosecution failed to examine any independent witnesses to prove the charges.

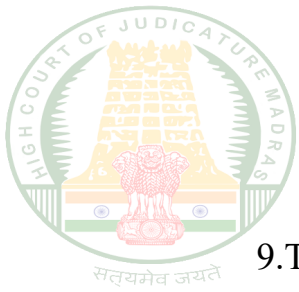
6.It was further submitted that, after the registration of the FIR, the second appellant furnished a detailed explanation along with documents showing her source of income for purchasing the immovable properties. However, the respondent failed to consider the documents produced by the second appellant before filing the final report. The allegations were primarily against the first accused. Since, the first accused had died and the proceedings against him had abated, no useful purpose would be served by punishing the second accused.

7.The learned counsel further contended that the prosecution failed to prove the charge under Section 109 of the Indian Penal Code. The offence of abetment requires positive and cogent evidence to establish that the accused intentionally aided or instigated the commission of the offence. When a non-public servant is charged with the offence of abetment under Section 109 of the Indian Penal Code, the prosecution is required to prove every ingredient of the offence, including the specific overtact attributed to such accused. Abetment cannot be presumed merely on the basis of the relationship between



the parties.

8. Even according to the prosecution, PW10 deposed that the second accused worked as an LIC agent from 30.06.1992 to 01.07.1998 and earned a commission of Rs.46,965/-. Further, PW15 deposed that the second accused independently obtained a loan of Rs.10 lakhs for the construction of a marriage hall. PW12, the Tahsildar, who assessed the agricultural income, categorically admitted in his cross-examination that he had not served as Tahsildar during the check period. He deposed only on the basis of the report submitted by the Village Administrative Officer. He neither personally inspected the lands owned by the second accused, nor did he know what crops had been cultivated on those lands. Therefore, the evidence of PW12 regarding the agricultural income cannot be relied upon for convicting the second accused. The Valuer was examined as PW11. According to him, no prior notice had been issued to the owner of the property before conducting the valuation. Further, the valuation report did not bear the signature of the owner acknowledging the inspection or valuation. Therefore, the valuation report cannot form the basis for conviction. The prosecution also suppressed the preliminary enquiry report prepared by the Deputy Superintendent of Police. The prosecution failed to produce the said report, and the officer, who conducted the preliminary enquiry was not examined. Therefore, the FIR itself cannot be sustained, as it is not based on the preliminary enquiry records.



9. The learned counsel further submitted that the sanctioning authority mechanically accorded sanction to prosecute the first accused, without properly considering the facts and circumstances of the case. He also submitted that the presumption under Section 20 of the Prevention of Corruption Act is not applicable to an offence under Section 13(1)(e) of the Act.

10. With regard to the charge of abetment under Section 109 of the Indian Penal Code, the learned counsel submitted that the prosecution must prove every ingredient of the offence beyond reasonable doubt, and such burden cannot be shifted to the accused in the absence of a statutory provision. The burden of proving the criminal charge always rests upon the prosecution. The prosecution also failed to examine any witness to establish the alleged conspiracy between the accused. To sustain a conviction for abetment, the prosecution must establish a meeting of minds between the abettor and the principal offender. Therefore, the conviction and sentence imposed upon the accused are liable to be set aside, and the appeal deserves to be allowed.

11. On the other hand, the learned Government Advocate (Crl. Side) appearing for the respondent submitted that the FIR was registered in the year 2003 and, therefore, there was no violation of the provisions of Sections 17 and 19 of the Prevention of Corruption Act. The respondent was competent to



register the FIR and proceed with the investigation. Although the second accused claimed to be a real estate broker and an LIC agent, she failed to produce any evidence to substantiate the same. In fact, the second accused had taken a specific defence before the Trial Court that she had no connection with the first accused and that she had obtained a divorce from him. However, she failed to produce any evidence to substantiate the said defence.

12. In order to prove the charges, the prosecution examined PW1 to PW21 and marked Ex.P1 to P37. The evidence on record revealed that, during the check period, the accused had amassed wealth to the tune of Rs.53,30,682/-, whereas their known sources of income were only to the extent of Rs.7,00,000/-. The second accused had shown her monthly income as only Rs.3,000/- during the relevant period. Thus, the accused had amassed assets disproportionate to their known sources of income to the extent of 123.99%. Therefore, the Trial Court rightly convicted the accused, and the judgment does not warrant any interference by this Court.

13. Heard the learned counsel appearing on either side and perused the materials available on record.

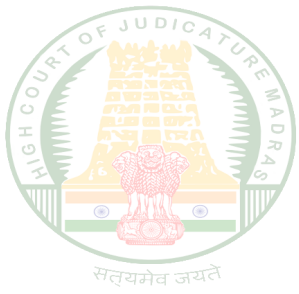
14. From the submissions made on either side, it is seen that there were two accused, who were husband and wife. During the pendency of the appeal,



the first accused died and, consequently, the appeal, insofar as it relates to him, stood abated. Accordingly, the appeal as against the first accused is dismissed as abated.

15. The first accused initially entered Government service as a Junior Assistant in the Government High School, Edayamsathu, in the Education Department. Subsequently, he was promoted as Assistant in the office of the Assistant Elementary Educational Officer, Konavattam, Vellore District. On receiving reliable information that the first accused and his wife, the second accused, had acquired assets and were in possession and enjoyment of pecuniary resources disproportionate to their known sources of income, a preliminary enquiry was conducted. The enquiry disclosed that both the accused were in possession of disproportionate assets in their names during the check period between 01.01.1990 and 31.01.2001. The relevant portion of the FIR is extracted hereunder:

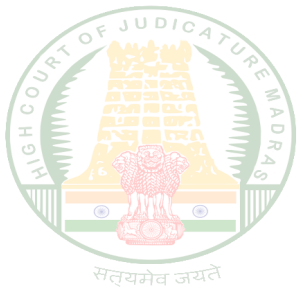
“(i) A house site in Survey No.233/8 and 233/@A of Konavattam Village purchases by first accused in his name, spending Rs.15,750/- on 8.2.96 as per document No.576/96 of District Register, Vellore and a house constructed thereon during the Check Period at a cost of about Rs.1,00,000/-. (ii) 1.41 acres of land in survey No.200/6, 6B of Poigai Village purchases by the first accused in his name, spending Rs.31,360/- on 10.4.96 as per document No.1881/96 of District Register, Vellore.



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(iii) A house site in survey No.41/2 of Virupatchipuram Village purchased in the name of his wife Tmt.Valarmathi (A2) by spending Rs.59,578/- on 16.2.92 as per document No.1725/92 and constructed a house thereon at a cost of about Rs.5,50,000/- during the check period. (iv) A house property in survey No.140/3 of Palavansathu Village purchased in the name of his wife Tmt.Valarmathi (A2) by spending Rs.1,60,480/- on 26.3.99 as per document No.1861/99 of District Register Vellore. (v) A house site in survey No.42/10 of Sathumathurai Village purchases in the name of his wife Tmt.Valarmathi (A2) by spending Rs.1,05,601/- on 18.6.99 as per document No.642/99 of Sub-Register, Kaniyambadi and a marriage hall constructed thereon during the check period, at a cost of about Rs.37,50,000/-. (vi) A house site in survey No.183/2B of Thuthipattu Village purchased in the name of his wife Tmt.Valarmathi (A2) by spending Rs.17,495/- on 17.9.95 as per document No.627/95 of Sub-Register, Kaniyambadi. (vii) A house site in survey No.24/4 of Pennathur village purchased in the name of his wife Tmt.Valarmathi (A2) by spending Rs.13,066/- on 7.8.91 as per document No.391/91 of Sub-Register, Kaniyambai. (viii) 2.24 acres of land in survey No.469/1, 4, 6, 7, 8 and 467/1, of Adukkamparai village purchased in the name of his wife Tmt.Valarmathi, (A2) by spending Rs.1,34,370/- on 3.5.93 as per document No.222/93 of District Register Vellore. (ix) 0.92 acres of land in survey No.447/2B of Adukkamparai Village purchased in the name of his wife Tmt.Valarmathi (A2) by spending Rs.72,894/- on 3.8.96



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as per document No.475/96 of District Register Vellore.

(x) 0.76 acres of land in survey No.444/4 of Adukkamparai village purchased in the name of his wife Tmt. Valarmathi (A2) by spending Rs.38,104/- on 24.10.96 as per document No.654/96 of Sub-Register, Kaniyambadi. (xi) 1.76 acres of land in survey No.443/1, 3, 4, 5 449/2 and 444/1B, 19, 8 of Adukkamparai Village purchased in the name of his wife Tmt.Valarmathi (A2) by spending Rs.1,39,311/- on 1.10.99 as per document No.171/2000 of Sub-Register Kaniyambadi. (xii) A bank balance of Rs.432/- in the name of Tmt.Valarmathi (A2) in the account No.8252 of Indian Bank, Virupachipuram Branch. (xiii) House hold articles like AC machine, Refrigerator, Fans, Tape recorder, Television set, Cell Phone and Furniture etc., at a cost of about Rs.1,10,000/-. (xiv) Cash on hand Rs.50,000/-."

16.Further, during the check period, the accused had no known source of income other than the salary of the first accused. The second accused was not employed elsewhere and was only a housewife. They failed to establish any independent source of income for acquiring assets disproportionate to their known sources of income and also failed to satisfactorily account for the acquisition of such assets. PW1, the Sanctioning Authority, accorded sanction to prosecute the first accused after verifying the statements recorded under Section 161(3) of the Code of Criminal Procedure and the FIR registered in Crime No.10 of 2003 on the file of the respondent. During the investigation,

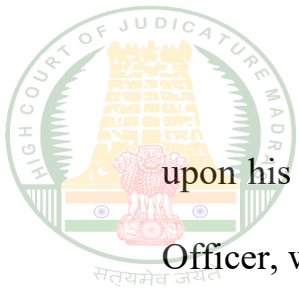


the accused were called upon to submit their explanation. Since the explanation offered by them was found to be unsatisfactory, the respondent proceeded with the investigation and filed the final report.

17.The second accused specifically contended that she was not residing with the first accused as she had obtained a divorce from him. However, she failed to produce any evidence in support of the said plea. Therefore, the Trial Court rightly concluded that the first and second accused had lived together until the death of the first accused.

18.Although, the second accused claimed that she was a real estate broker and an LIC agent, she did not produce any evidence to substantiate the same. On the other hand, the evidence disclosed that the first accused had acquired assets in the name of the second accused, without obtaining prior permission from the competent authority. Consequently, disciplinary proceedings had also been initiated against the first accused by his employer.

19.It is also seen that, upon receipt of the information, the Deputy Superintendent of Police conducted the preliminary enquiry. Owing to his transfer, the enquiry was thereafter continued by the succeeding Investigating Officer in the rank of Inspector of Police. PW20 categorically deposed that the Deputy Superintendent of Police had conducted the preliminary enquiry and,



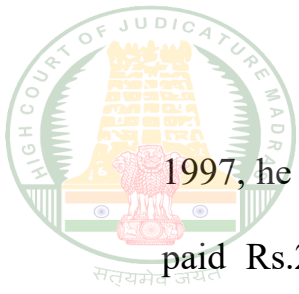
upon his transfer, the records were handed over to the succeeding Investigating Officer, who thereafter registered the FIR.

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20.The prosecution examined the Sub-Registrar as PW2. Pursuant to the requisition made by the Investigating Officer, PW2 produced the sale deeds relating to 21 properties, which were marked as Exs.P5 to P17. Some of the properties had been purchased directly by the second accused, while others had been purchased through her power agent. The vendors of the properties were examined as PW7 and PW14, and they categorically deposed regarding the sale of the properties in favour of the second accused.

21.As per Ex.P21, during the check period between 01.01.1990 and 31.01.2001, the first accused had agricultural income to the tune of Rs.1,18,575/-. Although the learned counsel for the appellants vehemently contended that the second accused was an income-tax assessee, a perusal of Ex.P31 only shows that she had filed income-tax returns. The said returns do not disclose sufficient income to justify the purchase of the properties. The second accused also failed to establish the source of funds utilised for purchasing those properties.

22.As per Ex.P36, during the period from 1990 to 1991, the first accused was drawing a monthly salary of Rs.1,100/-. During the period from 1994 to



1997, he was drawing a monthly salary of Rs.2,000/-. In the year 1998, he was paid Rs.2,700/- per month, and in the year 1999, his monthly salary was Rs.3,300/-. Therefore, the assets acquired by the accused were disproportionate to their known sources of income to the extent of 123.99%.

23.A perusal of Ex.P31 further reveals that the second accused had filed income tax returns for the assessment years 1992–1993 to 2000–2001. For the assessment year 1992–1993, she declared an income of Rs.25,000/-. For the assessment year 1993–1994, she declared an income of Rs.30,900/-, and for the assessment year 1995–1996, she declared an income of Rs.45,000/-. Even then, the properties acquired by the accused were wholly disproportionate to their known sources of income.

24.Thus, the first accused, being a public servant, and the second accused, being his wife residing with him, had amassed assets disproportionate to their known sources of income. The prosecution discharged its initial burden, whereupon the burden shifted to the accused to satisfactorily account for the assets. The accused failed to discharge the said burden. The evidence also establishes that they were jointly in possession and enjoyment of the properties. Therefore, the Trial Court rightly convicted the accused, and this Court finds no illegality or infirmity in the judgment of conviction and sentence passed by the Trial Court.



25. The learned counsel for the appellant submitted that the second accused is presently suffering from Stage IV cancer. After considering the said submission, this Court is inclined to modify the sentence alone. Since the sentence is being reduced, the Judgment of conviction passed by the Trial Court is confirmed.

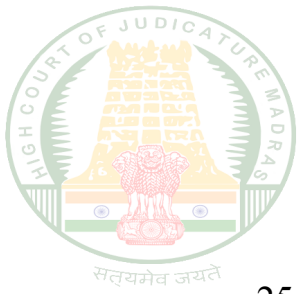
26. In view of the above, the judgment of conviction dated 07.01.2019 passed by the learned Special Judge-cum-Chief Judicial Magistrate, Anti Corruption Division, Vellore, in Spl.S.C. No.02 of 2019 is confirmed. However, the sentence imposed by the trial Court is modified from four years rigorous imprisonment to two years rigorous imprisonment. Accordingly, this Criminal Appeal is partly allowed.

-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
AH

To

1. The Inspector Of Police,
Vigilance And Anti Corruption,
Vellore.
2. The learned Special Judge-cum-Chief Judicial Magistrate,
Anti Corruption Division,
Vellore.
3. The Public Prosecutor,
High Court, Madras.



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25. The learned counsel for the appellant submitted that the second accused is presently suffering from Stage IV cancer. Even after considering the said submission, this Court is not inclined to interfere with or modify the sentence imposed by the Trial Court.

26. In view of the above, the judgment of conviction and sentence dated 07.01.2019 passed by the learned Special Judge-cum-Chief Judicial Magistrate, Anti Corruption Division, Vellore, in Spl.S.C. No.02 of 2019 is confirmed. Accordingly, this Criminal Appeal is dismissed.

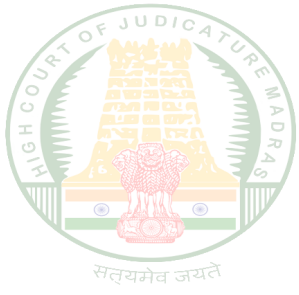
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CRL A No. 37 of 2



G.K.ILANTHIRAIYAN J.

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**PRE-DELIVERY JUDGMENT IN
CRL A No. 37 of 2019**

03-07-2026