

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.06.2023

PRONOUNCED ON : 12.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.6677 of 2010

and

M.P.No.2 of 2010

1. M.Rajendran

2. R.Dhanalakshmi

3. R.Dilli Raja

... Petitioners

Vs.

1.The Secretary to Government,
Home Department,
Fort St. George,
Chennai-9.

2.The Director General of Police,
Chennai – 4.

3.The Superintendent of Police,
Kancheepuram,
Kancheepuram District.



4. The Inspector of Police,
District Crime Branch,
Office of the Superintendent of Police,
Kancheepuram,
Kancheepuram District.

5. The Sub Inspector of Police,
District Crime Branch,
Office of the Superintendent of Police,
Kancheepuram,
Kancheepuram District.

6. Vijayaraghavan,
Deputy Superintendent of Police,
Krishnagiri,
Krishnagiri District.

7. M. Sukumaran,
Sub Inspector Of Police,
District Crime Branch,
Office Of The Superintendent of Police,
Kancheepuram, Kancheepuram District.

8. Vijayakumar
Head Constable,
District Crime Branch,
Office of the Superintendent Of Police
Kancheepuram,
Kancheepuram District.

9. Manoj Kumar

10. T.A. Sudarsanan

11. T.A. Kannan

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to FIR in Cr.No.74/2009 dated 22.12.2009 on the file of the fourth respondent, quash the same.

For Petitioners : Mrs.V.S.Manimekalai
For Mr.V.S.Selvaraj

For R1 to R5 : Mr.P.Kumaresan
Additional Advocate General
Assisted by Mr.T.Arun Kumar
Additional Government Pleader

For R6 to R8 : Mr.H.Manivannan

For R9 to R11 : Mr.V.Sivalingam
For M/s. Siva Associates
:Mr.R.Singaravelan, Senior Counsel,
(Amicus Curiae)

ORDER

The Writ of Certiorari on hand has been instituted to quash First Information Report (F.I.R) in Crime No.74 of 2009 dated 22.12.2009.

PETITIONERS CASE:

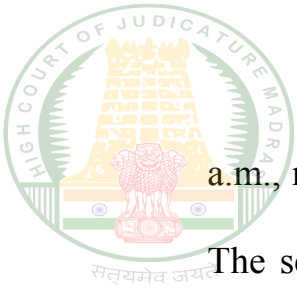
2. It is an interesting case, where the Government employees / Police Officials between themselves raising the allegations of corruption against each other, to the huge extent. Thus, it is imminent for this Court to consider



the state of affairs and the large scale corruption amongst the Public Servants visibly noticed in the public domain. Though the Constitutional Courts emphasised that the corruption will stall the developmental activities, there is no considerable improvement in the matter of controlling the corruption in our Great Nation. Thus, this Court has taken a little effort to emphasis and to create awareness with a fond hope that some steps will be taken to minimise the corruption, by all concerned.

3. The first petitioner was a Government employee. The petitioners two and three purchased a property in Sriperumpudur Village through a Sale Deed dated 17.09.2009 vide Document No.6938 of 2009 from M/s.Sri Rama Sankara Sharma alias Rama Nivasha Chari and his brother Krishna Sharma.

4. The old building in the said property was demolished during October 2009. Knowing the fact that the petitioners two and three purchased the property , the tenth respondent, who is an Advocate and the eleventh respondent, who was a Councillor of Kancheepuram Municipality and his brother demanded money from the petitioners. On 23.12.2009 at about 4:00



a.m., respondents seven, eight and ten came to the house of the petitioners.

The seventh respondent / Sub-Inspector of Police informed the petitioners one and three that they should go to the District Crime Branch to answer the complaints made against them regarding the purchase of property. The first petitioner went to the District Crime Branch, Kancheepuram with his son in their car. The seventh respondent was also got into the first petitioner's car. Respondents eight and ten followed the petitioners in another car and came to the Police Station.

5. As soon as they reached the District Crime Branch Office, the seventh respondent / Sub-Inspector seized the cell phone belonging to the petitioner and did not permit the petitioner to seek legal assistance. He restricted the movement of their driver and commanded him not to leave the office of the District Crime Branch. The petitioner informed the seventh respondent that the property was purchased after verifying all the documents and there is no illegality in purchasing the property. He wanted the petitioners to negotiate with the tenth respondent / Advocate and settle the issues. The petitioners informed that they are not willing to enter into any negotiation with the tenth respondent. Further, the petitioners have



expressed their willingness to re-transfer the property to vendors, if the sale consideration is returned.

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6. After sometime, Mr.Vijayakumar, alias Vijay, who negotiated the sale transaction was brought to the Police Station. Thereafter, Neelankumari, aged 19, daughter of one of the vendors was also brought to the Police Station. She told the seventh respondent / Sub Inspector that the property was sold by her father and her uncle legally, and that both the vendors had gone to Bihar. She asserted that there was nothing illegal in the transaction. The seventh respondent threatened her with dire consequences, if she was to argue with the Police. The 7th respondent thereafter assaulted Mr.Vijayakumar, alias Vijay, sending a clear signal that they would be also dealt with similarly.

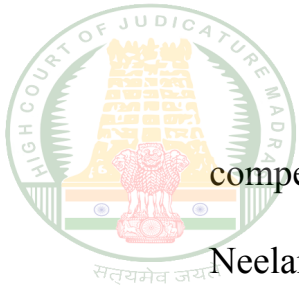
7. The first petitioner sought permission from the Police to send his driver to get money from his house. The second petitioner pledged jewels and sent Rs.1,50,000/- through his driver. He paid a sum of Rs.40,000/- to the seventh respondent / Sub-Inspector and Rs.10,000/- to the eight respondent / Head Constable. He told the seventh respondent that a sum of



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Rs.1,00,000/- could be given to the Deputy Superintendent of Police. He also told the seventh respondent that after the vendors return back, they will re-convey the land, if the vendors have no right to sell the land. The seventh respondent has stated that he should be ready with money and he should speak to the sixth respondent, who was the then Deputy Superintendent of Police, District Crime Branch, Kancheepuram. The seventh respondent thereafter spoke to the sixth respondent. The sixth respondent demanded Rs.10,00,000/- and stated that if Rs.10,00,000/- was paid they could be temporarily allowed to go home and thereafter negotiations could be held. He demanded the 8th respondent to register F.I.R., if Rs.10,00,000/- was not paid immediately. The petitioner expressed his inability to pay Rs.10,00,000/-.

8. Thereafter, the tenth respondent brought the ninth respondent to the office of the District Crime Branch. Respondents seven, nine and ten jointly prepared the F.I.R. at about 7:00 p.m. on 23.12.2009. The F.I.R. was anti dated as if it was lodged on 22.12.2009 by the ninth respondent. The tenth respondent thereafter brought a photographer to the office of the District Crime Branch, at about 9 p.m. The respondents six, seven and eight



compelled the first petitioner, his son Vijayakumar, alias Vijay and Neelankumari to pose for photograph.

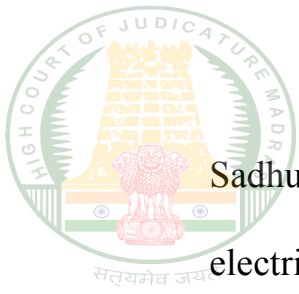
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9. At about 24 hours, they were produced before the Sri Perumpudur Magistrate at his house at Ranipet and they were remanded to judicial custody by 0.15 hours on 24.12.2009. The Daily Thanthi dated 24.12.2009 has published the photograph of petitioners two and three Neelankumari and Vijayakumar with false news as if the petitioners purchased the property worth Rupees eleven crores fifty lakhs for Rs.10 lakhs. The publication in the newspaper is caused by respondents six, seven, eight nine and ten maliciously with the deliberate intention of defaming the petitioners. A sum of Rs.10,00,00/- was demanded from the petitioners for grant of bail. Subsequently, the petitioners were released on bail by the Appellate Court and petitioners one and three came out of jail on 23.01.2010 the second petitioner was granted anticipatory bail by the High Court. The petitioner during the relevant point of time was working as Village Administrative Officer and in view of the criminal case, he was suspended from service by the District Revenue Officer, Kancheepuram by order dated 25.12.2009.



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10. Apart from the respondents ten and eleven, three other Advocates also approached the petitioner and demanded money from him. After grant of bail, the petitioner made further enquiry to find out as to why Advocates and they were demanding money from him. One Madusudana Srinivasa Ramanuja Dhas, hailing from North India, settled down at Sriperambadur and had acquired 37.95 acres of land. He was also in possession of 2000 sq.ft. of Grama Natham. The said Madusudana Srinivasa Ramanuja Dhas had executed a will dated 02.12.1923 nominating five persons as trustees to administer the properties. Out of the five trustees two of them were already trustees of a Mutt called Kanji Utrathi Madam Trust. The property was not given to the Mutt by Madusunana Srinivasa Ramanuja Dhas. After his death, two person namely Balamugunthachari and Sudarsanahari had dealt with the entire property as if it were their individual property each having $\frac{1}{2}$ share. Balamugunthachari had applied for planning permission to put up construction in the property purchased by petitioners two and three and planning permission was given by the Executive Officer, Sriperumpudur Panchayat on 04.05.1982. The said Balamugundachari had executed a will on 20.12.1992 bequeathing his share in favour of Sudarsanachari, son of



Sadhu Sharma. After the death of Balamugundachari, the house tax and the electricity bill were changed in the name of Sudarsanachari.

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11. The said Srinivasachari was murdered on 20.01.2005 at Kancheepuram. The petitioners two and three purchased 2000 sq.ft. of Natham land and the old building from the brothers of Srinivasachari, who are the legal heirs. There were several documents registered on the file of Sub Registrar, Sriperumbudur and Sub Registrar, Kancheepuram establishing that the properties were dealt with by Balamugundachari and others as their individual properties. There are several sale deeds executed by Mr.Balamugundachari through his Power of Attorney. Other sale also took place in respect of the property. The ninth respondent / defacto complainant is fully aware of all the documents relating to the sale of the said properties to a larger extent. Mr.Sukumaran, Sub Inspector of Police/ seventh respondent is from Kancheepuram. He wanted the first petitioner to speak to the tenth respondent and settle the money transaction. Mr.Vikayaragavan, formerly Deputy Superintendent of Police demanded Rs.10,00,000/- as a pre-condition for further negotiation. There is a total abuse of police power. The F.I.R. is contrived to extract money. A false



news with photograph of petitioners one and three was caused to be published in the Daily Thanthi. There is reason to believe that such a report was caused to scare the vendors who sold the property to the petitioners, so that the remaining properties worth about Rs.30 crores is taken control of by respondents seven to eleven. The petitioner submitted a detailed petition on 15.03.2010 before the first respondent. On 16.03.2010 petitions were presented before the respondents two and three. The petitioners have been subjected to an illegal criminal proceedings. Therefore, the present writ petition is filed.

RESPONDENTS REPLY:

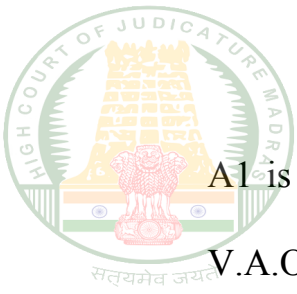
12. The third respondent / Superintendent of Police filed a counter affidavit stating that one Manoj Kumar Kamalatchari has preferred complaint on 22.12.2009 before the District Crime Branch, Kanchipuram and case has been registered under Section 120 B, 420, 464, 465, 471 read with Section 109 I.P.C. The report has been preferred by the manager of Uthirathi Sri Vaishnava Mutt stating that the mutt is having mutt property at Sriperumpudur and the Head Office is situated at Patna in Bihar State. The mutt is doing service to the pilgrims, who are coming from North India. As



per the documents of title, the above said mutt property is inalienable one.

The madathypathy one Srinivachari seems to have been murdered during the year 2005 and at that time one person namely Ramanivaschari claiming to be the brother of the above said Srinivaschari had come to the mutt and represented that he is going to administer the matt and to continue the proceedings of the murder of his brother.

13. The mutt property originally belonged to one Madusudana Srinivasa Ramaja Dass and he has executed his last will and Testament dated 02.12.1923 by creating Mutt and bequeathed the Mutt and other properties and in that will he has categorically stated that the above said Mutt and immovable properties should be developed by the Trustees and that property cannot be encumbered or sold by the Trustees and from the income, the charities have to be performed. The first petitioner Mr.Rajendran has submitted a complaint to transfer patta on the Matt property after purchase and the petition was drafted by the Village Administrative Officer (V.A.O). A bogus person has given petition to change patta with the connivance of the V.A.O. The patta seems to have been obtained on 16.09.2009 in the name of the A1 and A2 in this case. The



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A1 is the first petitioner herein. Thereafter, it is found out that the present V.A.O. has got agreement of sale from the above said Accused 1 and Accused 2 for purchasing the property on 21.07.2009 in favour of his wife Dhanalakshmi and his son R.Dilliraja, who were the Accused 5 and 6 in this case.

14. On 17.9.2009, itself he has got the sale deed in the names of his wife and his son. From the above said accused 1 and 2, under document No.6938 of 2009. The respondents have narrated the allegations set out in the Criminal complaint and the nature of transactions took place between the parties. The documents collected were also referred in the counter affidavit. The Superintendent of Police Kanjeeपुरam has stated that the petitioner were actively involved in the offence and filed a false writ petition to keep time for destroying the documents and tampering the witnesses. Therefore, the writ petition is to be rejected.

15. The respondents ten and eleven also filed a counter affidavit denying the allegations raised against them by the writ petitioners. They have stated that the allegations against them are false and untenable. Except



the denial of allegations, the respondents ten and eleven have not elaborately stated about the criminal complaint and the allegations against the petitioners.

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16. The eight respondent / Head Constable also filed a counter denying the allegations. It is further contended that the Civil Suits filed by the writ petitioners for surviving damages were dismissed by the City Civil Court. The eight respondent specifically contended that the first petitioner Mr.Rajendran is the father of corruption, who has amazed properties worth more than Rs.100 crores within a period of four years.

17. The eight respondent / Head Constable further states that the first petitioner served as a Village Administrative Officer in Sriperumbudur Taluk from 2005 to 2009 had purchased more than 37 properties in the same Taluk, which are worth more than Rs.100 Crores. He has purchased all the above 37 properties in the name of his wife R.Dhanalakshmi and two sons namely R.Dilli Raja and R.Venkatraman from the year 2005 to 2009. The 1st petitioner has neither informed the Government nor obtained permission from his Department.



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18. The learned counsel for the petitioner drew the attention of this Court with reference to the letter of the Superintendent of Police Central Range Vigilance and Anti-corruption Chennai, dated 03.09.2015, who conducted an investigation into the allegations of corruption against the writ petitioner, who served as village administrative officer. The Vigilance and Anti-Corruption Department conducted an investigation into the allegations of possession of assets disproportionate to his own source of income during the period between 01.03.2002 and 31.12.2009. The Vigilance Commissioner in his letter dated 25.05.2011 accorded concurrence for registering a regular case against Tr.M.Rajendran, Village Administrative Officer, Sriperumbudur. Accordingly, a regular case was registered in V & AC Chennai City I Detachment Crime No.6/2011/AC/CC I on 27.06.2011 u/s 13(2) r/w 13(1)(e) of PC Act, 1988 and investigation taken up. The investigation did not disclose any prima facie material, further action was dropped against Tr.M.Rajendran, Village Administrative Officer, Sriperumbudur.

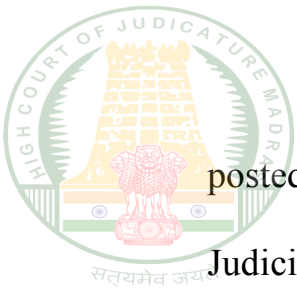


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19. Relying on the above letter, the learned counsel for the petitioner mainly contended that no doubt the petitioner purchased property, but he purchased from and out of his own sources of income and he has produced all the materials to establish that there is no element of corrupt practices. Therefore, the Vigilance and Anti-Corruption authorities found that there is no prima facie case made out against the petitioners for prosecution and accordingly dropped the allegations. But the respondents had not initiated action against the Police authorities, who demanded bribe from the petitioner and harassed the petitioners.

20. In view of the allegations and counter allegations made between the petitioners and the respondents officials in their personal capacity, this Court thought fit and directed the third respondent / Superintendent of Police, Kancheepuram to file a Status report and it was filed on 26.04.2023.

21. The status report filed by the third respondent reveals that the petitioners are accused in the Crime No.74 of 2009 on the file of the District Crime Branch, Kanchipuram. The investigating officer had examined the witnesses and the above case was taken on file in CC.No.403 of 2015 and



posted for trial. Subsequently, the case was transferred to the learned Judicial Magistrate Court-I Kanchipuram in CC.No.64 of 2020 as per the Gazetted Notification No.12/2018 dated 01.12.2018 of Kanchipuram District Gazette and trial was commenced in the above case on 01.09.2018 and so far 4 witnesses were examined on the Prosecution side and posted for further trial in the above case on 30.06.2023.

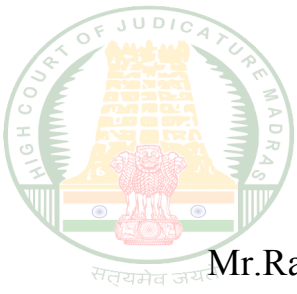
22. The third respondent states that the grave fraud and cheating committed by the said Rajendran had been clearly established by documents and he had conspired with the 1st and 2nd accused, who were not at all concerned with the Sriperumbudur Mutt property purchased by Rajendran in the name of his wife Tmt. Dhanalakshmi and son Tr.Dilli Raje dated 17.09.2009 vide Document No.6938 of 2009 and the forgery committed by him in the alleged mother document registered will vide Document No.109 of 1994 dated 21.12.1994 by fabulously inserting the said Sriperumbudur Mutt property in the said Will typed in English were clearly established by documents. The fraudulent act of the said Rajendran and the accused A1 to A4 were clearly proved and after the arrest on 23.12.2009, the Police Photographer had taken the photos of the said accused Rajendran, Vijay,



Neelam Kumara and Dilli Raja and Published the same at the Daily Thanthi News paper after their remand before the Hon'ble Judicial Magistrate Court, Sriperumbudur.

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23. Regarding the allegations against the Police officials, the third respondent states that the petitioner Mr.Rajendran in his status report states that first petitioner Thiru.Rajendran and his wife and his sons had filed the writ petition, wherein certain bald allegations against the police personnel are made. They have stated about the bribe given to the Police officials. It is stated by the Superintendent of Police Kanchipuram district that F.I.R. will be registered immediately. However in para 5 of the report , the third respondent states that the allegations in para 10 of the affidavit filed by the petitioner are totally false and only outburst of vengeance against the police authorities investigating the above case. The petitioner Mr.Rajendran never whispered anything about the illegal demand made by the Police personnel of District Crime Branch, Kanchipuram to the Hon'ble Judicial Magistrate, Sriperumbudur whilst remanded them for judicial custody. Therefore, the allegations made by Mr.Rajendran is an after thought and imaginary. Thus, the writ petition is to be rejected.



24. In respect of the allegations against the first petitioner

Mr.Rajendran, the case registered by the Director of Vigilance and Anti-corruption regarding the allegations of possession of assets disproportionate to his own source of income, the the complaint itself was closed on the ground that the income from the family properties were more than the assets acquired and accordingly further action was dropped.

DISCUSSIONS:

25. The allegations and counter allegations between the petitioners and the respondents would reveal that the petitioners purchased a property and the said purchase was questioned by the defacto complainant and further allegation of accumulation of disproportionate wealth by the petitioners was also has been raised. The Vigilance and Anti-Corruption Department dropped the allegations of accumulation of disproportionate wealth by the petitioners. However, the Criminal Case registered against the petitioners in Crime No.74 of 2009 is pending. Trial has already commenced and the third respondent has stated that some witnesses have already been examined by the Trial Court. The said Criminal Case is to be proceeded and to be disposed of as expeditiously as possible.



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26. With reference to the allegations of demand and receipt of bribe by the respondents six, seven, eight and the other serious allegations raised against the respondent nine to eleven are not properly investigated by the respondents two to five. Perusal of the allegations set out in the affidavit filed in support of the writ petition would reveal that some incidents occurred in the Police Station, Central Crime Branch and the narration of the incidents also reveal that something happened, which is to be investigated properly by the Competent Higher Authorities.

27. Unfortunately, the third respondent instead of conducting an investigation merely stated that the allegations are bald in nature and such allegations are made on account of personal vengeance. Mere reading of the affidavit provides certain particular details and the time duration, which requires investigation. Certain bald allegations if made can be understood and when certain specific allegations are made against the Police Officials, the Higher Authorities are bound to conduct an enquiry. They cannot have a standard approach of rejecting such allegations by merely stating that such allegations are made in order to escape from the clutches of the Criminal

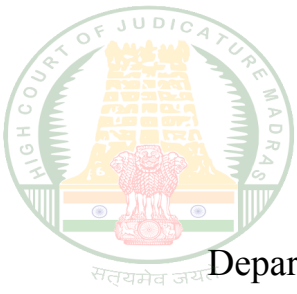


Law or from and out of the personal vengeance, since Criminal Cases are registered against such complaints.

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28. No doubt it is possible on some occasions even the accused are raising some bald allegations against the Police Officials. But if the allegations are made with specific incidents including date, time and amount given to the Police Officials as bribe, certainly an enquiry is warranted and the Higher Officials cannot close their eyes in such serious nature of allegations.

29. The writ petition was instituted in the year 2010 and it is pending for the past about 13 years. The petitioners were exonerated from the allegations of accumulation of disproportionate wealth by the Director of Vigilance and Anti-Corruption. However, no action has been taken against the respondents six to eleven, despite the fact that the petitioners made serious allegations of demand and acceptance of bribe, when they were arrested by the Police.



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30. In view of the fact that the Higher Authorities of the Police Department are also insensitive in the matter of dealing with the corruption in the Police Department, it is necessary for this Court to consider the nature and evils of corruption and the procedures to be adopted in such circumstances even for confiscation of the illegally accumulated properties or properties accumulated disproportionately.

31. The Public opinion remains as if there are large scale corrupt practices in the Police Department and in other Government Departments. To some extent it is true also in Police Stations, Tahsildar Offices, Registration Offices, Transport Offices, etc., where there are large scale corruptions prevailing, which are causing greatest agony and harassment to the people even for securing their rightful claims, certificates, documents etc.

32. Corruption is not only found in illegalities, even for legal transactions, demand and acceptance of bribe is found in large scale in Government Departments and in Police Department. Therefore, the public opinion in this regard is to be removed, only by developing transparency in



Public Administration, minimising the procedures to be adopted and initiating appropriate action against the complaints given by the aggrieved persons. Therefore, the Higher Authorities are expected to be sensitive in the matter of corruption allegations.

CORRUPTION IN GENERAL:

33. Corruption is a disease that eats into the cultural, political and economic fabric of society, and destroys the functioning of vital organs. The origin of word '**corruption**' comes from the Latin terms **corruptus, or corrumpere which mean spoiled or break into pieces, accordingly.** Corruption occurs at all levels of society and at all forms – public, private, locally, nationally and internationally.

34. Corruption in India has become deep-rooted and is galloping unchecked and unhindered. It is well known how our Great Nation appears to be sinking deeper and deeper in corruption. There is little doubt that corruption in present-day India pervades all levels and all services, not even sparing the Indian Administrative Service, Indian Police Service and Judicial Service.



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35. “Historically, the roots of India’s corruption came from the proliferation of licenses,” says former CFR Senior Fellow for International Economics Mr.Jagdish Bhagwati. “The idea was to ensure economical use of resources, so you would not waste foreign exchanges. To this day, this is what Indians have been very aware of: that the institution of licenses and permits was responsible for creating corruption on a massive scale.”

36. The experience of our Great Nation with corruption has shown that laws, rules, regulations, procedures and methods of transaction of Government business, however sound and excellent cannot by themselves ensure effective and transparent administration if the political and administrative leadership entrusted with their enforcement fails to do so and abuses its powers for personal gain.

37. The role of political leadership in aiding and abetting spread of corruption in our Great Nation was most clearly brought out by the Shah Commission of Enquiry constituted to look into the excesses committed during the period of Emergency (1975-1977). **The nexus between corrupt**



politicians and corrupt bureaucrats has been clearly proved in recent years by enumerable scams.

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38. A contributory factor to the growth of corruption in India is that the cases relating to corruption are often handled in a casual and clumsy manner. In present day India, corruption has found an acceptance in the social psyche and behaviour. Social evils like bribery, nepotism and favouritism have come to be accepted in the society. People often approach someone known to them for favours which they know are not legally due to them. Jumping the traffic lights or a queue or getting the benefits not due to one has become part of social ethos. A person who has acquired wealth through unfair means is often accorded the same, if not higher, status in Indian society as that given to persons of excellence. Whatever the people may say in coffee houses or in seminars, they show awe and respect to the corrupt. Such people are repeatedly elected or appointed to positions of power, and they go on to distribute the spoils of office to their near and dear ones.



39. In the ultimate analysis the corrupt politician or the corrupt administrator is a creation of the public and is a concrete manifestation of the psychologically corrupt men in the street with whose approval corruption flourishes with impunity. It is no surprise therefore that at times the corrupt political leaders walk majestically to the court and acknowledges their supporters greetings as if they were to receive award for public service.

OBSERVATIONS OF SUPREME COURT:

40. In respect of corruption, the Hon'ble Supreme Court of India, in the case of **State of Madhya Pradesh and Others vs. Ram Singh [(2000) 5 SCC 88]**, and the relevant paragraph 8 is extracted hereunder:

“8. Corruption in a civilised society is a disease like cancer, which if not detected in time, is sure to malignise (sic) the polity of the country leading to disastrous consequences. It is termed as a plague which is not only contagious but if not controlled spreads like a fire in a jungle. Its virus is compared with HIV leading to AIDS, being incurable. It has also been termed as royal thievery. The socio-political system exposed to



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such a dreaded communicable disease is likely to crumble under its own weight. Corruption is opposed to democracy and social order, being not only anti-people, but aimed and targeted against them. It affects the economy and destroys the cultural heritage. Unless nipped in the bud at the earliest, it is likely to cause turbulence — shaking of the socio-economic-political system in an otherwise healthy, wealthy, effective and vibrating society.”

41. The Hon'ble Supreme Court of India, in the case of **State of Madhya Pradesh vs. Shambhu Dayal Nagar, [(2006) 8 SCC 693]** and the relevant portion of this judgment is extracted hereunder:

“32. It is difficult to accept the prayer of the respondent that a lenient view be taken in this case. The corruption by public servants has become a gigantic problem. It has spread everywhere. No facet of public activity has been left unaffected by the stink of corruption. It has deep and pervasive impact on the functioning of the entire country. Large-scale corruption retards the nation-building activities and everyone has to suffer on that count. As has been aptly observed in



***Swatantar Singh v. State of Haryana[(1997) 4
SCC 14]”***

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42. The Hon'ble Supreme Court of India, in the case of **Swatantar Singh vs. State of Haryana and Others, [(1997) 4 SCC 14]** and the relevant portion of this judgment is extracted hereunder:

“6. It is sad but a bitter reality that corruption is corroding, like cancerous lymph nodes, the vital veins of the body politic, social fabric of efficiency in the public service and demoralising the honest officers. The efficiency in public service would improve only when the public servant devotes his sincere attention and does the duty diligently, truthfully, honestly and devotes himself assiduously to the performance of the duties of his post. The reputation of being corrupt would gather thick and unchaseable clouds around the conduct of the officer and gain notoriety much faster than the smoke. Sometimes, there may not be concrete or material evidence to make it part of the record. It would, therefore, be impracticable for the reporting officer or the competent controlling officer writing the confidential report to give specific instances of



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shortfalls, supported by evidence, like the remarks made by the Superintendent of Police. More often, the corrupt officer manipulates in such a way and leaves no traceable evidence to be made part of the record for being cited as specific instance. It would, thus, appear that the order does not contain or the officer writing the report could not give particulars of the corrupt activities of the petitioner. He honestly assessed that the petitioner would prove himself to be an efficient officer, provided he controls his temptation for corruption. That would clearly indicate the fallibility of the petitioner, vis-à-vis the alleged acts of corruption. Under these circumstances, it cannot be said that the remarks made in the confidential report are vague without any particulars and, therefore, cannot be sustained. It is seen that the officers made the remarks on the basis of the reputation of the petitioner. It was, therefore, for him to improve his conduct, prove honesty and integrity in future in which event, obviously, the authority would appreciate and make necessary remarks for the subsequent period. The appellate authority duly considered and rejected the contention of the petitioner.



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Repeated representation could render little service. Rejection, therefore, is neither arbitrary nor illegal.”

43. The Hon'ble Supreme Court of India, in the recent case of **Neera Yadav vs. Central Bureau of Investigation [(2017) 8 SCC 757]** and the relevant portions of this judgment are extracted hereunder:

“Corruption paralyses the functioning of the key areas of the State administration.” “The practice of promoting the interest of few individuals to the detriment of many others is wholly reprehensible and deserves to be condemned”

44. A Constitution Bench of this Court in the case of **Manoj Narula vs. Union of India [(2014) 9 SCC 1]**, held that corruption erodes the fundamental tenets of the rule of law and quoted with approval its judgment in **Niranjan Hemchandra Sashittal vs. State of Maharashtra [(2013) 4 SCC 642 : (2013) 2 SCC (Cri) 737 : (2013) 2 SCC (L&S) 187]**, it was held as under:

“16. ... ‘26. It can be stated without any



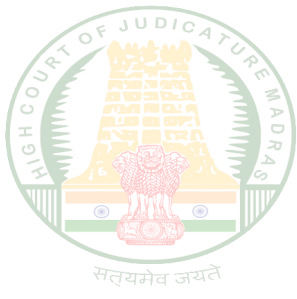
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fear of contradiction that corruption is not to be judged by degree, for corruption mothers disorder, destroys societal will to progress, accelerates undeserved ambitions, kills the conscience, jettisons the glory of the institutions, paralyses the economic health of a country, corrodes the sense of civility and mars the marrows of governance.”

45. In the case of **Subramanian Swamy vs. Manmohan Singh**, [(2012) 3 SCC 64 : (2012) 1 SCC (Cri) 1041 : (2012) 2 SCC (L&S) 666], it was held as under:

“68. Today, corruption in our country not only poses a grave danger to the concept of constitutional governance, it also threatens the very foundation of the Indian democracy and the Rule of Law. The magnitude of corruption in our public life is incompatible with the concept of a socialist secular democratic republic. It cannot be disputed that where corruption begins all rights end. Corruption devalues human rights, chokes development and undermines justice, liberty, equality, fraternity which are the core values in our Preambular vision. Therefore, the duty of the



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court is that any anti-corruption law has to be interpreted and worked out in such a fashion as to strengthen the fight against corruption. ...”

46. In the case of **K.C. Sareen vs. CBI, [(2001) 6 SCC 584 : 2001**

SCC (Cri) 1186] , it was observed:

“12. Corruption by public servants has now reached a monstrous dimension in India. Its tentacles have started grappling even the institutions created for the protection of the republic. Unless those tentacles are intercepted and impeded from gripping the normal and orderly functioning of the public offices, through strong legislative, executive as well as judicial exercises the corrupt public servants could even paralyse the functioning of such institutions and thereby hinder the democratic polity. ...”

47. In the case of **P.Dharmaraj vs. Shanmugam and Others,**

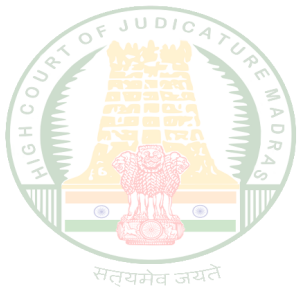
Criminal Appeal No : 1514 of 2022, the Apex Court held that corruption by a public servant is an offence against the State and the society at large.



48. In the case of **Sanjeev Kumar (Dr.) vs. State of Jammu and Kashmir and Others on 25 August, 2003**, the Supreme Court observed

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that:

*It is a strange co-incidence that the Prevention of Corruption Act, 1947 was enacted in the year of our country's independence. Corruption is one of the most talked about subjects today in the country since it is believed to have penetrated into every sphere of activity. It is described as wholly widespread and spectacular. Corruption as such has reached dangerous heights and dangerous potentialities. The word 'corruption' has wide connotation and embraces almost all the spheres of our day to day life the world over. In a limited sense it connotes allowing decisions and actions of a person to be influenced not by rights or wrongs of a cause, but by the prospects of monetary gains or other selfish considerations. Avarice is a common frailty of mankind, and while **Robert Walpole's observation** that every man has a price, may be a little generalized, yet it cannot be gainsaid that it is not far from truth. **Burke cautioned** "Among a people generally corrupt, liberty cannot last long."*



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49. In the case of **State of Madhya Pradesh and others vs. Ram Singh [(2000) 5 SCC 88]**, dated February 1, 2000, the Hon'ble Supreme

Court observed as follows :

“... Corruption in a civilised society is a disease like cancer, which if not detected in time is sure to malignise the polity of country leading to disastrous consequences. It is termed as plague which is not only contagious but if not controlled spreads like a fire in a jungle. Its virus is compared with HIV leading to AIDS, being incurable. It has also been termed as Royal thievery. The socio-political system exposed to such a dreaded communicable disease is likely to crumble under its own weight. Corruption is opposed to democracy and social order, being not only anti people, but aimed and targeted against them. It affects the economy and destroys the cultural heritage. Unless nipped in the bud at the earliest, it is likely to cause turbulence shaking of the socio-economic-political system in an otherwise healthy, wealthy, effective and vibrating society.”



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*The menace of corruption was found to have enormously increased by first and second world war conditions. The corruption, at the initial stages, was considered confined to the bureaucracy who had the opportunities to deal with a variety of State largesse in the form of contracts, licences and grants. Even after the war, the opportunities for corruption continued as large amounts of Government surplus stores were required to be disposed of by the public servants. As consequence of the wars the shortage of various goods necessitated the imposition of controls and extensive schemes of post-war reconstruction involving the disbursement of huge sums of money which lay in the control of the public servants giving them wide discretion with the result of luring them to the glittering shine of the wealth and property. In order to consolidate and amend the laws relating to prevention of corruption and matters connected thereto, the Prevention of Corruption Act, 1947 was enacted which was amended from time to time. In the year 1988 a new Act on the subject being **Act No.49 of 1988** was enacted with the object of dealing with the circumstances, contingencies and*



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*shortcomings which were noticed in the working and implementation of 1947 Act. The law relating to prevention of corruption was essentially made to deal with the public servants, as understood in the common parlance but specifically defined in the Act. The Act was intended to make effective provision for the prevention of bribe and corruption rampant amongst the public servants. **It is a social legislation defined to curb illegal activities of the public servants and is designed to be liberally construed so as to advance its object.**”*

50. In the case of **J. Jayalalitha vs. Union Of India and Another [(1999) 5 SCC 138]**, delivered on 14 May, 1999, the Hon’ble Apex Court observed as follows:

“Something more. The legislature has enacted the Prevention of Corruption Act and provided for speedy trial of offences punishable under the Act in public interest as it had become aware of rampant corruption amongst the public servants. While replacing the 1947 Act by the present Act the legislature wanted to make the provisions of the Act more effective and also to

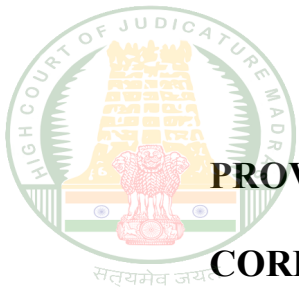


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widen the scope of the Act by giving a wider definition to the term 'public servant'. The reason is obvious. Corruption corrodes the moral fabric of the society and corruption by public servants not only leads to corrosion of the moral fabric of the society but is also harmful to the national economy and national interest, as the persons occupying high posts in Government by misusing their power due to corruption can cause considerable damage to the national economy, national interest and image of the country.”

51. In the case of **Asgarali Nazarali Singaporawalla vs. The State of Bombay**, [1957] SCR 678], a Constitution Bench dealing with the [Criminal Law Amendment Act](#), 1952 which provided for the trial of all offences punishable under [Sections 161](#), [165](#) and [165A](#) of the Indian Penal Code or sub-section (2) of [Section 5](#) of the Prevention of Corruption Act, 1947 exclusively by special judges held that **“bribery and corruption having been rampant and the need for weeding them out having been urgently felt ; it was necessary to enact the measure for the purpose of curtailing all possible delay in bringing the offenders to book.”**



**PROVISION FOR CONFISCATION UNDER THE PREVENTION OF
CORRUPTION (AMENDMENT) ACT, 2018:**

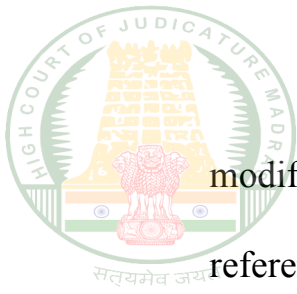
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52. Under the Corruption Act, **CHAPTER IVA**, which deals with **ATTACHMENT AND FORFEITURE OF PROPERTY** was inserted through the amendment Act, 2018. Section 18A of the Act reads as follows:

53. 18A. Provisions of Criminal Law Amendment Ordinance, 1944 to apply to attachment under this Act:

(1) Save as otherwise provided under the Prevention of Money Laundering Act, 2002 (15 of 2003), the provisions of the Criminal Law Amendment Ordinance, 1944 (Ord. 38 of 1944) shall, as far as may be, apply to the attachment, administration of attached property and execution of order of attachment or **confiscation of money or property procured by means of an offence under this Act.**

(2) For the purposes of this Act, the provisions of the Criminal Law Amendment Ordinance, 1944 shall have effect, subject to the



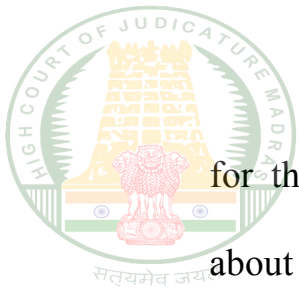
modification that the references to “District Judge” shall be construed as references to “Special Judge”.’

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PROCEDURE UNDER THE CRIMINAL LAW AMENDMENT ORDINANCE, 1944:

54. The Criminal Law Amendment Ordinance, 1944 (referred to as the “Ordinance” as well), which was enforced w.e.f. 23.8.1944 is an yield of the exercise of powers under Section 72 of the Government of India Act, 1935 and is directed to prevent the disposal or concealment of property procured by means of the offences enlisted in the Schedule thereto.

55. Section 3 of the Amendment Ordinance, 1944, states about applications to be filed for attachment of property. Section 4 speaks about Ad interim attachment. Section 5 provides Investigations of objections to attachment. Section 6 states about Attachment of property of mala fide transferees. Section 7 provides Execution of orders of attachment. The order of attachment of property under this ordinance carried into effect so far as practicable in the manner provided into the Code of civil Procedure, 1908,

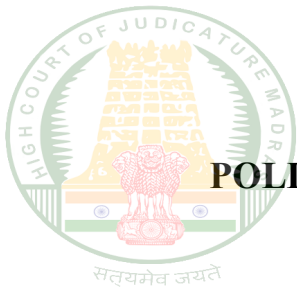


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for the attachment of property in execution of decree. Section 8 speaks about Security in lieu of attachment. Section 9 states about administration of attached properties. Section 9-A is about Administration of attached property where Court ordering attachment has ceased to exercise jurisdiction of India. Section 10 stipulates Duration of attachment. Section 11 is about Appeals. Section 12 speaks about Criminal Courts to evaluate property procured by scheduled offences. Section 452 CRPC denotes Order for disposal of property at conclusion of trial.

(e) In the case of **CBI vs. Shri Devendra Kumar Goel and Another**, the Special Judge under the prevention of corruption Act observed the findings of the Apex court in **Mirza Iqbal Hussain vs. State of U.P and State of Karnataka vs. Selvi J. Jayalalitha and others, 2017(6) SCC 263** in paragraphs 7 and 9 of the judgment and held as follows :

“ 9. Therefore, as per section 452 of crpc and section 5(6) of the PC Act, this court has the power to confiscate the property of the convicts acquired through unfair means .”



POLICE OFFICER'S CONDUCT RULES:

56. With reference to the present writ petition, it is relevant to consider the Tamil Nadu Subordinate Police Officers Conduct Rules, 1964. Rule 8 deals with lending and borrowing. Rule 9 enumerates movable, immovable and valuable property. Sub Rule (1)(a) to Rule 9 stipulates “No Police Officer shall except after notice to the prescribed authority acquire or dispose of any immovable property by lease, mortgage purchase, sale, gift, exchange or otherwise either in his own name or in the name of any member of his family”.

57. Sub Rule 3 to Rule 9 specifically provides “Every Police Officer shall, within three months of his first appointment to any service or post and thereafter at an interval of 5 years, on or before the 31st day of March of the year immediately following the year to which the return relates and every such return shall be as on the 31st day of December of the year immediately preceeding the said 31st day of March, submit a return of his assets on the liability in the forms in schedule I appended to these rules giving the full particulars regarding”:

(a) The immovable property inherited by him, or owned or acquired



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by him or held by him or mortgage either in his own name or in the name of any members of his family or in the name of any other person:

- (b) Shares, debentures and cash including bank Deposits inherited by him or similarly owned, acquired or held by him.
- (c) Other movable property inherited by him or similarly owned, acquired or held by him.
- (d) Debts and other liabilities incurred by him directly or indirectly.

Explanation: In all the returns the value of items of movable property worth less than Rs.10,000/- may be added and shown as a lumpsum. The value of articles of daily use such as clothes, utensils, crockery, books etc. need not be included in such returns.

Explanation II: Every Police Officer who is in service on the date of publication of these rules in the T.N. Govt. Gazettee shall submit the return for the year ending with the 31st day of December 1973 on or before 31st day of March 1974.

T.N.GOV'T. SERVANTS CONDUCT RULES:

58. The corresponding provisions are available in the Tamil Nadu



Government Servants Conduct Rules, 1973 also, more specifically Rule 11 deals with movable, immovable and valuable property and at the outsell, in the Conduct Rules applicable both for the Police Officials and for the other Government Servants, the declaration is to be given by the Officials once in five years and accordingly Conduct Rules are to be followed scrupulously. It is doubtful whether such provisions are followed in its strict sense, so as to ensure that the disproportionate assets, if any accumulated are periodically monitored and actions are initiated in order to control corrupt activities amongst the Public Servants.

59. In the context of the Conduct Rules applicable to the Subordinate Officials, it is relevant that the Conduct Rules applicable to the Higher Officials including the Officers of Indian Administrative Service (IAS), Indian Police Service (IPS), etc., are to be monitored by the State as well as by the Central Government Agencies. Since All India Level Officials are governed under the Central Rules, the Central Agencies are also bound to monitor the accumulation of wealth and the corrupt activities in their official functioning of the All India Level Officials.



60. Consistent monitoring and stringent actions are warranted to fight against corrupt activities. Participation of citizens in general is of paramount importance. Creation of awareness amongst the youth about the evils of corruption is imminent. The ill effects of corrupt activities to be broadly published. Ultimately everyone is responsible and accountable for creation of younger generations for corruption free mind since youth are the nation builders.

61. In the present writ petition, the Amicus Curiae Mr.R.Singaravelan, Senior Advocate filed a report and his effective assistance stands appreciated.

62. Importantly, the Former Chairman, Law Commission of India Mr. Justice B.P. Jeevan Reddy forwarded the Bill called “The Corrupt Public Servants (Forefeiture of Property) Bill” to the Union Minister of Law and Justice, Ministry of Law and Justice, Government of India on 4th February 2009. The Bill was addressed to Dr.M.Thambi Durai, the then Minister for Law, Justice and Company Affairs, New Delhi. The Bill presented by Mr.Justice B.P.Jeevan Reddy strictly deals with the deleterious effect of corruption in paragraph 1.3 as under:



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“1.3. Deleterious Effect of Corruption.

-One of the essential requirements of good governance is the absence of corruption. But unfortunately, corruption has struck deep-roots in our society, including its administrative apparatus. At every rung of the administration, whether at the Centre or in the States, there are corrupt elements who are causing immense loss to the state, to the Nation and the public interest. The administrative apparatus of local authorities, public-sector corporations and Government companies has become equally bad. When a public servant is paid bribe of, say, a lakh of rupees, it is paid for the reason that the payer gets at least 10 times the benefit, if not more, and that benefit is the loss of the State and the people. It is not so much the amount of the bribe but the quantum of loss to the people and the moral degradation it involves that is more relevant. There is no respect for public money and public funds in the minds of many in the administration; public money is nobody's money. For a small personal benefit, the corrupt are prepared to cause any amount of loss to the State and to the people. On account of corruption, many of the



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welfare schemes including schemes for advancement of Scheduled Tribes and other weaker sections are not able to achieve the intended results. In fact, a former Prime Minister had observed once that only about 16% of the funds meant for the welfare of the Scheduled Tribes reached them and that the remaining 84% was absorbed by the members of the administrative apparatus, politicians and other middlemen. A state has arrived where the corruption is threatening the very security and safety of the State. There is corruption in execution of projects, in awarding contracts, in making purchases, in issuance of licences and permits, in appointments, in elections and so on and so forth. There is hardly any sphere of life left untouched by corruption in our society. Surprisingly - or rather shockingly- the corrupt elements have lost all sense of shame and guilt. The societal sanction is practically nil. The corrupt elements are brazenly flaunting their ill-gotten wealth. The amounts involved in corruption are quite often astronomical. There are numerous foreign forces out to destabilise our country and undermine our economy and the corrupt elements



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in our governing structure are too willing to play their game for their personal gain. Thus corruption in our country today is not only immoral and shameful, it has also become anti-national and anti-social and therefore requires to be dealt with an iron hand. The Prevention of Corruption Act has totally failed in checking the corruption. In spite of the fact that India is rated as one of the most corrupt countries in the world, the number of prosecutions - and more so the number of convictions under the said Act, are ridiculously low. A corrupt minister or a corrupt top public servant is hardly ever prosecuted under the Act and even in the rare event of his being prosecuted, the prosecution hardly ever reaches conclusions. At every stage, these will be revisions and writs to stall and defeat the prosecution. Top lawyers are engaged. Some or other point is raised and the litigation goes on endlessly, thus defeating the true objective of the criminal prosecution. Unfortunately, the Courts too have come to attach more sanctity to procedure forgetting the principle underlying sections 460 to 465 of the Code of Criminal Procedure, 1973, viz., any and every infraction of procedural



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provision does not vitiate the final order passed and that only that violation which causes prejudice may constitute a ground for disturbing the final order passed. Indeed it must be said that criminal judicial system in this country has proved totally ineffective particularly against the rich, the influential and the powerful. It is effective, if at all, only against the poor, the destitute and the undefended. We do not, however, think it necessary to stress any further the prevalence and pernicious role of corruption in our body politic as it is an obvious and indisputable fact.

63. Inadequacy of the existing law and the proposed measures to tackle the evils of corruption has been stated in paragraph 1.4 as under:

“1.4. Inadequacy of the Existing Law and the Proposed Measures to Tackle the Evil of Corruption - It is true that the Prevention of Corruption Act, 1988 provides for confiscation on assets of public servant which are in excess of his known sources of income but such forfeiture can come about only after the public servant is convicted for the relevant offence [section



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13(1)(e)] under the Act. There is also in vogue a pre-independence law ie., Criminal Law Amendment Ordinance (38 of 1944) which provides for attachment of properties of a public servant who is accused of corruption. But, here again, the confiscation can come about only pursuant to and on the basis of conviction of corruption. Similar is the position under the Prevention of the Money Laundering Bill, 1998 introduced in the Parliament recently. The Bill defines the expression "money-laundering" to mean owning, possessing or otherwise dealing in the "proceeds of the crime, and confiscation of proceeds of crime is possible only after a person is convicted of one or the other offence mentioned in the Schedule to the Bill. Part V of the Schedule mentions some of the offences created recognised by the Prevention of Corruption Act, but quite significantly the offence of possession of disproportionate assets dealt with under clause (e) of sub-section (1) of section 131 is not one of the offences mentioned in the Schedule. Perhaps, the said offence did not fit into the scheme of the Bill. Be that as it may, the fact remains that there is no law in force in this country providing for



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forfeiture/confiscation of the ill-gotten assets/properties of the holders of public office similar to SAFEMA. Merely sending the corrupt holders of public office to jail is no remedy; it is no solution. It doesn't really hurt them. Unless their ill-gotten assets are forfeited to the State, the canker of corruption to really tackled. Hence, the necessity of the proposed measure.”

1.5. The Proposed Approach Recognised in the SAFEMA - *As a matter of fact, this approach was recognised by Parliament more than twenty years ago in the case of smugglers and violators of foreign exchange laws, when it enacted the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (SAFEMA). The Preamble to the Act reads-*

"An Act to provide for the forfeiture of illegally acquired properties of smugglers and foreign exchange manipulators and for matters connected therewith or incidental thereto;

Whereas for the effective prevention of smuggling activities and foreign exchange manipulations which are" having a deleterious effect on the national economy it is necessary to deprive persons engaged in such activities and



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manipulations of their ill-gotten gains;
And whereas such persons have been augmenting such gains by violations of wealth-tax, income-tax or other laws or by other means and have thereby been increasing their resources for operating in a clandestine manner;
And whereas such persons have in many cases been holding the properties acquired by them through such gains in the names of their relatives, associates and confidants;
Be it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:”

64. Some salient features of the proposed Bill are enumerated in paragraph 1.9 as under:

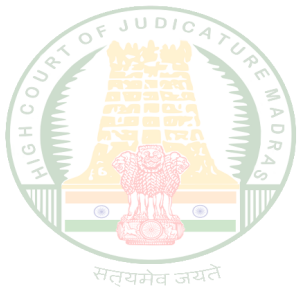
“1.9. Some Salient Features of the Proposed Bill.-*The Law Commission of India has kept the aforementioned facts and law while drafting the accompanying Bill (Annexure A). With a view to enable the Competent Authority under the Act to obtain information with respect to the illegally acquired properties and assets of corrupt public servants (which expression*



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includes Ministers and Members of Parliament, both incumbent and former) whether located in India or stashed abroad, the very holding of or possession of illegally acquired properties is made an offence. Declaring such holding or possession illegal and a punishable offence warrants their forfeiture and taking of steps to identify and seize them even when they are kept in numbered accounts or under pseudonyms. Power is given to the Competent Authority to call upon any public servant believed to be in possession of illegally acquired properties, whether within India or abroad, to disclose by way of an affidavit the particulars of the assets held/possessed by him, his relatives and associates. Power is also given to the Competent Authority to call upon any person including authority, officer, Bank, or other organisation to disclose information with respect to a person to whom this Act applies and such person is made bound to furnish such information. Refusal to furnish information or furnishing false information is made punishable. Certain relevant powers of the Civil Court are also vested in the Competent Authority to enable him to function effectively. For the same purpose it is also clothed



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with the power to attach properties pending the proceedings under the Act, to order any enquiry, investigation, search and seizure through such authorities as he may find appropriate and also to call upon any authority to render such assistance as may it be called upon to render. In short, all provisions necessary for an effective and unhindered functioning of the Competent Authority have been provided for. The accompanying Bill also bars the court from granting any Injunction against the Competent Authority. It is true that such a provision can not bar the High Court from interfering under Article 226 of the Constitution of India-or, for that matter, the Supreme Court under Articles 32 or 136-but as held by a nine-Judge Constitution Bench of the Supreme Court in Mafatlal Industries Ltd. v. Union of India, 1997 (5) SCC 536, dealing with a similar provision in the Central Excise Act

“By virtue of sub-section (3) to section 11B of the Central Excises and Salt Act, as amended by the aforesaid Amendment Act, and by virtue of the Provisions contained in sub-section (3) of section 27 of the Customs Act, 1962, as amended by the



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said Amendment Act, all claims for refund (excepting those which arise as a result of declaration of unconstitutionality of a provision whereunder the levy was created) have to be preferred and adjudicated only under the provisions of the respective enactments. No suit for refund of duty is maintainable in that behalf. So far as the jurisdiction of the High Courts under Article 226 of the Constitution or of this Court under Article 32 - is concerned, it remains unaffected by the provisions of the Act. Even so, the Court would, while exercising the jurisdiction under the said articles, have due regard to the legislative intent manifested by the provisions of the Act. The writ petition would naturally be considered and disposed of in the light of and in accordance with the provisions of section 11B. This is for the reason that the power under Article 226 has to be exercised to effectuate the regime of law and not for abrogating it. Even while acting in exercise of the said constitutional power, the High Court cannot ignore the law nor can it override it. The power under Article 226 is conceived to serve the ends of law and not to transgress them.”



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65. In para 1.11 measures to combat corruption by OECD and countries and need for stringent measures are enumerated. In para 1.12 new legislation was recommended, which reads as under:

1.11. Measures to Combat Corruption by OECD and Countries and Need for Stringent Measures.- Let it not be assumed that the Indian people are tolerant of corruption. People's failure to participate in elections in desired numbers is a testimony to their lack of faith in the instruments of governance. People's patience may be short-lived. Many governments viz., Brazil, Indonesia, Italy, Pakistan and Zaire have fallen at least partly on account of corruption of politicians. There are several pitfalls of corruption viz., more red tape, less investment in education, less direct foreign investment and bad governance. Anti-corruption measures have attracted worldwide attention. The United States of America enacted Foreign Corrupt Practices Act several years back. Recently, international financial institutions such as the World Bank and IMF have increasingly started linking aid to the developing countries on the condition of providing good governance. An



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anti-bribery convention has also been signed/ ratified by some 29 members of the OECD which requires them to make it a crime to bribe any foreign official to win or retain business or for... any other "improper advantage". The convention is soon expected to come into force. A few multinational companies are understood to be strictly enforcing their ethics code not to bribe officials. It is important that the Indian business people evolve their codes of ethics to discourage corrupt practices. An independent and fearless judiciary in India can go a long way in playing an important role in ensuring that the corrupt are not spared at any cost. Nevertheless, it is not a substitute for clean and responsive government which.. has the good of people at heart and which is eamest in the task of routing out corruption. Let war on corruption not remain a mere slogan. It is in this earnest hope that the government of the day means business that the Law Commission has ventured to propose the present legislation.

1.12. New Legislation Recommended.-*The Law Commission hopes and trusts that the government would take immediate steps for introducing*



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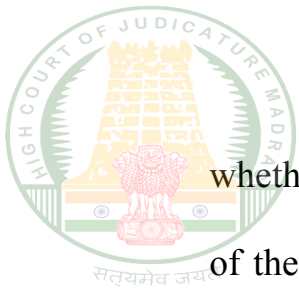


legislation in terms of the accompanying Bill (Annexure A) and have it passed. Such a legislation would arm the State with an effective and powerful weapon to fight corruption which is sapping the fundamentals of our society and is posing a serious threat to our economy and to the security and integrity of our State.”

66. The Corrupt Public Servants (Forfeiture of Property) Bill though forwarded to the Ministry of Law and Justice, Government of India in the year 1999, it is kept in cold storage for the past about 24 years and under these circumstances, in order to initiate effective measures to prevent corruptions, the Parliament has to think about framing stringent laws.

67. In the current day scenario, it is imminent for the Parliament to look into the evil effects of corruption in our Great Nation and do the needful, if necessary by considering the Bill submitted by Mr. Justice B.P.Jeevan Reddy.

(a). Corruption in any form is a crime against the society. Every public servant in our great nation is conscious and aware of the fact,



whether he / she is a criminal under the corruption laws or not. Taking note of the large scale corrupt activities in the Government Departments, Public Undertakings, Corporations etc., enumerable criminals are walking freely on the streets. Negligible number of criminals alone are inside the prison. Fear of corruption laws are faded from the minds of the corrupt public servants. Politicians & bureaucrats nexus give hopes to the corrupt officials to escape from the clutches of law. Corrupt officials are confident of escaping from punishment since implementation of corruption laws in our great nation is undoubtedly weak. More so, the laws in force are inadequate to deal with the wealth accumulated through corrupt practices. The criminals are freely allowed to enjoy accumulated wealth illegally through corruptions.

CONCLUSION:

68. In respect of the present writ petition, as far as the writ petitioner is concerned, the actions were initiated by the Department of Vigilance and Anti-Corruption and it was dropped. However, no appropriate actions were initiated against the respondents six to eight against whom serious allegations are raised by the petitioners by narrating the incidents. When certain incidents are narrated with specific date, time and place, then the

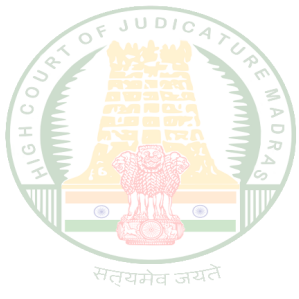


authorities are bound to conduct a thorough enquiry, so as to cull out the truth and if necessary initiate appropriate actions under relevant laws.

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69. Since, the actions taken by the respondents one to three are insufficient and considering the fact that such large scale corruptions are causing greater set-back on “social justice” to the people of our Great Nation, this Court is inclined to pass the following orders:

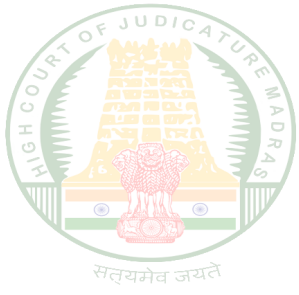
- (1) The relief as such sought for in the present writ petition is not required to be granted, since trial commenced and in progress in the Criminal Case registered in Crime No.74 of 2009 dated 22.12.2009 (C.C.No.64 of 2020 on the file of the Judicial Magistrate Court I, Kancheepuram). However, the learned Judicial Magistrate I, Kancheepuram is requested to expedite the trial and dispose of the case.
- (2) The respondents one to three are directed to verify the asset declaration given by the respondents six to eight and conduct an enquiry with reference to the allegations of disproportionate wealth raised by the petitioners and if there is any contradictions or discrepancies in the declaration all appropriate actions are to be initiated by following the procedures.



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- (3) The respondents one and two are directed to verify the mandatory declarations being given by the Police Officials periodically across the state of Tamil Nadu with reference to rule 9 of the Tamil Nadu Subordinate Police Officers Conduct Rules, 1964, and verify the genuinity of the declarations including all the assets purchased in the name of the family members, relatives and persons known to them. In the event of any discrepancies, contradictions or otherwise, all appropriate actions have to be initiated, including confiscation of illegally accumulated wealth through corrupt practices.
- (4) The respondents one and two are directed to ensure that Special Cells are constituted in the offices of the Director General of Police and Director General of Vigilance and Anti-corruption by providing separate telephone numbers, mobile numbers/ Whatsapp numbers enabling the citizens to register their complaints or provide information about corrupt activities in Government Departments and instrumentalities of the State.
- (5) The respondents one and two are directed to ensure that the procedures contemplated for confiscation of properties are being adopted in all corruption cases and if necessary, interim attachments are also to be made as contemplated under the provisions of law, elaborately discussed in the present judgment.



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70. With the above directions, this Writ Petition stands disposed of.

Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

12.07.2023

Jeni/Shi

Index : Yes

Speaking order

Neutral Citation : Yes

NOTE: *The Registry of High Court of Madras is directed to communicate the copy of this order to the Secretary, Government of India Ministry of Law And Justice, 4th Floor, A-Wing, Shastri Bhawan, New Delhi-110 001, to take note of the Law Commission Report submitted by Mr.Justice B.P.Jivan Reddy, regarding "The Corrupt Public Servants (Forfeiture Of Property Bill)"*

To

- 1.The Secretary to Government,
Home Department,
Fort St. George, Chennai-9.
- 2.The Director General of Police,
Chennai – 4.
- 3.The Superintendent of Police,
Kancheepuram, Kancheepuram District.



4. The Inspector of Police,
District Crime Branch,
Office of the Superintendent of Police,
Kancheepuram, Kancheepuram District.

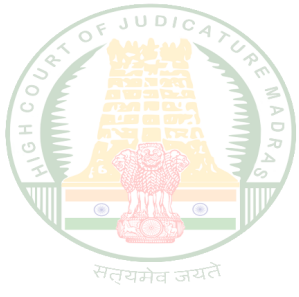
5. The Sub Inspector of Police,
District Crime Branch,
Office of the Superintendent of Police,
Kancheepuram, Kancheepuram District.

6. The Deputy Superintendent of Police,
Krishnagiri, Krishnagiri District.

7. The Sub Inspector Of Police,
District Crime Branch,
Office Of The Superintendent of Police,
Kancheepuram, Kancheepuram District.

8. The Head Constable,
District Crime Branch,
Office of the Superintendent Of Police
Kancheepuram,
Kancheepuram District.

9. The Secretary,
Ministry of Law and Justice,
4th Floor, A-Wing,
Shastri Bhawan,
New Delhi-110 001.



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VERDICTUM.IN

W.P.No.6677 of 2



S.M.SUBRAMANIAM, J.

Jeni/Sh

W.P.No.6677 of 2010

12.07.2023