IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.02.2026

PRONOUNCED ON : 29.06.2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL.A.Nos.269 and 270 of 2018

Crl.A.No.269 of 2018

R.Dorairaj,
Son of Ratnam,
No.297, 4th Street, Baba Nagar,
Villivakkam,
Chennai – 600 049.

..Appellant/A1

Vs

State Represented by
Inspector of Police,
SPE:CBI:ACB: Chennai
Sastri Bhavan, Chennai – 6.
[R.C.2009 (A) 0061]

..Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, praying to set aside the judgment passed against the appellant/Accused No.1 by the learned XIV Additional Special Judge for CBI Cases, Chennai – 104, by the judgment dated 17.04.2018 made in C.C.No.22 of 2011, acquit him from all the charges.

For Petitioner : Mr.S.Ashok Kumar, Senior Counsel
for Mr.G.Sathiyaraj

For Respondent : Mr.N.Baaskaran
Special Public Prosecutor for CBI Cases

Crl.A.No.270 of 2018

Sarumathi,
Wife of Dorairaj
No.297, 4th Street, Baba Nagar,
Villivakkam,
Chennai – 600 049.

..Appellant/A2

Vs

State Represented by
Inspector of Police,
SPE:CBI:ACB: Chennai
Sastri Bhavan, Chennai – 6.
[R.C.2009 (A) 0061]

..Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, praying to set aside the judgment passed against the appellant/Accused No.2 by the learned XIV Additional Special Judge for CBI Cases, Chennai – 104, by the judgment dated 17.04.2018 made in C.C.No.22 of 2011, acquit her from all the charges.

For Petitioner	:	Mr.S.Ashok Kumar, Senior Counsel for Ms.R.Vetriselvi
For Respondent	:	Mr.N.Baaskaran Special Public Prosecutor for CBI Cases

COMMON JUDGMENT

Crl.A.No.269 of 2018 is filed by A1 and Crl.A.No.270 of 2018 is filed by A2.

2. For the sake of convenience, Appellant/R.Dorairaj referred as A1 and Appellant/Sarumathi referred as A2 as per the judgment of the trial Court.

3. The appellants/A1 and A2 were convicted by the trial Court in C.C.No.22 of 2011 by the learned XVII Additional Special Judge, City Civil Court, Chennai, by judgment dated 17.04.2018 for offence under Section 120-B of I.P.C. r/w Sections 13(2) r/w 13(1)(e) of Prevention of Corruption Act and sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.10,000/- each. A2 convicted for offence under Sections 13(2) r/w 13(1)(e) of P.C. Act and sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.10,000/-. A1 acquitted for offence under Sections 13(2) r/w 13(1)(e) of P.C. Act.

4. The case of the prosecution is that A1, Deputy General Manager, Food Corporation of India, Chennai, A2, wife of A1, Senior Accountant, Accountant General Office, Chennai. During the period 01.01.2002 to 18.09.2009 accumulated dis-proportionate assets to the tune of Rs.78,47,466/-, which is 94% of their income. Hence, case registered, investigation conducted, charge sheet filed. In the charge sheet, as per Statement-A one house property at Door No.7, IV Street, Akbar Aquare, GKM colony, Konnur Villag was purchased by A1 through registered sale deed in Doc.No.253/1997 dated 22.01.1997 valued around Rs.3,64,800/- and jewellery valued around Rs.2,10,000/- acquired before the check period shown. Both the petitioners/A1 and A2 had property to the value of Rs.5,74,800/- before check period. During the check period, A2

purchased two house properties, one vacant land and a new construction, A1 purchased Maruti Zen Estilo Car and one TVS Scooty Pep and both made investments in debentures and gold ornaments. Both A1 and A2 found in possession of the assets to the tune of Rs.1,13,29,229/- at the end of check period, as per Statement-B listing 20 items.

5. Statement-C is the income received by both accused. During the check period, petitioners received salary income from their respective departments along with Pay Commission arrears, GPF withdrawals and also received substantial rental income from their house properties, though not reflected in their Income Tax Returns but added to their income, they also received various loans from Bank of Baroda and Private housing finance company apart from hand loans. Thus, both accused having income of Rs.83,05,947/- during the check period, shown in 21 items.

6. Statement-D is the expense incurred by the both accused during the check period, making payments to LIC policies, repayment of loan obtained from the Employee's Society of Food Corporation of India and Accountant General office Society, repayment of bank loans and expenditure for education for their children including domestic expenditure, both A1 & A2 incurred expenditure to the tune of Rs.54,07,984/-.

7.Thus, the assets at the beginning of the check period, assets acquired during the check period, Income derived and expenditure incurred, all calculated, found pecuniary resources possessed by them and found both accused holding dis-proportionate assets to the tune of Rs.78,47,466/- at the end of check period.

8.On 18.09.2009, a surprise check conducted in Food Corporation of India regional office, Chennai. Pursuant to which, a case in R.C.No.51/2009, registered against A1 and officials of Food Corporation of India. Search conducted at the residence of A1 and during search, several property documents seized and valuables found in his house. By a seizure mahazar, documents seized, inventory taken on the articles, thereafter, as a follow up, the present case in R.C.No.61/2009 registered against both the accused and check period fixed from 01.01.2002 to 18.09.2009. During investigation, documents collected, witnesses examined and both the accused submitted statements A to D to their respective departments, which were collected, examined and found that the reason and explanation given not in conformity to the law and procedure. On conclusion of investigation, after obtaining sanction, charge sheet filed before the trial Court.

9. As per the charge sheet, the properties possessed by the accused prior to the check period is to the tune of Rs.5,74,800/-. The properties acquired and

found at the end of the check period is to the tune of Rs.1,13,20,229/-. The income by the accused during the check period is to the tune of Rs.83,05,947/- and expenditure is to the tune of Rs.54,07,984/-. Thus, based on the above assets acquired by accused 1 and 2, the assets disproportionate to the known sources of their income derived as follows:

Sl.No.	Description	Amount
1.	Assets at the beginning of the check period	5,74,800/-
2.	Assets at the end of check period	1,13,20,229/-
3.	Assets acquired during the check period [2-1]	1,07,45,429/-
4.	Expenditure during the check period	54,07,984/-
5.	Total pecuniary resources possessed by the accused [3+4]	1,61,53,413/-
6.	Income during the check period	83,05,947/-
7.	**Disproportion [5-6]**	**78,47,466/-**
	Disproportionate Assets Percentage [7/6 X 100]	**94%**

10. During trial, on the side of the prosecution PW1 to PW57 examined, Exs.P1 to P129 marked and M.O.1 produced. On the side of the defence, the accused examined 3 witnesses, namely, DW1 to DW3 and marked Exs.D1 to D5. On conclusion of trial, the trial Court by its judgment dated 17.04.2018 convicted the accused as stated above.

11. During trial, the contention of both the prosecution and the accused considered. The trial Court in its judgment, referred to the evidence of witnesses and the documents produced and gave its findings as below:

12. As regards Statement-A, as per the prosecution, the assets held by both the accused at the beginning of check period was calculated to **Rs.5,74,800/-**. The trial Court held that the total value of Statement-A was properly calculated by the Investigating Officer and confirmed the same.

13. As regards Statement-B, as per the prosecution, the total value of assets acquired by both accused at the end of check period was calculated to Rs.1,13,20,229/-. The trial Court deducted certain properties as per the schedule, which is extracted below:

S.No.	**Deduction Amount Rs.**
S.No.2	33,150/-
S.No.5	18,73,946/-
S.No.7	1,40,000/-
S.No.8	47,687/-
Total	**20,94,783/-**

Thus, the trial Court calculated the value of assets at the end of the check period at **Rs.92,25,446/-** (Rs.1,13,20,229 - Rs.20,94,783 = Rs.92,25,446).

14. As regards Statement-C, as per the prosecution, the total income of both accused during the check period calculated to Rs.83,05,947/-. The trial Court added certain left-over incomes in Statement-C, which is extracted below:

S.No.	**Details of Added Amount Rs.**
S.No.13	4,25,000/-
S.No.14	5,00,000/-
S.No.21	6,65,850/-
Addl.	2,280/-
Addl.	22,159/-
Total	**16,15,289/-**

Thus, the trial Court calculated the total income of both accused during the check period at **Rs.99,21,236/-** (Rs.83,05,947 + Rs.16,15,289 = Rs.99,21,236).

15. As regards Statement-D, as per the prosecution, the total expenditure of both accused during the check period was calculated to Rs.54,07,984/-. The trial Court deducted some amount from Statement-D, which is extracted below:

S.No.	**Details of Deducted Amount Rs.**
S.No.1	6,71,785/-
S.No.5	1,40,140/-
S.No.13	400/-
Total	**8,12,325/-**

Thus, the trial Court calculated the total expenditure of both accused during the check period at **Rs.45,95,659/-** (Rs.54,07,984 - Rs.8,12,325 = Rs.45,95,659).

16. The trial Court found that both the accused holding disproportionate assets to the tune of Rs.33,25,069/-. The details of which reads as below:

Sl.No.	Description	Amount
01.	Assets at the beginning of check period (Statement-A)	Rs.5,74,800/-
02.	Assets at the end of check period (Statement-B)	Rs.92,25,446/-
03.	Income during check period (Statement-C)	Rs.99,21,236/-
04.	Expenditure during check period (Statement-D)	Rs.45,95,659/-
05.	Assets acquired during check period (B-A)	Rs.86,50,646/-
06.	Likely saving during the check period (C-D)	Rs.53,25,577/-
07.	**Extent of disproportionate Assets (B-A) – (C-D)**	**Rs.33,25,069/-**
	Disproportionate Assets	**33.51%**

17. The learned Senior Counsel submitted that in this case both the accused A1 and A2 informed their respective department about the acquisition of the property by them and their departments approved the same and recorded in the office records. The officials from the Food Corporation of India and Accountant General office confirm the same, hence, there is no violation of Service and Conduct Rules, as per law.

18. The learned Senior Counsel argued that in Statement-A, the actual value of the articles and jewels found at the beginning of the check period is Rs.2,54,880/- and the investigating officer/PW55 under-valued the jewels and had given credit for Rs.2,10,000/- only excluding value of Rs.44,880/-. He further submitted that the Investigating Officer produced no documents to confirm how the value of jewels, recorded in the inventory memo. Further, the investigating officer admits, no assessor examined and no jewels seized. In the inventory list, weight and value for the jewels not available, value given is the investigating officer assessment. Further search witness PW6 confirms CBI officers informed A2 that A1 detained by CBI pursuant to the surprise check in R.C.No.51/2009. A2 was in shock and pain not knowing what was happening. He further submitted that without any documents, the jewels under-valued. The trial Court rejected the contention of the accused giving reason, except for a suggestion to the investigating officer, no documents produced by the accused on the other hand value recorded is also an opinion of the investigating officer. Hence, the value of jewels shown in Statement-A is not proper.

19. The learned Senior Counsel seriously disputed the value of the assets mentioned in Serial Nos.1 to 8 and 20 in Statement-B. The assets in Serial No.1 to 3 already shown in Statement-A, hence, it is repeated to boost the assets acquired during the check period. Hence, the same to be deleted. He further submitted that the investigating officer to cause aspersion and prejudice to the accused boosted the asset value acquired during the check period.

20. He further referring to Statement-B submitted that in Srl.No.2 it was projected that jewels and articles acquired during the check period is to the tune of Rs.2,36,230/-. Except for Ex.P19/Search List and Ex.P20/Inventory Memo, no other document produced and no competent witness examined to assess and confirm the value of articles and jewels in this case. Hence, the difference amount to be deducted.

21. He further submitted that for purchase of a Plot at No.297, at Baba Nagar in Ex.P16/Sale Deed, the sale consideration recorded as Rs.10,00,000/- but the prosecution and the trial Court projected that PW14/Vendor admits receipt of Rs.12,50,000/-. Hence, added Rs.2,50,000/- in Statement-B. As regards Srl.No.5, the construction cost, he will address in detail separately. Srl.No.6 is the property purchased at Pallipattu village. Likewise, Srl.No.7 is the property purchased in Raja Rajeswari Nagar. According to the accused, the property at Raja Rajeswari Nagar purchased for a sale consideration of Rs.10,00,000/-, as could be seen in Ex.P57/Sale Deed. The prosecution projected the value of the property at Rs.15,60,000/- but the trial Court on the evidence of PW17 recorded the value as Rs.14,20,000/-. Hence, this difference amount has to be deleted. Srl.No.8 is the additional construction cost at Akbar Square property in the name of A1.

22. He further submitted that PW15 is a valuer and his valuation report/Ex.P48 is not proper and the valuation report itself is bereft of details. PW15 unable to give details with regard to the additional structure, which is only a portico for car parking and incurred an expenditure of only Rs.48,950/- and it was own construction. But the valuer gives a higher value giving reason that it is based on Corporation Assessment Order, and fixed the period of construction between 2003-2004, but no Corporation Assessment order produced. With regard to Srl.Nos.9 to 19 submitted that there is no serious dispute.

23. The learned Senior Counsel referring to Srl.No.5 in Statement-B the construction cost and value, submitted that in this case Ex.P50 is the Contract agreement, Ex.P51 is the Bill, Ex.P52 is the additional item bill, Ex.P53 is the statement for construction of building, Ex.P55 is the statement of accounts of Shree Hari Raghava Planners & Builders. It is to be seen that all these documents produced by Sampath Kumar and Govindarajan/PW16 on 11.08.2010. It is an admitted fact that the office of Shree Hari Raghava Planners & Builders searched earlier a year before on 19.09.2009, which is evident from the statements of PW9 and PW55 and Ex.P29-search memo. The genuineness of the documents Exs.P50 to P55 are doubtful, the forensic report and the connected document/Ex.P111 are doubtful and inadmissible, not with 65-B

Certificate. The valuation report submitted by valuer/PW15 is without competence, Ex.P48 is not a valid document. The value projected for the construction cost for the Baba Nagar flat and other buildings by the valuer/PW15 and the evidence of PW16 and Exs.P50 to P55 and the forensic report/Ex.P111 and the annexures, all clouded and tainted. Hence, the valuation conducted by the valuer, retrieval of documents and production of docuemnts by PW16 all becomes highly doubtful.

24. The learned Senior counsel further contended that accused completed the construction by spending Rs.28,57,990/-, which was informed by A2 to her department through Ex.P13. The finding of the trial Court is that based upon Ex.P53 it is seen, A2 made a total payment of Rs.46,93,000/- hence, deducting Rs.15,73,946/- is not proper. When the trial Court found that the valuation projected and arrived at Rs.62,66,946/- by the valuer/PW15 is on higher side, not sustainable, then the value declared to department with corresponding documents by A2 marked as Ex.P13, only to be taken as construction cost but based on the evidence of PW16 and Ex.P53 arriving the construction cost as Rs.46,93,000/- is not proper.

25. With regard to Srl.No.20, learned Senior Counsel submitted that the trial Court accepted the contention of the accused and included Rs.22,159/- in Statement-C as dividend income. He further submitted that though the

prosecution fixed the value of the asset at the end of the check period-Statement-B at Rs.1,13,20,229/-, the trial Court deducted Rs.20,94,783/- and fixed the value of the assets at the end of check period as Rs.92,25,446/-. In view of the above submission, he submitted that in Statement - 'B', Srl.No.2-Rs.66,310/-, Srl.No.4-Rs.2,50,000/-, Srl.No.5-Rs.18,35,010/-, Srl.No.7-Rs.4,20,000/- and Srl.No.8-Rs.62,320/-, in total, a sum of Rs.26,33,640/- to be further deducted from the assets. Thus the value of assets at the end of the check period in Statement-B is **Rs.65,91,806/-** (Rs.92,25,446 – Rs.26,33,640 = Rs.65,91,806/-)

26. Learned Senior Counsel referring to Statement-C – Income of the accused, submitted that the disputed items in Statement-C are Srl.Nos.13, 14 and 21. Srl.No.13 is the hand loan received by A2 from her brother-in-law, G.Thiyagarajan/DW1 and Srl.No.14 is the hand loan received by A2 from her father P.Sreenivasan and DW2 mother confirmed the same. Srl.No.21 is the rental income and advance received from house property. The prosecution calculated rental income during check period as Rs.6,34,150/-. The accused contended that a sum of Rs.15,63,800/- is the actual rental income and relied upon Exs.P107, P108, P127 to P129 and PW55 examined in this regard. Considering all these aspects, the trial Court accepted the petitioner's contention that the respondent not calculated income properly and taken into account the rental income and came to conclusion that accused received rental income of Rs.13,00,000/-, but it should be Rs.15,63,800/-.

27. According to the learned Senior Counsel, the trial Court found that the respondent not properly produced witnesses and documents with regard to the rental income, hence, disallowing a sum of Rs.15,63,800/- is not proper. Hence, this amount has to be included as income. Apart from it, he had also submitted that amount of Rs.2,280/- received from BSNL to A2 and dividend income Rs.22,159/- for A1 from the society not considered. Hence, the difference amount of Rs.2,63,800/- in Srl.No.21 to be included and an amount of Rs.2,280/- + Rs.22,159/-, in total Rs.2,88,239/- (2,63,800+2,280+22,159) to be included.

28. With regard to the agricultural income, learned Senior Counsel submitted that the agricultural income received by A1 to the tune of Rs.12,50,000/- not considered. To prove the agricultural income, the accused examined DW1 and DW3, brother and sister of A1. Both admit that their father Govindan owned 5 acres of wet land with Motor pump-set in Pallipattu village, Tiruvallur District. Further, their father was an elected President of Kolathur village. Their father and grandfather were headman of the village, and they were holding lands in the village and cultivating their lands. The cultivation was continued and carried out by sister of A1/DW3, who deposed she resides in the village with her husband's family. She cultivates paddy, groundnut including sugarcane and supplied sugarcane to the Jaggery producers and to Sagar Sugar

Mill and got income. The Sugar Mill supply receipt/Ex,D5 confirms the same. The investigating officer/PW55 admits he had not conducted any investigation to verify the agriculture income claimed by A1. In such circumstances, the trial Court on the evidence of DW1 and DW3 and defence exhibits, ought to have given due credit to the agricultural income. Agricultural income not required to be declared in Income Tax returns, hence, non disclosure in the Income Tax department would not deny the receipt of agricultural income by the accused. Hence, this amount of Rs.12,50,000/- to be included in Income Statement-C.

29. Learned Senior Counsel further submitted that there is no dispute that the property stands in the name of A1's father/Govindan and the family arrangement was that after the demise of Govindan, the property given to A1. DW1 and DW3 brother and sister confirm the same. The trial Court ought to have given credit of one-third of the agricultural income, i.e., Rs.4,16,700/- to A1, instead, denying the entire agricultural income is not proper. Further, financial capacity of DW1 and DW3 proved. Hence, an amount of Rs.2,88,239/- and Rs.4,16,700/- in total, Rs.7,04,939/- to be included as income and the total income of the accused during the check period is Rs.1,06,26,175/- not Rs.99,21,236/- as taken by the trial Court.

30. With regard to Statement D - Expenditure, the learned Senior Counsel submitted that in this case, the investigating officer calculated the domestic

expenditure as 60% of gross salary of A1. i.e., 60% of Rs.25,19,191/- is Rs.15,11,515/-. He further submitted that in the case of **Sajan Kumar**, the Hon'ble Apex Court held that one-third of net income can be considered for domestic expenditure. Thus, calculating A1's net salary of Rs.14,43,002/- and one-third of the net salary is Rs.4,81,000/- for Domestic expenditure but the trial Court calculated one-third of the gross salary of Rs.8,39,730/- and deducted the difference amount of Rs.6,71,785/- from Statement-D, which is not proper. The net salary of A1 is Rs.14,43,002. One-third of net salary is Rs.4,81,000/-, hence, the difference amount of Rs.1,90,785/- (Rs.6,71,785 – Rs.4,81,000) has to be further deducted from expenditure.

31. He further submitted that with regard to Srl.Nos.2, 3 and 4, there is no serious dispute and with regard to Srl.No.5, the fuel charges and maintenance of the vehicle has been taken as Rs.1,72,354/- by the prosecution. The trial Court had given some deduction and taken the expenditure as Rs.1,40,140/-. With regard to other payments, the accused not seriously dispute the repayment of the housing loan, insurance premium to LIC and repayment of society amount. These complete details not properly considered by the trial Court.

32. With regard to repayment of loan amount by pledging jewels with pawn broker, it is submitted that through Ex.P121 several pawn receipts and pawn tickets marked, all marked through the Investigating Officer, the pawn

broker Pancharam Panwar, Kolathur, not examined. Further, mere marking of the documents by the Investigating Officer cannot be taken as documents proved. Hence, this amount of Rs.1,75,436/- in total has to be deducted. Likewise, payment of registration charges and Road Tax for TVS Scooty Pep is not in the name of the accused. Thus, substantial amount of expenditure has to be deleted and for petrol expenses, no witnesses examined. Hence, the amount of Rs.1,90,785 + Rs.1,75,436 = Rs.3,66,221/- to be deducted from expenditure.

33. The learned Senior Counsel further submitted that the construction cost of new house building at Baba Nagar property was shown in Statement-B at Srl.No.5 to the tune of Rs.62,66,946/-. To prove this fact, PW15-Assistant Valuation Officer, PW16-Partner of Shree Hari Raghava Planners & Builders and Forensic Expert/PW54 examined. Through PW15, Ex.P46 valuation report marked. The valuation is based on the plinth area rate and Cost Index method. However, neither the plinth area rate nor the cost index produced. On what basis the plinth area rate and cost index arrived, no reasons given. The approved rates not produced. The valuation officer/PW15, is incompetent witness, PW16 builder gives contradictory statements. The forensic expert unable to give justifiable reasons as to how hard disk examined and verified without hash value. Further 65-B certificate not produced. A2 declared and submitted the value of construction to her department and the same accepted.

34. He further submitted that the value for the Baba Nagar property arrived at Rs.62,66,946/- is not sustainable and PW15 had gone one step further and taken the value of the land as Rs.18,00,000/-. As per the prosecution, the property was purchased for Rs.12,50,000/- and there can be no addition to the landed property and it is common that only the document value of the property has to be taken and it is shown in Srl.No.4 as Rs.12,50,000/- but PW15 gives the value of the land as Rs.18,00,000/-, which would show that PW15 is valuing the properties on the higher side. PW15 admits that he is only an Assistant Valuation Officer, he has power to assess the property valued upto Rs.40 Lakhs and it is the Valuation Officer, who has the power to assess the property above Rs.40 Lakhs up to Rs.3 Crores and it is the District Officer, who has to value property valued above Rs.3 Crores. Hence, the valuation report is not a valid one and inadmissible in evidence. The trial Court rejected the valuation reports/Exs.P46 and P48, but gives a finding on the retrieved documents from M.O.1-Hard Disk and on the evidence of PW54-Forensic expert, relied on Exhibit-P111, a electronic evidence output without 65-B certificate. Hence, Ex.P111 to be rejected in *toto*.

35. PW16 is the Partner of Shree Hari Raghava Planners & Builders. PW9 is the witness to the search. PW16 confirms that search was conducted in his office on 19.09.2009 and at that time except hard-disk/M.O.1, no documents found or seized. Nearly one year thereafter, on 11.08.2010, he was examined by

CBI and documents collected through receipt memo/Ex.P56. On that day, the documents Exs.P50 to P55 produced. Ex.P50 is the Contract Agreement, Ex.P51 and P52 are the bills, Ex.P53 is the statement for construction cost made ready on 11.08.2010. To support the bill, Ex.P55-computer generated cash book statement produced. The trial Court relying upon Ex.P53 had come to a conclusion that Rs.47,93,620/- has been paid by A2 to PW16.

36. Learned Senior Counsel further referring and comparing Ex.P53 to Ex.P55 submitted that even going by the prosecution version both are incomparable. Certain amounts, which are not shown in the cash book are added in the statement of construction costs marked as Ex.P53. As per the cash book statement, 23 items, i.e., Srl.Nos.5 to 26 and 28 in Ex.P53 can be culled out from Ex.P55. On calculating the value of these 23 items, the total amount is Rs.29,51,000/-. There is justification if this amount is taken as construction cost. He further submitted that Ex.P56 is a computer generated document and 65B Certificate not produced. Further submitted that evidence of PW54 confirms Exs.P111, P109, generated from hard-disk/M.O.1, this hard disk produced for forensic examination only on 19.03.2010 and the forensic report made ready on 16.04.2010. Thereafter, it was collected through Ex.P114 on 16.06.2010. From Ex.P111, it is seen that one P.Ettiyappan, Assistant Director, Computer Forensic Division, examined the hard-disk by using the tool 'ENCASE V6.6', but the said Ettiyappan, who examined the hard-disk not examined as witness in this

case, further submitted in Ex.P29 or in the forwarding letter/Ex.P109, Ex.P110 or any of the documents, there is no reference to the Hash value, an important factor, to be recorded. In this case Hash value not recorded. In computer forensic analysis, the Hash value plays an important role, which would only confirm that there is no tampering of the hard-disk or electronic data. Thus, the genuineness and authenticity of forensic report/Ex.P111 and retrieval of documents said to be stored in the hard-disk cannot be taken in evidence.

37. He further submitted that in this case, the chain of custody of hard-disk not recorded and produced, more so, as per Ex.P29, hard-disk seized on 19.09.2009 but it was handed over to the forensic department only 19.03.2010. There is no evidence to show how and under whose custody the hard disk was preserved. Whether it was in tamper proof condition, no records produced. The trial Court not considered the forensic report following the dictum of Hon'ble Apex Court in **Anwar case** and the case in **Arjun Panditrao Khotkar vs. Kailash Kushanrao Gorantyal and others**. Now the only evidence available is Ex.P53 and P55, which are the documents said to be produced by PW16. Exs.P53 and P55 prepared on 11.08.2010 on the very day of his examination by CBI. There is a mismatch in the Account statement between Exs.P53 and P55, Ex.P55 is not a certified document. Thus, the finding of the trial Court based on Ex.P53 that a sum of Rs.47,93,620/- paid by A2 for construction work is not proper.

38. On a demurrer, he submitted that it is evident from Ex.P55 that a sum of Rs.29,51,000/- alone paid towards construction. It is to be seen that A2 informed her department through Ex.P13 stating that the cost of building construction at Baba Nagar property is Rs.20,19,000/- and disclosed the sources as to how this amount generated, namely, loans obtained from Bank of Baroda and Shriram Finance, loans obtained by pledging of jewels, society loans, hand loan from Sreenivasan, the father of A2 as well as savings from her husband's monthly salary and her personal savings all details given. This report/Ex.P13 submitted much before the registration of the F.I.R. Further, by office order dated 03.09.2009, the construction put up at the Baba Nagar property and Raja Rajeswari Nagar property of A2 recorded. Thus, as per the requirements, A2 intimated to her department about the purchase and construction of the property in accordance with Service Conduct Rules as applicable to a public servant. This is confirmed by witnesses PW5 and PW7 and also confirmed by the sanctioning authority/PW2. PW2 confirms A2 initiated the construction and its cost to the department. In view of the above, adding up of inflated construction cost by the trial Court is not proper.

39. He further submitted that as per Cash book/Ex.P55, the amount paid by A2 to Shree Hari Raghava Planners and Builders is tabulated hereunder:

S.No.	Date	Amount (Rs.)
1.	16.08.2006	2,00,000/-
2.	23.08.2006	3,00,000/-
3.	02.09.2006	1,00,000/-
4.	04.09.2006	3,00,000/-
5.	23.09.2006	2,00,000/-
6.	05.10.2006	2,00,000/-
7.	09.10.2006	50,000/-
8.	14.10.2006	2,00,000/-
9.	18.10.2006	1,00,000/-
10.	26.10.2006	2,00,000/-
11.	02.11.2006	1,00,000/-
12.	10.11.2006	2,00,000/-
13.	17.11.2006	75,000/-
14.	27.11.2006	65,000/-
15.	02.12.2006	50,000/-
16.	06.12.2006	50,000/-
17.	13.12.2006	1,50,000/-
18.	23.12.2006	80,000/-
19.	28.12.2006	1,50,000/-
20.	06.01.2007	50,000/-
21.	13.01.2007	50,000/-
22.	14.02.2007	56,000/-
23.	15.03.2007	25,000/-
	TOTAL	**29,51,000/-**

40. In support of his contention, the learned Senior Counsel relied upon the judgment of the Hon'ble Apex Court in the case of ***Vasant Rao Guhe vs. State of Madhya Pradesh*** reported in ***(2017) 14 SCC 442*** for the point that the prosecution to succeed in a criminal trial has to pitch its case beyond all reasonable doubt and lodge it in the realm of "must be true" category and not by leaving it in the domain of "may be true". Hence, prayed to set aside the conviction.

41. The learned Special Public Prosecutor appearing for the respondent opposed the contention of the accused and submitted that in this case

- PW1 and PW2 sanctioning authorities, who accorded sanction for prosecuting A1 and A2. The sanction order for A1 marked as Ex.P2 and for A2 marked as Ex.P5. The sanctioning authority after going through the records of the case, had rightly accorded sanction.
- PW3, PW4 and PW8 are from Food Corporation of India, who speak about the service particulars, receipt of salary details, GPF advance, festival loan, purchase of the property at Villivakkam, which is prior to the check period and purchase of Car, Hero Honda bike, personal savings and sale of old vehicle. The employees of Co-operative Society deposed with regard to the loan obtained and repayment of the loan with interest.

- PW5 and PW7 are the witnesses from Accountant General Office, who speak about the salary advance loans, GPF loan and also informing the department about purchase of property at Baba Nagar and Raja Rajeswari Nagar and Pallipattu by A2.
- PW9 is the Chief Manager, Bank of Baroda, who is the witness for search in Hari Raghava Planners & Builders on 19.09.2009 and seizure of M.O.1/hard disk.
- PW10 is the Manager of Corporation bank in whose presence, the locker of A2 was opened on 19.09.2009 and inventory taken.
- PW11 is the President of Co-operative Credit Society of Accountant General Office, who confirms the loans taken by A2.
- PW12 is the SRO, Villivakkam, who produced certified copy of Document No.253/1997, the plot and house property purchased by A1 on 22.01.1997. He also produces document No.2531/2002 for purchase of a house plot No.297 at Baba Nagar.
- PW13 is the Senior Manager, Bank of Baroda, Kolathur branch, who produced the sale agreement document for purchase of Kolathur property/Ex.P39 and statement for A2 availing loan of Rs.7,49,000/-.

- PW14 is the vendor for Baba Nagar property. He deposed the he received Rs.12,50,000/- for sale of the property to A2.
- PW15 is the valuer for two properties on 24.03.2010. One at Baba Nagar and another at Raja Rajeswari Nagar and third property at Akbar Square on 23.09.2010. As per the valuation reports-Exs.P46 and P48, the construction value of Baba Nagar property arrived at Rs.62,66,946/- and house property value at Raja Rajeswari Nagar is Rs.10,47,392/- and the value for additional construction in Akbar Square Property is Rs.1,58,957/-.
- PW16 is the Partner of Shree Hari Raghava Planners & Builders, who confirms the search conducted in his office on 19.09.2009 and seizure and recovery of M.O.1. He further produced documents on 11.08.2010, viz., the bills for building construction agreement and the payments received periodically from A2 and the statement of accounts confirming that he received the amount of Rs.47,20,090/-.
- PW17 is the vendor to the Raja Rajeswari property.
- PW18 is the SRO, who produced the documents.
- PW19 is the Manager, Bank of Baroda, Kolathur branch.
- PW20, PW21 and PW23 are the Managers of State Bank of India. PW23 confirms that Anupriyadharshini, daughter of the accused obtained education loan.
- PW22 is the Manager of Corporation Bank.

- PW24 is the Manager of Indian Overseas Bank.
- PW25 and PW26 are the Managers of Shriram Chits, who confirmed the chit transaction and loan taken by A2.
- PW27, PW30 and PW49 are the LIC officers, who confirm A2 paying premium amount.
- PW28 and PW29 are the Income Tax officers, who confirm that A1 and A2, filing Income Tax returns regularly, but no rental income or agricultural income disclosed by them in the Income Tax returns.
- PW31 from Royal Sundaram Alliance confirms the insurance taken for ZEN Estilo car.
- PW32 from Diwan Housing Finance Corporation confirms A2 availed loan of Rs.20,29,600/-.
- PW33 from Goodwill Automotive confirms purchase of two wheeler by Anupriyadharshini.
- PW34-Junior Assistant attached to RTO office confirms the ownership of Estilo Car and Scooty Pep.
- PW35 from St.Johns Matriculation School confirms the fee paid to the children by the accused.
- PW36 from SRM Engineering College confirms Anupriyadharshini studied in their college and paid Rs.4 lakhs as tuition fees and Rs.42,000/- as transport fees.

- PW37 from Saveetha University confirms, another daughter Anupreethi studied in their University and paid Rs.4,43,500/- as tuition fees and Rs.20,000/- as transport fees.
- PW38 from Goodwill Matriculation School confirms Anupriyadharshini studied in the school and paid Rs.18,460/- as tuition fees.
- PW39 from Vodafone confirms payment of Rs.8,374/- made by A2 towards mobile recharge. Likewise, PW42 from Bharti Airtel Limited, PW43 from Tata Tele Service, PW47 from BSNL, all confirm subscription of their telephone and mobile phone and payment of usage charges.
- PW40 and PW41 are the Revenue Officers, Chennai Corporation. Through PW40, Exs.D1 and D2/Property Tax book marked.
- PW44 and PW45 are from Metro Water, who confirm the payment of water and sewage charges.
- PW46-Income Tax officer confirms income tax filed by Thiyagarajan/DW1, brother of A1.
- PW48 - Stamp Vendor confirms stamp paper sold to DW1.
- PW50 is the Manager, Canara Bank, who marked Ex.P105-bank statement of DW1 and payment of Rs.1,10,000/- to PW14.
- PW51-Assistant Manager, Indian Bank, states about the bank account of DW1/Thiyagarajan.

- PW52 and PW53 are the tenants under A2 in Baba Nagar property.
- PW54 is Scientific Officer, Forensic Department, who examined M.O.1/hard disk and gave the report.
- PW55 is Investigating Officer in this case.
- PW56 is Assistant General Manager of KAPICO Motors India Pvt. Ltd., who confirms A1 purchasing ZEN Estilo car for a sum of Rs.5,44,957/- and
- PW57 is the Manager, Citi Bank, who confirms about personal loan taken by A2 and payments made through credit card.

In this case, PW55 conducted investigation, collected documents, examined the witnesses and also collected statements 1 to 6 from the office of A1 and A2. Thereafter, charge sheet made ready, after obtaining sanction, charge sheet filed in this case.

42. The learned Special Public Prosecutor refuted the contention of the learned Senior Counsel and submitted that as regards the valuation of jewellery, during search of A1's house, the date of acquisition and the value of the jewels were given by A2, who was present and the same is recorded. With regard to the payment of Rs.10,00,000/- for purchase of Baba Nagar property submitted that the document might have been registered for Rs.10,00,000/- but the vendor/PW14, confirms he received Rs.12,50,000/- and the sale agreement

produced collected from the Bank of Baroda, it is confirmed Rs.12,50,000/- paid and mode of payment recorded in the sale agreement.

43. The construction cost of the house building was valued by PW15/ Assistant Valuation Officer of Income Tax department. He deposed that he can give value to an extent of Rs.80 lakhs. In this case, the construction cost of the Baba Nagar property valued at Rs.62,66,946/-. Hence, the valuation cannot be rejected on technicality. Likewise for the Raja Rajeswari property, the contention of the accused that in the sale deed/Ex.P57, it is only recorded for Rs.10,00,000/- but the vendor to the property/PW17 confirms that he received Rs.14,20,000/- for sale of the property and he also entered into an agreement with one Velayutham.

44. With regard to the additional construction in Akbar Square, extension of portico work done and further in the first floor, one room constructed. Considering the extension and also assessment order of the Chennai Corporation it was found that the extension done in the year 2003-2004. Hence, PW15 valued the property and gave a value of additional construction at Rs.1,58,957/-. Though A1 claims that he constructed on his own and incurred an expenditure of Rs.48,950/-, no documents produced. With regard to the debentures in Shriram Finance and the deposits made in the Co-operative Society of Food Corporation of India and Accountant General Office, it is not

seriously disputed.

45. With regard to the income of the accused, it was rightly considered and all income were taken into account. With regard to the agricultural income, there is no documents produced during investigation and for the first time during trial, DW1 and DW3 examined and projected as though there was an earning of more than Rs.12 lakhs as agricultural income during the check period and it is highly unbelievable that entire agricultural income was given to A1. DW1 and DW3 are the siblings of A1. Along with A1 they are equal shareholders in the property and hence, the contention to be rejected. DW2 is the mother of A2 and naturally she will support her daughter. Her contention that she paid Rs.95,000/- and her husband paid Rs.5,00,000/- is without any materials.

46. As regards the expenditure, he fairly submitted that the Investigating Officer had taken 60% towards domestic expenditure, which might not be proper and it should be one-third of the income. The prosecution examined witnesses and produced all documents and proved the case before the trial Court. The trial Court on its wisdom deleted some expenditure and added some income and worked out proportionately the assets at the beginning of the check period and at the end of the check period and finally holding Rs.33,25,069/-, which is 33.51% as disproportionate income. The prosecution projected

disproportionate assets to the tune of Rs.78,47,466/-. The primary contention of the learned Senior Counsel that A2 incurred a construction cost of only Rs.28,58,990/- is not proper. The Valuation Officer valued the property. Further PW16, the partner of Shree Hari Raghava Planners & Builders, who constructed the building, had given a statement of account that, as per Ex.P51, an amount of Rs.47,20,090/- received, and the trial Court also considered the same.

47. With regard to the agricultural income, he submitted that the accused not produced any document or material to confirm A1 was actively cultivating the land and also having agricultural income. Thus, the trial Court considered the evidence and materials and had rightly convicted the accused. Hence, prayed for dismissal of the appeal.

48. Considering the submissions made and on perusal of the materials, it is not in dispute that A1 and A2 public servants and sanction obtained to prosecute them, which is confirmed by the evidence of PW1 and PW2. On completion of investigation, prosecution tabulated the assets at the beginning of the check period, assets acquired during the check period, the income of the accused, expenditure and likely savings and the properties held by the accused found to be disproportionate to the tune of Rs.78,47,466/- and worked out disproportionate asset to 94%. The trial Court as recorded above had deducted certain value of the properties at the end of the check period and added income

on the account of accused. During the check period, the trial Court deducted certain expenditures and finally arrived at the value of the assets purchased and found that both the accused holding assets to the tune of Rs.33,25,069/-, which is disproportionate to 33.51% and convicted the accused.

49. In this case though very many grounds raised by both the accused and prosecution, the trial Court considered both the contention and claim of the accused and the objections of the respondent, discussed and recorded in its judgment. On the above facts, this Court is to consider whether the prosecution had proved the case beyond all reasonable doubt and the accused had given explanation for the property held by them and probabilised their defence. Hence, now the major portion of the income, expenditure and savings are to be considered.

50. The major assets and the expenditure is the construction cost for Baba Nagar property, which was arrived at Rs.62,66,946/- by the prosecution in Statement-B in Srl.No.5. It is based on the evidence of PW15/Assistant Valuation Officer and his report Exs.P46. The Baba Nagar property is valued more than Rs.60 lakhs. PW15 admits that there are three categories of valuers. The District Officer, Valuation Officer and Assistant Valuation Officer. The District Officer to value the property more than Rs.3 Crores. The Valuation Officer to value the property above Rs.40 Lakhs up to Rs.3 Crores and the

Assistant Valuation Officer authorised to value property up to Rs.40 Lakhs. In this case, PW15 valued the property beyond his powers as per Valuation Act. Further, he was cross-examined in detail. From the valuation report, it is seen that he adopted plinth area rate and cost index method. Admittedly, the prescribed plinth area rate and to substantiate with cost index rate, but the approved cost index not produced and in his report there is no reference to the same. The trial Court finding that the valuation report is with infirmities and the competence of the valuer is doubtful, hence, not considered the valuation report-Ex.P46 and Ex.P48 of PW15.

51. The trial Court in its judgment referred to Exs.P51 and P55. Ex.P51 is the proposed construction estimate for Rs.47,20,090/-. Ex.P52 is the additional construction work bill for Rs.73,530/-. Thus, the total cost arrived is Rs.47,93,620/-. This amount recorded in Ex.P53 towards cost of construction. Referring to Exs.P51 and P111, the trial Court gives a finding that there are some difference with regard to the payments received from the accused in Ex.P53 and other documents. Now considering Ex.P53 along with Ex.P55, there is again some difference. The trial Court confirms that Ex.P55 is a computer generated document, admittedly no 65B certificate produced. PW16 reiterates that the statement as per the cash book/Ex.P55 submitted to the Income Tax department. Hence, he relies upon Ex.P55, but the trial Court on its own relied upon Ex.P53 and gave a finding that construction cost is Rs.47,93,620/-. From

the evidence of PW16 and looking at Exs.P53 and P55, it is seen that Ex.P53 was prepared on 11.08.2010 and it was produced to the Investigating Officer, when PW16 was examined and received by receipt memo dated 11.08.2010.

52. Added to it, it is to be seen that the evidence of PW9 is the search witness, accompanied the CBI Team, when search was conducted in the office of PW16, Shree Hari Raghava Planners & Builders on 19.09.2009 and M.O.1/hard disk alone seized on the date of search. In this case, PW54 is from forensic department and he marked his report as Ex.P111 along with annexures. From the report, it is seen that the Hard disk was preserved/examined using the software tool 'ENCASE V6.6' and it was done by one P.Ettiyappan, Assistant Director, Incharge of Computer Forensic Division. The said Ettiyappan not examined. The seizure of M.O.1 was on 19.09.2009, and the request letter for forensic examination made on 19.03.2010/Ex.109 and thereafter, one Alavanthar, CBI Constable submitted it to the forensic laboratory on 19.03.2010 and the report made ready on 16.04.2010. In this case, the chain of custody of M.O.1, which is an electronic device data evidence gains importance and prominence. In this case, there is nothing to show how and in what manner M.O.1 was preserved and under whose custody it was preserved during this period. The chain of custody not proved.

53. Added to it, the seizure mahazar/Ex.P29 confirms the seizure of M.O.1 and in Ex.P29, except police personnel and PW16, there is no reference to any technical person, who assisted in the blocking and retrieval of hard disk from the computer. Further, there is no iota of material to show that there was any run through of the files prior to seizure. The recording of Hash value is the proved method by which it can be confirmed that there is no intrusion or tampering with the Hard disk and electronic data after the seizure. Admittedly, no documents produced showing recording of Hash value. Further, in the year 2010, the Forensic Science Laboratory, Mylapore, Chennai was not an accredited computer forensic laboratory. Further, the prosecution not produced any notification to prove that PW54 is a notified examiner of electronic records under Section 79-A of the Information Technology Act. Thus, as regards electronic evidence, report/Ex.P111 cannot be taken as report/document in law. The authenticity and genuineness of Ex.P53 becomes doubtful.

54.As regards Ex.P55, at the time of marking, though it is contended there was no objection, the defence counsel confronted the document/Ex.P55 with PW16, who confirms 23 payments of Rs.29,51,000/- received by him and these accounts were submitted to the Income Tax department. In view of the above, this Rs.29,51,000/- has to be taken as construction cost. It is seen that before the trial Court, the prosecution projected the construction cost as Rs.62,66,946/-. The trial Court had taken the value as Rs.46,93,000/- and thus reduced and deducted Rs.15,73,946/-. Now on the above evidence, it is seen that the cost of construction expenditure as per the accused as per Ex.P13 is much less The accused admits that they incurred an expenditure of Rs.28,58,990/-. Thus, the same to be taken as construction cost. Already, the trial Court deducted construction cost of Rs.15,73,946/- from the cost projected by prosecution amount of Rs.62,66,946/- and arrived at a value of Rs.46,93,000/-. The construction cost as per accused is Rs.28,57,990/-. Hence, the difference in construction cost of Rs.18,35,010/-, to be deducted and deleted

55. The other deduction is with regard to Srl.No.8 in Statement-B, i.e., construction cost at Akbar Square property. According to the prosecution, the additional construction cost valued at Rs.1,58,957/-. The trial Court had deducted Rs.47,687/- and arrived at a value of construction cost as Rs.1,11,270/-. The contention of the accused is that he had only incurred an expenditure of Rs.48,950/- for putting up a portico roof and it was own contribution. Hence, this amount to be deducted, i.e., Rs.1,58,957 – Rs.48,950 = Rs.1,10,007/-. Already the trial Court deducted Rs.47,687/-. Hence, Rs.1,11,270 – Rs.48,950 = Rs,62,320/- to be further deducted from Srl.No.8.

56. With regard to Srl.No.2, the prosecution valued at Rs.2,36,230/-. The trial Court had deducted Rs.33,150/- and arrived at a value of assets to Rs.2,03,080/-. Since the prosecution not proved the value with any documents,

or materials, the value of the prosecution to be deducted. It is to be seen that even the value of Shirts, Trousers, Sarees, Kidswear, groceries and cutlery instruments added up in the said value. Hence, the trial Court considered the same and deducted a sum of Rs.33,150/-. This to be further deducted. Hence, the sum of Rs.2,03,080/- has to be deducted.

57. In Statement-C – income of accused in Srl.No.16, the accused valued the survival benefits of Rs.48,000/- to be added and included. Further, the rental income for the properties of the accused has been taken by the prosecution as Rs.6,34,150/-. The trial Court after considering Exs.P107, P108, P127 to P129 and the evidence of PW52 and PW53, found that tenants occupying the properties at Baba Nagar, Raja Rajeswari Nagar and Akbar Square, the prosecution not taken the tenancy income in full. Hence, the trial Court added a sum of Rs.6,65,850/- as tenancy income. The tenants in the property one Shinto Mathew and J.Mohanraj not examined.

58. The contention of the accused is that he received a sum of Rs.15,63,800/- as tenancy income during the relevant period. This Court, finds that when the trial Court accepted Rs.13,00,000/- as tenancy income, without any reason denying the balance amount of Rs.2,63,800/- is not proper. Hence, this amount of Rs.2,63,800/- to be included in tenancy income in Statement-C.

59. In Statement-C, the agricultural income of Rs.12,50,000/- claimed by the accused stating that A1 is a native of Kolathur village, Pallipattu, Tiruvallur District. The brother and sister of A1, examined as DW1 and DW3 both confirmed that their father Govindan had 5 acres of wet land with motor pump and his father declared, after his life the landed property to go to A1. DW3, sister of A1 residing in their native along with her husband and continuing agriculture. She is looking after her lands and also the lands of A1. DW3 give break-up of income for each year. It is seen that it is a wet land. Patta, Chitta in the name of Govindan, father of A1. The siblings DW1 and DW3 confirmed A1 raised paddy crop, groundnut in the land alternatively and in the year 2007-2008, harvested sugarcane, supplied to jaggary producers and got income of Rs.2,00,000/- further supplied sugarcane to Sagar Sugar Mill and received an income of Rs.2,20,000/-, and Ex.D5 marked. The investigating officer confirm that he had not conducted any investigation with regard to the agricultural income, hence without assigning any reason it cannot be blindly discarded. But the trial Court also not considered the agricultural income. Considering that amount of Rs.12,50,000/- though received from agricultural income but the property is still in the name of Govindan, father of A1. Govindan has three legal heirs, namely, A1, DW1 and DW3. The evidence of DW1 and DW3 confirm the land owned by Govindan, in regular cultivation, it is a wet land with motor pump. Hence, one-third of Rs.12,50,000/- can be taken as agriculture income of A1, hence, Rs.4,16,700/- to be included and added.

60. As regards the expenditure-Statement D, the learned Special Public Prosecutor fairly submitted that the investigating officer taken 60% of gross income of A1 as domestic expenditure. The gross salary of A1 is Rs.25,19,191/- and 60% of gross salary is Rs.15,11,515/-. The trial Court taking one-third from A1's gross salary had calculated domestic expenditure as Rs.6,71,785/-, which is not proper. Only net salary to be considered for Domestic expenditure. Thus, taking net salary of Rs.14,43,002/- and one-third of the same is Rs.4,81,000/-, hence, this amount alone can be taken as domestic expenditure. Thus, Rs.6,71,785 – Rs.4,81,000 = Rs.1,90,785/- to be excluded from expenditure and included in income.

61. It is to be seen that the amount of Rs.10,92,540/- has been shown as educational expenses in Statement-D in Srl.No.16. In this case, the domestic expenditure includes educational expenses. With regard to educational expenses, for the two daughters, Anupriyadharshini and Anupreethi and son D.Ajay Raj, PW35 from St. Johns Matriculation School examined, PW36 from SRM Engineering College examined, who speaks about college expenses of Anupriyadharshini, PW37 from Saveetha University examined, who speaks for the college expenses of Anupreethi and PW38 from Good will Matriculation School examined, who speaks the school fees of Anupriyadharshini. Though PW35 marked Ex.P86, the same issued by the Principal, one Samuel

Gunasekaran of St. Johns Matriculation School and not by PW35. The said Samuel not examined. Further, it is a generated fee statement without confirmation from original records. The school fee paid for Anupriyadharshini is Rs.2,750/-, for the second daughter Anupreethi is Rs.99,030/- and for son Ajay Raj is Rs.96,800/-. This is for the period 2002-2009.

62. Likewise, the college fees paid to SRM University to the tune of Rs.4 lakhs and Rs.42,000/- transport fee for Anupriyadharshini marked as Exs.P87 & P88 and college fees paid to Saveetha University to the tune of Rs.4,43,500/- and Rs.20,000/- transport fee for Anupreethi marked as Ex.P89 and for Good Will school fees paid to the tune of Rs.18,640/- for Anupriyadharshini marked as Ex.P90. The same are not seriously disputed. The domestic expenditure includes, food, clothing, transport, health care, education, entertainment and other expenses. When, there is specific documents confirming the expenditure for education, clothing and transport, then that expenses can be calculated separately. But corresponding deduction to be given in the domestic expenditure. In this case, the domestic expenditure is Rs.4,81,000/-. The educational expenses not separately taken. As per the trial Court finding, a sum of Rs.33,25,069/- is the disproportionate asset.

63. This Court, on the submissions and reassessment of evidence and materials along with the finding of the trial Court had come to the following conclusion, which are detailed by way of the tabulation below. As regards

Statement-A, the trial Court confirmed the value of Rs.5,74,800/- calculated by the prosecution and the same is hereby confirmed.

64. As regards Statements B to D, the following deductions and inclusions made as follows:

Statement B:

S.No.	Trial Court deducted	In addition to trial Court deduction, further deductions to be made
Srl.No.2	33,150	2,03,080
Srl.No.5	18,73,946	18,35,010
Srl.No.7	1,40,000	-
Srl.No.8	47,687	62,320
Total	**20,94,783**	**21,00,410**

Thus, the total value of assets at the end of check period is Rs.92,25,446 (–) Rs.21,00,410 = **Rs.71,25,036/-**.

Statement C:

S.No.	Trial Court included	In addition to trial Court inclusion further to be added
Srl.No.13	4,25,000	-
Srl.No.14	5,00,000	-
Srl.No.16 Survival benefits	-	48,000
Srl.No.21	6,65,850	2,63,800
Addl. Agricultural income	-	4,16,700
Addl.	2,280	2,280
Addl.	22,159	22,159
Total	**16,15,289**	**7,52,939**

Thus, the total income during the check period is Rs.99,21,236 (+) Rs.7,52,939 = **Rs.1,06,74,175/-**.

Statement D:

S.No.	Trial Court deducted	In addition to trial Court deduction further deductions to be made
Srl.No.1	6,71,785	1,90,785
Srl.No.5	1,40,140	
Srl.No.13	400	
Srl.No.17		1,75,436
Total	**8,12,325**	**3,66,221**

Thus, the total expenditure during the check period is Rs.45,95,659 (-) Rs.3,66,221 = **Rs.42,29,438/-**.

65. Thus the disproportionate assets held by both the accused are detailed below:

Sl. No.	Description	Prosecution	Trial Court	This Court findings
01.	Assets at the beginning of check period (Statement-A)	5,74,800/-	5,74,800	Rs.5,74,800/-
02.	Assets at the end of check period (Statement-B)	1,13,20,229/-	92,25,446	Rs.71,25,036/-
03.	Income during check period (Statement-C)	83,05,947	99,21,236	Rs.1,06,74,175/-
04.	Expenditure during check period (Statement-D)	54,07,984	45,95,659	Rs.42,29,438/-
05.	Assets acquired during check period (B-A)	1,07,45,429	86,50,646	Rs.65,50,236/-
06.	Likely saving during the check period (C-D)	28,97,963	53,25,577	Rs.64,44,737/-
07.	**Extent of disproportionate Assets (B-A) – (C-D)**	**78,47,466**	**33,35,577**	**Rs.1,05,499/-**
	Disproportionate Assets	**94%**	**33.51%**	**0.98%**

66. The Hon'ble Apex Court in the case of ***Krishnanand Agnihotri vs. The State of Madhya Pradesh*** reported in ***(1977) 1 SCC 816*** held that the disproportionate assets found in possession of the accused if less than ten per cent of total income then the same will not constitute an offence. As per the revised calculations, the assets acquired by the appellants/accused 1 and 2 during the check period amount to Rs.65,50,236/-, whereas the likely savings available to them during the said period amount to Rs.64,44,737/-. Thus, no disproportionate assets are found to have acquired by the accused during the check period. Hence, the prosecution failed to establish that the accused were in possession of assets disproportionate to their known sources of income.

67. In view of the above, this Court set asides the impugned judgment dated 17.04.2018 passed in C.C.No.22 of 2011 by the learned XIV Additional Special Judge for CBI Cases, City Civil Court, Chennai. The appellants/A1 & A2 are acquitted from all the charges levelled against them. Fine amount, if any paid, shall be refunded. Bail bond, if any executed, shall stand cancelled.

68. Accordingly, these Criminal Appeals are allowed.

29.06.2026

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

To

1. The XIV Additional Special Judge for CBI Cases,
   XIV Additional City Civil Court, Chennai.

2. Inspector of Police,
   SPE:CBI:ACB: Chennai
   Sastri Bhavan, Chennai – 6.

3. The Public Prosecutor,
   High Court, Madras.

M.NIRMAL KUMAR, J.

RSI

Pre-delivery common judgment in CRL.A.Nos.269 and 270 of 2018

29.06.2026