



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL NO. 725 of 2011

FOR APPROVAL AND SIGNATURE:

HONOURABLE MS. JUSTICE GITA GOPI

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Approved for Reporting	Yes	No
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PREMJIBHAI HIRABHAI GOHIL

Versus

STATE OF GUJARAT

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Appearance:

MR J.M. PANCHAL SENIOR ADVOCATE WITH MR VAIBHAV A VYAS for
the Appellant(s) No. 1

MR HARDIK DAVE PUBLIC PROSECUTOR WITH MS. MONALI BHATT
APP for the Opponent(s)/Respondent(s) No. 1

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CORAM: HONOURABLE MS. JUSTICE GITA GOPI

Date : 16/04/2026

JUDGMENT

1. The present appeal has been filed under Section 27 of the Prevention of Corruption Act, 1988 (for short the 'Act') read with Section 374(2) of the Code of Criminal Procedure Code, 1973 (for short 'Cr.P.C.') challenging the judgment and order of conviction and sentence dated 30.05.2011 passed by the learned Additional Sessions Judge, Ahmedabad (Rural) Mirzapur, Ahmedabad in Special A.C.B. Case No.1-2/2005, whereby appellant - accused came to be convicted under Section 13(2) read with section 13(1)(e) of the Prevention of



Corruption Act, 1988 (for short 'P.C. Act') and was ordered to undergo two years simple imprisonment with fine of Rs.10,000/- with default stipulation that in failure to pay the fine amount, to suffer further six months simple imprisonment.

1.1 The trial initially, was conducted against three accused under sections 7 along with section 12, 13(1)(a)(e) and 13(2) of the P.C. Act. Consequently, accused Nos.2 and 3, who were brother-in-law and wife respectively of the appellant, were acquitted from all the charges.

2. As per the prosecution case, the appellant - accused during the period from 10.06.2002 to 01.10.2002, while serving as Civil Judge (J.D.) and Judicial Magistrate, First Class at Pardi, Valsad in abetment with accused No.2, brother-in-law of accused No.1 and No.3 the wife of accused No.1, while serving as a public servant, abused the position and illegally demanded and accepted bribe from prosecution witnesses.

2.1 Further it was alleged that Rs.7,00,000/- (Rupees Seven Lakh) was received on 22.11.2002 from the resident of Rajkot, Sumatilal and his wife Nilamben, by falsely representing the same to be a gift and the immovable property situated within the limits of Mangrol Nagar Palika bearing Survey No.7618 admeasuring 746.64 sq.mtrs. valued at Rs.5,51,100/- (Rupees Five Lacs Fifty One Thousand One Hundred only) together with a house thereon was purchased in the name of the wife



of the appellant, the acquitted accused No.3, land valued at Rs.26,23,200/- (Rupees Twenty Six Lacs Twenty Three Thousand Two Hundred) and house Rs.9,49,750/- (Rupees Nine Lakhs Forty Nine Thousand Seven Hundred Fifty only) aggregating to Rs.35,72,950/- (Rupees Thirty Five Lacs Seventy Two Thousand Nine Hundred Fifty), the said property was referred as grossly disproportionate to the known sources of income of appellant - accused No.1. Accused No.1 as public servant in collusion with other accused, illegally, apart from legal remuneration, accepted money and got the above valued property transferred, while abusing the position of Civil Judge (J.D.) and Judicial Magistrate (First Class), thereby committed offence under section 7, 12, 13(1)(a)(e) and 13(2) of the Prevention of Corruption Act, 1988.

2.2 The prosecution alleged that appellant demanded Rs.4 Lacs for the cases of Shri Chemicals and Rs.3 Lacs for Shivam Chemicals pending before his Court through advocate Shri Pravinbhai, and the said advocate and one Shantibhai went to Pardi and gave Rs.7 Lacs to Pradeepbhai (A2), brother-in-law of appellant, and in evening the cases were disposed off.

2.3 The conviction which followed for the appellant was for the allegation that on 22.11.2002, Sobhnaben (A3), wife of accused-appellant No.1, illegally obtained Rs.7 Lacs as gift from P.W.18 - Nilamben Sumantilal Kamdar (Exh.92) and got prepared false gift deed (Exh.91) dated 22.11.2002 and purchased 746.68 sq. meter property in District Junagadh, Village -Mangrol at secretariat road, City Survey No.7618



valued at Rs.5,51,000/- and for that Rs.83,000/- court stamp fees was used in the name of accused No.3. The price of the property was assessed worth Rs.9,49,750/-, and the land assessment by Town Controller of Collector Office, Junagadh was as Rs.3,500/- per sq. Mtrs., worth Rs.26,23,200/- thus the total price of the property was Rs.35,72,950/-.

2.4 The complaints were made to the Vigilance Department of this Court alleging that the appellant was habitually accepting bribes and therefore was charged under section 7, 13(2) read with section 13(1)(a)(e) of the P.C. Act. Further, the appellant was found to have purchased property in the name of his wife - accused No.3 for the amount, disproportionate to his known source of income, who thereafter sold it.

3. Learned Senior Advocate Mr. J.M. Panchal assisted by Advocate Mr. Vaibhav A.Vyas for the appellant - accused, submitted that the case under Sections 7, 12 and Section 13(1)(a) of the P.C. Act has not been believed. The conviction against the appellant is under Section 13(1)(e) read with section 13(2) of the P.c. Act, where actually the demand acceptance or recovery of any bribe money has not been believed. The transaction by way of gift amount with P.W.17 and P.W.18 in the name of the wife of the appellant, who have been acquitted in the matter is legal, as it was by way of cheque and there was no transaction in cash. Senior Advocate Mr. Panchal, thus, wanted to submit that none could enter into the bribe or gratification by payment of cheque



transaction. It is also submitted that since wife of the appellant as accused No.3 was acquitted and when the prosecution has accepted the acquittal by not filing appeal against the wife of the appellant, nothing now remains against the accused to consider his case for conviction, and submitted that the witnesses examined by the prosecution have not been declared hostile nor there is any re-examination, no suggestion of any obligation of any parties of any work by the appellant to prove that the amount received by the wife of the appellant was in gratification of some judicial work done by the appellant.

3.1 Senior Advocate Mr. Panchal further submitted that the gift deed is a Notarized document, the pass-book of P.W.17 and P.W.18 had also been proved by the prosecution and the details have come on record that the consideration was love and affection for gift transaction. Senior Advocate Mr. Panchal stated that the entries in the pass-book by way of cheque transaction could itself prove that there was no any case of collusion with the parties or with the Bank nor any case of forgery to create any suspicion against the accused. No contradiction has been brought in the statement of P.W.18 and as per the evidence there is no role of the present appellant as accused No.1, nor acquitted accused No.3 of any of the transaction in connection with the offence under Section 13(1)(e) of the P.C. Act. There is no case of abetment by acquitted accused Nos.2 and 3.



3.2 Senior Advocate Mr. Panchal submitted that the source of income were proved by the prosecution themselves and thus, it becomes the known source of income to the prosecution and therefore no burden would shift on the accused to prove any further facts when it becomes explicit on record that the transaction were legal.

3.3 Learned Senior Advocate Mr. Panchal stated that certain witnesses were examined to prove that the properties purchased by the wife of the appellant were under valued. However, it is stated by Senior Advocate Mr. Panchal that the evidence comes on record that the sale transaction was in accordance to the Government approved Jantri price and the stamp was paid on the basis of the Jantri. The amount of the sale deed had been paid by the cheque, thereafter the said property was already sold, so any valuation thereafter done by the Deputy Executive Engineer and the Town Planner, P.W.21 and P.W.22, would not connect the property at the relevant time of the purchase.

3.4 Learned Senior Advocate Mr. Panchal submitted that had there been a case of under valuation, then the State would have issued notice and would not have accepted the sale deed for registration. Senior Advocate Mr. Panchal stated that the prosecution by examining the witnesses P.W.17 and 18 and relying upon the gift deed and the Bank transaction wants the Court to believe that the property was purchased from the gift amount. There is no suggestion that the gift deed or the sale deed were created or use as real to camouflage



any transaction.

3.5 Senior Advocate Mr. Panchal thus, submitted that the Court has to only rely upon the testimony of the witnesses examined by the prosecution to consider that the accused had already discharged his burden and nothing could be proved of any sham transaction and when the prosecution themselves have proved the legal transaction by way of examining the witnesses, the case would not even assumed under Section 13(1)(e) read with Section 13(1)(2) of the P.C. Act against the appellant.

3.6 Prosecution by examining the vendor, P.W.20, Senior Advocate Mr. Panchal stated that it does not come on record that the property was under valued. There is no suggestion that though value of the property was higher, the sale deed was executed for a lesser amount. Senior Advocate Mr. Panchal submitted that the record itself shows that the premises was old, which was of more that 60 to 65 years, there was no renovation or any changes made by the appellant or his wife in the property to consider it as under valued. Mr. Panchal further submitted that there is no system or standard at all for legal valuation of property and general public would rely only on the Jantri issued by the State Governemnt and when the sale deed is as per the Jantri, then no assumption can be made for any under valuation of the property.



3.7 Senior Advocate Mr. Panchal submitted that the examination of the witnesses P.W.21 and P.W.22, as Deputy Executive Engineer and the Town Planner would be irrelevant since such valuation could be made only for the Government land when government interest is involved and then the witnesses could have relied upon about the guidelines approved internally for valuing the property and thus, submitted that the testimony of the witnesses P.W.21 and P.W.22 cannot be taken into consideration to determine the value of the property purchased by the wife of the appellant. Senior advocate Mr. Panchal thus, submitted that it cannot be said that the valuation of the property is illegal, arbitrary, against the norms and principles and directives of the State Government.

3.8 Senior Advocate Mr. Panchal submitted that the case against the appellant and the co-accused as the brother-in-law and the wife has not been believed under Section 7 of the P.C. Act, when the wife has been acquitted and when the appeal has been filed by the State against the acquittal, the property in the name of the wife should not be considered for charge against the present appellant under Section 13(1)(e) of the P.C. Act.

3.9 Senior advocate Mr. Panchal has also submitted that it is not the case of the prosecution that some person has given the gift to the wife as a bribe on behalf of the appellant Judge. It is also not the case of the prosecution that the Judge has favoured any person and had sought consideration in the form



of cash or purchase of the property.

3.10 According to Senior advocate Mr. Panchal, the prosecution themselves have proved the case for the accused. The prosecution has proved the legal transfer of money by way of gift, Senior advocate Mr. Panchal submitted that the gift document has not been challenged; the money transaction is through the Bank, and the payment is by cheque. The person, who has sold the property has affirmed about the sale price, and the gift transaction has been proved by the prosecution themselves by examining the donor, P.W.18 and her husband P.W.17.

3.11 Senior Advocate Mr. Panchal has contended that the standard of proof required in criminal proceeding, is different from that of the departmental proceedings. The appellant cannot be made liable for the purchase of property by the wife when no rules are produced to restrict such transfer of gift money and purchase of property from the gift amount.

3.12 Senior Advocate Mr. Panchal submitted that no prescribed form has been produced by the prosecution to substantiate the allegation of breach of any service rules and if at all there is any breach of service of rule, then the appellant can be subjected to only disciplinary action and even in departmental proceedings nothing except the breach was found. Senior Advocate Mr. Panchal submitted that in departmental proceedings there was no finding that non-informing the higher authority would amount to criminal



offence.

3.13 Mr. Panchal, Senior Advocate, submitted that the discloser of income in the income tax return itself would satisfy the requirement and since the wife is acquitted and in absence of appeal, the appellant cannot be made liable.

3.14 Learned Senior Advocate Mr. Panchal stated that the appellant by the Notification of the High Court of Gujarat at Ahmedabad dated 03.04.1997 was appointed as a Civil Judge Junior Division and Judicial Magistrate, First Class, Bharuch, where he served upto 13.06.1999; thereafter, was transferred to Civil Court, Surat as a Civil Judge Junior Division and Judicial Magistrate, First Class and served at courts in Surat district upto 09.06.2002, and thereafter was transferred to Civil Court, Pardi district, Valsad.

3.15 Learned Senior Advocate Mr. Panchal stated that the appellant took charge on 10.06.2002 in Pardi district, Valsad and served there upto 30.09.2002, thereafter was transferred to Civil Court, Valsad District as a Civil Judge Junior Division and Judicial Magistrate, First Class.

3.16 Senior Advocate Mr. Panchal submitted that when the appellant was performing his duty as Civil Judge Junior Division and Judicial Magistrate, First Class at Pardi from 10.06.2002 to 30.09.2002, he started issuing warrants against the accused persons of the matters, which were under Water Pollution and Food Adulteration Act and complainant was the



Advocate of the partners of Shri Chemicals, Synochem and Shivam Chemicals which were 8 to 10 years old cases, wherein too warrants were issued which prompted the Advocate to file complaint.

3.17 Learned Senior Advocate Mr. Panchal referring to the observation in the impugned judgment submitted that the trial Court committed error in accepting the sanction as valid, which in fact, is *void ab initio*, Learned Senior Advocate Mr. Panchal submitted that I.O. (P.W.36) had no authority to investigate, who had retired from the Police Department. The investigation by the retired police officer has caused prejudice to the appellant.

3.18 Learned Senior Advocate Mr. Panchal referring to para-12 of the judgment of learned Trial Court Judge submitted that Vishnukumar Patel (P.W.34), who accorded sanction Exh.184, had stated that Rajendra's statement was not found amongst the paper sent to him and thus submitted that adverse inference should be drawn against the prosecution, as it affects the validity of the sanction.

3.19 Learned Senior Advocate Mr. Panchal further submitted that section 13(1)(a) and section 13(1)(e) of the P.C. Act are inter connected with each other and that if accused No.1 was not habitually accepting the bribe amounts, it would prejudicially affect his conviction under section 13(2) read with section 13(1)(e) of the Act. Senior Advocate Mr.Panchal stated that most important question not been examined by the



learned Judge was that the property purchased by accused No.3 was already sold. Thus, Senior Advocate Mr. Panchal stated that prosecution has failed to prove that accused No.1 possessed ill-gotten wealth, had the appellant so possessed, the requisite amount could have been actually recovered from him after the sale of property.

3.20 Learned Senior Advocate Mr. Panchal submitted that findings that the transactions were not brought to the notice of the higher authorities under the Conduct Rules, would be mere irregularity on the part of appellant - accused No.1. Mr. Panchal stated that probability of lack of income on the part of accused No.3 and not having filed Income Tax Returns cannot be made a base for the finding against appellant accused No.1.

3.21 Learned Senior Advocate Mr. Panchal relied on the judgment of (i) **M. Krishna Reddy v. State**, reported in **(1992) 4 SCC 45**; (ii) **Ashok Tshering Bhutia Vs. State of Sikkim**, reported in **(2011) 4 SCC 402** (iii) **State of Uttar Pradesh Vs. Kanhaiya Lal, 1976 Cr.LJ 1230**, to support his arguments.

4. Countering the arguments, learned Public Prosecutor Mr. Hardik Dave assisted by learned APP Ms. Monali Bhatt for the State submitted that the case has to be concentrated for the charges against the appellant under Section 13(1)(e) read with Section 13(2) of the P.C. Act. Learned P.P. Mr. Dave submitted that if a public servant accepts gift from unknown



person even if in the name of his wife, would be a source unknown to the prosecution authority, as the only legal source for a judicial officer is his salary. The accused has failed to prove the burden, which has been shifted on him, when prima facie by examining about 36 prosecution witnesses, the allegation of disproportionate asset to the known sources of the appellant-accused had been proved by the prosecution witnesses, more specifically, by P.W.14 to P.W.36.

4.1 Learned Public Prosecutor Mr. Dave submitted that the property valued about Rs.35 Lacs, was purchased only at the value of Rs.5,51,100/-. The accused had not satisfactorily proved as a public officer, the legal transfer of money and submitted that the gift deed of Rs.7 Lacs in the name of the wife of appellant through the Bank, itself would prove that the money received was not from the legal source. Learned Public Prosecutor Mr. Dave contended that a person residing at Sudan giving money as gift without any cause would amount to windfall in the hands of the appellant and it has always to be assumed that such amount received as gift was taken for some motive or reward. Learned Public Prosecutor Mr. Dave relying on the judgments of (i) **State of Karnataka v. J. Jayalalitha, (2017) 6 SCC 263**; (ii) **N. Ramakrishnaiah v. State of A.P., (2008) 17 SCC 83**; (iii) **K. Ponnuswamy v. State of T.N., (2001) 6 SCC 674**; (iv) **P. Nallammal v. State, 2025 SCC OnLine SC 1040**, submitted that if the public servant would be permitted to accept money from any person irrespective of their relation, then that would encourage the public officers to indulge in corrupt practices



and such receipt of money would get legalise through the institution, which cannot be permitted for public servant, who is required to show his commitment towards his job with full integrity.

4.2 Learned Public Prosecutor Mr. Dave submitted that any receipt from windfall, or gains of graft, crime of immoral secretions by any persons *prima facie* would not be receipt from the 'known sources of income' of a public servant. The prosecution has proved with all the documentary evidence supported by the testimony of the witnesses, the illegal receipt of the cash money and the illegal purchase of property and submitted that the appellant as a judicial officer is guided by the Gujarat Civil Services (Conduct) Rules, 1971 and cannot therefore, express his ignorance about the rules, for maintaining absolute integrity and devotion to duty and not doing any act unbecoming of the public servant. Learned Public Prosecutor Mr. Dave stated that appellant was governed by Rule 19 of the Gujarat Civil Services (Conduct) Rules, 1971, whereby he had to give full details about the movable, immovable and valuable property belonging to him, who he could acquire or dispose of any immovable property in his name or in the name of his family member only on the previous sanction of the prescribed authority. Learned P.P. Mr. Dave submitted that Gujarat Civil Services (Conduct) Rules, 1971 has provided for gifts and it has been very categorically laid down that no public servant shall accept or permit any of his family member or any other person acting on his behalf to accept any gift, and thus submitted that the



prosecution had proved the case beyond all reasonable doubts, hence, made a prayer to upheld the judgment of conviction and sentence.

5. Having heard learned Senior Advocate Mr. Panchal assisted by Mr. Vyas and learned Public Prosecutor Mr. Dave assisted by learned APP Ms. Bhatt, perused the testimonies of the witnesses and the exhibited documents proved on record. P.W.36 was the Investigating Officer and P.W.35 was the inspector assisting P.W.36. Both the witnesses have in their depositions stated about the statements recorded by them and specifically P.W.36 had detailed out in his testimony about the procedure adopted for the investigation, after reading the complaint and registering as F.I.R. and the documents received and process adopted by him through the witnesses to file the charge sheet.

6. P.W.36 was the Investigating Officer, Abdul Gani Husen Malik, examined to state about the investigation conducted by him under the order given to him to file a case against the appellant P.A. Gohil serving as Judicial Magistrate, First Class, Pardi. Such order was by the vigilance officer on 20.12.2002 through the order of the Chief Justice and the administrative judge of Valsad District. The witness stated that after he received the papers, he found the statement of Pravin V.Shah recorded by the vigilance officer and when he found the elements of the offence, he registered criminal registration No.2/2002 in High Court Vigilance Police Station under Section 7, 12, 13(1), 13(b)(2) and had signed the report



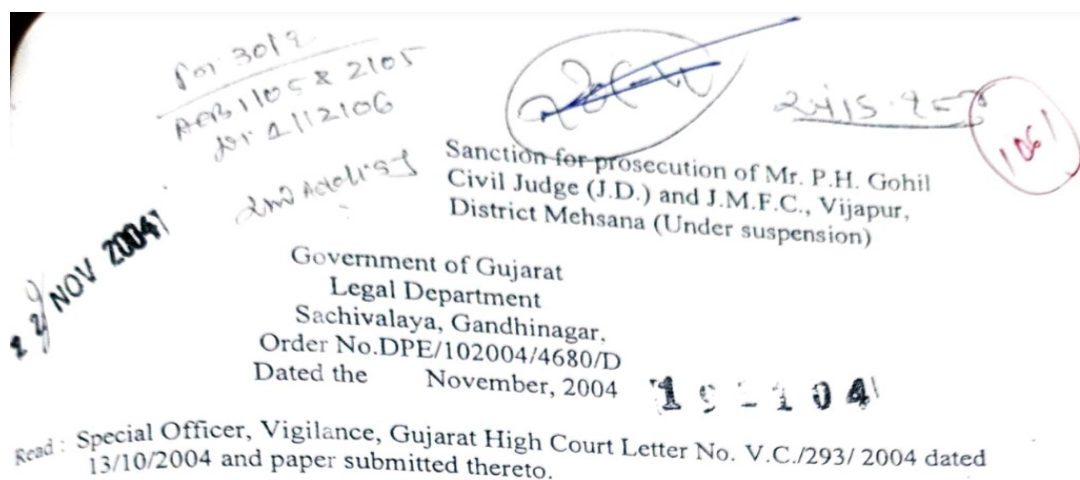
under Section 157 of the Procedure Code to the competent authority. The investigation officer has referred to the search conducted at the house of the appellant. The statement of Pravin B.Shah was considered as complaint before the vigilance officer and after finding sufficient evidence he under the order had filed the charge sheet against Shri Gohil and thereafter on the ground of abetment finding sufficient evidence, he filed supplementary charge sheet against rest of the two accused, informing the complainant under Section 173(b) of the Cr.P.C. The witness has referred to all the documents in his deposition and has referred to the gift of cash of Rs.7 Lacs received by the wife of the appellant, as well as about the property purchased in the name of the wife of the appellant. The witness stated that as per the Executive Engineer report and Town Planner's report the value of the property and the land was of Rs.35 Lacs.

6.1 P.W.35 - Jaswantsinh Mohabatsinh Rathod was a vigilance inspector in vigilance branch in Gujarat High Court along with him was another inspector R.J. Raol. Witness stated that his vigilance supervision was retired D.S.P. Malik (P.W.36). Their duty was to follow the orders of Maliksaheb. The witness has referred to the statement recorded by him. In the cross-examination, he stated that Exh.91 - gift letter was given by Sumatilal (P.W.17).

7. The sanction for prosecution of the accused was granted by the Joint Secretary to Government of Gujarat, Legal Department by the order dated 11.11.2004, which was placed



in evidence by P.W.34 - Vishnukumar Prabhudas Patel at Exh.184. The scan copy of the order of sanction dated 11.11.2004 is reproduced herein below for ready reference:



ORDER

- (1) Whereas in the year 2002 Mr. Premjibhai H. Gohil held the office of the Civil Judge (J.D.) and Judicial Magistrate (First Class) at Pardi, District Valsad and as such is a public servant, presently under suspension, Head Quarter at Vijapur, District Mehsana.
- (2) A complaint was filed against Shri P.H. Gohil and other persons on 21/12/2002 at about 11.00 a.m. at High Court Vigilance Cell Police Station which is registered as CR No. I 2/2002 under Section 7,12,13 (1) (a)(e) and 13 (2) of the Prevention of Corruption Act, 1988.
Special Officer (Vigilance Cell) High Court of Gujarat at Ahmedabad sent the original letter submitted by Vigilance Officer II and relevant papers for according sanction to prosecute Shri P.H. Gohil vide letter under reference.
- (3) Upon perusal of the record, it appears that the following and other allegations are levelled against Mr. Gohil :
 - (a) Mr. P.H. Gohil was working as Civil Judge (J.D.) and JMFC Pardi, had collected illegal wealth of lacs of rupees as bribe in Pollution and Food Adulteration cases through his brother in law Mr. Pradipbhai Makwana out of which on 7/12/2002, his wife has purchased a house valued at Rs. 5,51,100/- by showing that the said amount was received by her as gift from NRIs. The actual price of the premises purchased by her is of Rs. 36 lacs.
 - (b) That Mr. P.H. Gohil has got constructed one pakka road from his quarter to the Court building costing about Rs.25000/- through one Anvarbhai who was an accused in one criminal case pending in his court. Mr. P.H. Gohil has imposed very nominal amount of fine and disposed off the case in lieu of constructed road.
 - (c) Mr. P.H. Gohil had taken special interest in the pollution and food adulteration cases and had issued warrants in 428 cases, taken the amount of gratification other than legal remuneration for cancellation of warrants and disposal of the cases.
 - (d) Mr. P.H. Gohil had taken bribe of Rs. 3 lacs and 4 lacs through his brother in law Shri Pradipbhai Makwana in criminal case No.533/95 and 2459/89 respectively from the parties to acquit the accused.



- (c) That Mr. P.H. Gohil has taken Rs. 35000/- as bribe from Chandrakant Navnitlal Dhami, resident of Udvada, to favour the accused and acquitted in criminal case No.2642/90.
- (d) Shri H.D.Shah, Practicing Advocate at Pardi had alleged that his client viz. Agrawal Paper Mill's Owners had given bribe of Rs. 3 lacs to the brother in law of Mr. Gohil i.e. Pradipbhai Makwana in the Pollution Case and acquitted the accused expeditiously.
- (e) It is also alleged that Mr. P.H. Gohil was collecting bribe through his brother in law Mr. Pradipbhai who used to stay at the same station where Mr. P.H. Gohil was posted.
- (4) And whereas, after perusing the evidence and materials collected and placed on record, it appears that Mr. P.H. Gohil being a public servant, has habitually accepted and obtained, for himself lacs of rupees as gratification other than legal remuneration, as a reward for doing official act, favour or disfavour to persons shown as witnesses to render services and passed illegal order with the State Government. That Mr. P.H. Gohil has abetted the offence punishable u/s 7 and 11 of the Prevention of Corruption Act, 1988, committed by his brother in law and also being a public servant has committed the offence of criminal misconduct.
- (5) And whereas the State Government, after fully and carefully examining the material before it in regard to the said allegations and the circumstances of the case, considers that the said Shri P.H. Gohil should be prosecuted in a court of law for the offences punishable under Section 7, 12, 13(1)(a)(e) and 13 (2) of the Prevention of Corruption Act, 1988.
- (6) Now, therefore, State Government doth hereby accord sanction under Section 19(1)(b) of the Prevention of Corruption Act, 1988, for the prosecution of the said Mr. P.H. Gohil for the said offence punishable under Section 7, 12, 13(1)(a)(e) and 13(2) of the Prevention of Corruption Act, 1988 for taking of cognizance of the said offence by a court of competent jurisdiction.

By order and in the name of the Governor of Gujarat,

V.P. Patel
11/11/04

(V.P. Patel)

Joint Secretary to Govt. of Gujarat,
Legal Department

Copy to :

1. The Registrar General, High Court of Gujarat, Sola Road, Ahmedabad
- ✓ 2. The Registrar (Vigilance Cell), High Court of Gujarat, Sola, Ahmedabad
3. The District Judge, Mehsana
4. The Treasury Office, Mehsana
5. The A.G. Office, Rajkot
6. Mr. P.H. Gohil, Civil Judge(J.D.) & JMFC, Vijapur, Dist. Mehsana
(Under Suspension) - Through *High Court of Gujarat*
7. The Select File

8. The prosecution was initiated against the present accused, his wife and brother-in-law on the complaint made by P.W.1, the practicing lawyer of Vapi-Valsad, Mr. Pravinbhai Vajechand Shah, while he was president of Pardi Bar and according to the deposition at that time, appellant Shri Gohil was the Judge, who had come from Surat. Complainant has



deposed that after the transfer of appellant from Pardi to Valsad, he was called by Vigilance Officer, Gujarat High Court in connection with the investigation regarding allegation of bribe against appellant Shri Gohil. When he reached the High Court Vigilance Office at that time the president of Valsad Bar President, Mr. Vasantbhai Patel and Mr. Kureshi as Secretary were present there.

9. P.W.1 stated that till the time Shri Gohil was serving at Pardi, Bar had not made any representation against the judicial officer. The complaint was regarding the demand of bribe amount in connection with Shri Chemicals and Shivam Chemical, which was represented by him as an advocate. Shri Gohil as a Judge had issued warrant against the accused and for cancellation of the warrant the demand was made. P.W.1 as an Advocate stated that one Shantilal informed him that the appellant was issuing warrant against accused of the matter and would not cancel it and would direct them to remain in jail. P.W.1 stated that he has also made representation before District Judge and the Vigilance Department of the High Court as well as before the Unit Judge.

10. The prosecution had examined Anwarbhai Pirmohammad Makrani as P.W.2 against whom warrant was issued, P.W.3 - Arvindbhai Pragjibhai Desai, partner in Shree Chemicals and Sinochem Product company against whom summon was issued, P.W.4 - Chandrakantbhai Pragjibhai Desai, brother of P.W.3 - Arvindbhai, P.W.5 - Chandrakantbhai Navnitlal



Dhami, person against whom food related case was lodged, P.W.6 - Hirachand Devchand Shah, who was a retired Advocate, P.W.7 - Mehta Shrenikkumar Seventilal, P.W.8 - Vikrambhai Ratilal Shah, Accountant in Shivam Chemical, P.W.9 - Gunwantrai Maganlal Desai, Senior Clerk at Pardi Court, P.W.10 - Prasantbhai Jawaharlal Desai, Advocate at Pardi Court, P.W.11 - Magansinh Gumansinh Rathod, retired APP., P. W. 29. Dilipbhai Narayan Irawa ,Junior clerk RTO Surat, P. W. 30. Syed Ahmed Rashid Shaikh, buyer of car of Pradeep bhai Jaimal Bhai Makwana, P. W. 31 Jaykerbhai Shantilal Majethiya secretary, APMC Surat. P.W.32. Gorangbhai Upendra Bhai Patel - Insurance agent. P.W.33 - Maheshbhai Ambelal Mistry, staff of Mahesh Car Broker Firm, to prove the case under section 7, 12 and 13(1)(a) of the P.C. Act.

10.1 The prosecution had examined P.W.23 - Kasushik Narvarbhai Patel, Account Officer in Zilla Panchayat, Mehsana to remain as a panch for the search to be made at the rental house of the appellant Shri Gohil. The investigation officer Shri Malik from the vigilance branch of High Court on 23.12.2002 along with the panchas had gone to the house of Shri Gohil and his wife and the things and articles, which were found in the house were recorded as per the panchnama and photographs were also taken. The panchnama was produced at Exh.118. P.W.24 - Jayendrabbhai Pragibhai Chudasma, Senior Clerk in Sales Tax office remained as a panch for making a search at the house of Premjibhai Haribhai Gohil, the father of the appellant. The panchnama



was produced at Exh.121 and the receipt given to the appellant's father Exh.122 was produced in evidence.

11. P.W.25 - Deputy Mamlatdar of Junagadh was a panch of Exh.134 and a signatory to the receipt of Exh.135. The witness was taken as a panch for search to be conducted at the house of acquitted accused No.2 - Pradipbhai and his mother Sarojben.

12. The offence with regard to sections 7, 12 and 13(1)(a) could not be proved by the prosecution, hence, accused nos.2 and 3 came to be acquitted, while accused no.1 the present appellant has been convicted for the offence under section 13(1) (e) read with section 13(2) of the P.C. Act. It was alleged that the appellant had collected illegal wealth of lakhs of rupees as bribe in Pollution and Food Adulteration cases through his brother-in-law, Pradipbhai Makwana, acquitted accused No.2. On 07.12.2002, the wife of the appellant, acquitted accused No.3, had purchased a house showing the value as Rs.5,51,000/- by showing cash as gift received from N.R.Is P.W.17 and P.W.18, while the actual price of the premises was Rs.36 Lakhs.

13. P.W.34, the sanctioning officer Vishnukumar Prabhudas Patel was examined to prove the sanction Exh.184 referred herein above. The officer stated that he received the file for prosecution sanction, when he was serving as a joint secretary, and had given evidence of reading the reports, documents, statement of witnesses, complaint and



documentary evidence and after deep study having found *prima faice* case had given the sanction, Exh.184, which he had sent to the High Court. In connection to the property which was purchased in the name of wife of the present appellant as a gift, the sanctioning officer, affirmed that he had read the statements from the file of the persons, who have given the gift. The sanctioning officer was also asked the question in relation to the statements of the persons who had given money in the form of gift to Shobhnaben, who answered that on reading the statements and the gift letter, there was reference of Rs.7 Lakhs given as gift. The Gift-letter dated 22.11.2002 was before the Notary R.S. Jani. P.W.34 denied the suggestion that it was in the statements of Sumatilal - P.W.17 and Nilam Kumari P.W.18 that they had given the money to Shobhnaben as their daughter.

14. The prosecution had examined P.W.12 - Hemant Naginbhai and P.W.13 - Jaywantbhai Bhikhubhai Modi in connection with the flat, which was rented by the brother-in-law (acquitted accused No.2) of the present appellant.

15. Section 13(1)(e) read with section 13(2) of the P.C. Act requires mention here to appreciate the evidence, thus reproduced herein under for ready reference:

**“13 Criminal misconduct by a public servant - (1)
A public servant is said to commit the offence of
criminal misconduct -**

(a)...

(b)...

(c)...



(d)...

(e) if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of Income.

Explanation: - For the purposes of this section, "known sources of income" means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant."

15.1 In the case of **M. Krishna Reddy v. State** (supra), referred by learned Senior Advocate Mr. Panchal. The Hon'ble Supreme Court has explained that failure to satisfactorily account for the possession of resources or property becomes offence, in context of section 13(1)(e) of the P.C. Act. After the prosecution proves the necessary ingredients, the burden of satisfactorily accounting for such possession shifts to the accused. It was held as under:

6. An analysis of Section 5(1)(e) of the Act, 1947 which corresponds to Section 13(1)(e) of the new Act of 1988 shows that it is not the mere acquisition of property that constitutes an offence under the provisions of the Act but it is the failure to satisfactorily account for such possession that makes the possession objectionable as offending the law.

7. To substantiate a charge under Section 5(1)(e) of the Act, the prosecution must prove the following ingredients, namely, (1) the prosecution must establish that the accused is a public servant, (2) the nature and extent of the pecuniary resources or property which were found in his possession (3) it must be proved as to what were his known sources of income, i.e. known to the prosecution and (4) it must prove, quite objectively, that such resources or property found in possession of the accused were disproportionate to his known sources of income. Once the above ingredients are satisfactorily established, the offence of criminal



misconduct under Section 5(1)(e) is complete, unless the accused is able to account for such resources or property. In other words, only after the prosecution has proved the required ingredients, the burden of satisfactorily accounting for the possession of such resources or property shifts to the accused.

16. P.W.14 - Suryakantbhai Bhagwanbhai, who was serving in the Sub-registrar office, Mangrol in the year 2003, he stated that since 1984, he was serving in the Registration Department. From 2002 till 18.05.2005, his evidence records that, his office was having an Office Assistant Clerk - Mr. B.M. Atodariya. His duty included registration of the documents in the form of sale deed, mortgage deed, gift deed etc. of the property of Mangrol village and Taluka.

16.1 P.W. 14 stated that he was referred to documents registered at Mangrol office at Serial No.1046 on 07.12.2002 between 12:00 to 1:00 in the afternoon, and stated that it was sale deed of Rs.5,51,000/- of the property in the boundary of Mangrol Nagarpalika of City Survey No.7618, admeasuring 746.64 sq. mtrs., a house on Secretarial Road with old Rukka Lekh No.17/98, the purchaser was Smt. Shobhnaben, wife of Premjibhai Gohil, resident of Shahpur Darwaja, Mangrol and the sellers were Dineshbhai Tarachand Shah, Kirtibhai Tarachand Shah, Saileshbhai Kishorchand Shah and Rajeshbhai Kishorchand Shah, with the registration fee of Rs.8,355/- and photo side fee of Rs.130/- and in total 8,485/- was recovered by executing Receipt No.1602546 on 07.12.2002, where upon he identified the signature of Mr. B.N. Atodariya as Sub-registrar. The witness stated that the stamp used was of Rs.83,000/-, and after the writing of the



document, there were signatures of the sellers and the witnesses. The vendors were identified by Maheshkumar Sumandas Merwana, resident of Mangrol and Mitesh Dineshchandra Shah. The witness identified the signature and the seal. Witness had given the certified copy at the time of recording of his statement to the Investigating Officer and produced the copy of the sale deed, Exh.75. The receipt executed for recovery of the registration fee was put in evidence at Exh.76, where upon the name of Shobhnaben wife of Premjibhai Gohil was referred, on which her signature was received. The witness has also referred to the register maintained in this office with regard to the document at Serial No.1046 and the said was produced in evidence at Exh.77. The Index of the sale deed under his signature was produced at Exh. 78.

16.2 In the cross-examination, P.W.14 affirmed that when the property was sold and the document was registered, at that time, initially the valuation of the property was verified. The witness affirmed that the property was valued as per the price decided in the Jantri, and if the stamp duty is paid as per the Jantri price, then there would not be any issuance of notice. The witness also affirmed that if the stamp duty was used as per the market price, even then, the document would be registered. The witness stated that if there would be any objection to the document, then the document would not be registered. In the present case, the witness stated that there was no objection to the registration and therefore it came to be registered.



16.3 From the evidence of P.W.14, it transpires that the registration took place without any objection. The valuation of the property was verified prior to the registration of the sale deed.

17. P.W.15 - Govindbhai Jagmalbhai, from 01.06.2001 to 30.09.2006 was serving in Maintenance City Survey Office. As per his evidence, the process of recording of the name would be on the basis of 'Utaru' (Index) from the Sub-registrar Office on the application, which would be moved to the Maintenance Surveyor and after recording the necessary entry it was placed before City Survey Superintendent. The entry would be in the property card as per the Index from Sub-registrar and with the passage of time, those entries would be certified. The notice under Section 135D would be sent to the persons, whose rights get deleted. The witness referred to Exh.78 as the 'Utaru'. The witness has referred to 135D notice to the vendors by UPC by relying on Exh.81. Exh.82 is the notice, which he issued to the vendors as a Maintenance Surveyor, and has produced in evidence at Exh.83; the change entry at Serial No.208, in connection with the document No.1046. The witness stated that the names of the vendors were removed, and as a purchaser of the property, name of Smt. Shobhnaben wife of Premjibhai Gohil was recorded with the change entry dated 17.01.2003. The details recorded the Registration No.1046 of the sale dated 07.12.2002 for Rs.5,51,000/-. The entry was certified by the officer.



18. In the cross-examination the witness P.W.15 referring to the property card stated that the name of Shobhnaben was deleted and the name of Dinubhai Solanki got reflected on 06.06.2003.

19. P.W. 16 as a stamp vendor and bond writer referred to Stamp Serial Nos.158(1) to (12), which he stated that as a stamp vendor he has sold the stamp to Shobhnaben. He identified the signature and stated that thereafter on instruction he typed the sale deed, wherein the purchaser was Shobhnaben wife of Premjibhai Gohil, thereafter he had written the names of all the vendors, who were four in number. According to him the sale deed was for City Survey No.7618 of old construction. The witnesses were Kishanbhai Jivabhai and Makwana Pradipbhai Jaimalbhai. Kishanbhai Jivabhai was resident of Sediyaaj and was in the business of coal and Makwanabahi was the brother of Shobhnaben. In accordance to the evidence, Exh.75 - sale deed was typed by witness P.W.16.

20. The evidence of this witness is concentrated with regard to purchase of stamps and the sale deed being typed by him. He has given the evidence of the vendor, vendee and witnesses to the document. The evidence of P.W.14 is with regard to registration of the sale deed and the evidence of P.W.16 suggests that on the same day of registration of the sale deed the stamp were purchased. The sale deed was in the name of wife of the present appellant, wherein Pradipbhai Makwana, acquitted accused No.2 was a witness to the



document. On comparison of the evidence of the Registrar P.W.14 and the evidence of P.W.15 - City Survey Maintenance Surveyor, it becomes clear that the property which was purchased on 07.12.2003 in the name of the wife of the present appellant was sold to one Dinesh Solanki where name was reflected in the property card on 06.06.2003.

21. The prosecution sanction were on the ground that on 07.12.2002, the wife of the appellant had purchased the house valued at Rs.5,51,100/- by showing that the said amount was received by her as gift from NRIs, while the actual price of the house purchased by her is of Rs.36 Lacs. The prosecution examined P.W.17 - Sumatilal Amrutlal Kamdar, P.W.18 - Nilamben Sumatilal Kamdar as the NRIs from whom the money was received by the wife of the appellant as gift.

21.1 P.W.17 - Sumatilal Amrutlal Kamdar testimony shows that he at that relevant time was residing at Rajkot with his wife. His birth place was Sudan, as his father, at that time, was at Sudan in the year 1942, because of the war, he and his mother come down to Jetpur and in the year 1950 they again went back to Sudan and had come in the year 1953 at Jetpur and after marriage he returned back to Sudan. His father died in the year 1986 at Sudan.

21.2 He stated that his education is upto standard 11. His wife's name is Nilamben and he has two daughters and two sons. Both his sons were the residents of Sudan, who were born there, where they are having business of cycle spare



parts, which was handled by both the sons. The witness stated that in the year 2002, he came back to Rajkot from Sudan along with his wife. Initially they resided at Silver Gold Complex and thereafter started staying in Gita Apartment. At that time he had opened his account in Union Bank of India, showing the residence as Silver Gold Complex. He got his passport renewed in the year 1996.

21.3 Since they were residing at Rajkot and as there was necessity for the monetary transaction from Sudan therefore he and his wife got opened a joint account in Union Bank of India and in that account mostly the amount would be deposited in dollar by cheque transfer. The witness stated that since he is now aged, he is having a retired life.

21.4 The witness stated that he was inquired by Rathod Saheb of High Court Vigilance Department, his statement was recorded and thereafter Malik Saheb also inquired from him. The witness was referred to the copy of the pass-book of Union Bank of India Exh.89 and he stated that on page no.3, there were transaction of his account. The copy of the passport was produced at Exh.90.

21.5 Referring to the passbook copy Exh.89, the witness stated that the account shows a withdrawal of Rs.7 Lac by cheque no.4784 dated 23.11.2002 and he said that the said amount was given to Shobhnaben as gift. The witness stated that he does not know the full name of Shobhnaben.



21.5.1 This evidence of the witness P.W.17 becomes very crucial. He does not know the full name of the person to whom they had gifted Rs.7 Lacs by way of cheque.

21.6 The witness P.W.17 further stated that he had not got any work done on payment of Rs.7 Lacs to Shobhnaben nor had be purchased anything from her. He also stated that Shobhnaben was not his relative and his wife had studied upto 4th standard. The witness also stated that all these facts were informed to Rathod Saheb and Malik Saheb. The witness also further stated that he was not knowing Shobhnaben while Shobhnaben was known to his wife.

21.7 This evidence of the witness P.W.17 creates doubt to the transaction in the form of gift. The witness does not know the donee nor does he know the full name of donee. He has clarified that Shobhnaben i.e. wife of the appellant is not his relative, then under what circumstances, Rs.7 Lacs were given as gift to Shobhnaben becomes suspicious.

21.8 In the cross-examination of the witness, it has been elicited from the side of the accused and the witness stated that his wife Nilamben is from Jetpur and his wife's friend was Jivuben. He affirmed that at the time of their marriage, Jivuben had assisted them monetarily, who according to him was very financially strong. The last prince of Porbandar was considering Jivuben as his daughter and Jivuben's marriage was performed at the hands of the prince. The witness stated that his wife Nilamben was very close to Shobhnaben, the



relation between the two was of love and affection. This fact has been brought on record by way of cross-examination. The witness P.W.17 had not stated such details in his examination-in-chief.

21.9 The witness P.W.17 further stated that the business of his father in Sudan started from 1920, they earned a lot in the business and they were affluent. The witness stated that both the sons of his son Kailesh were suffering from Thalassemia and the younger son was operated at Velure for that they expended to 15 to 20 Lacs. He stated that he was receiving dollar from Sudan and was getting it exchanged at Dev Forex Pvt. Ltd. And those money he was depositing in Union Bank Rajkot, which was in his and his wife name as NRIs.

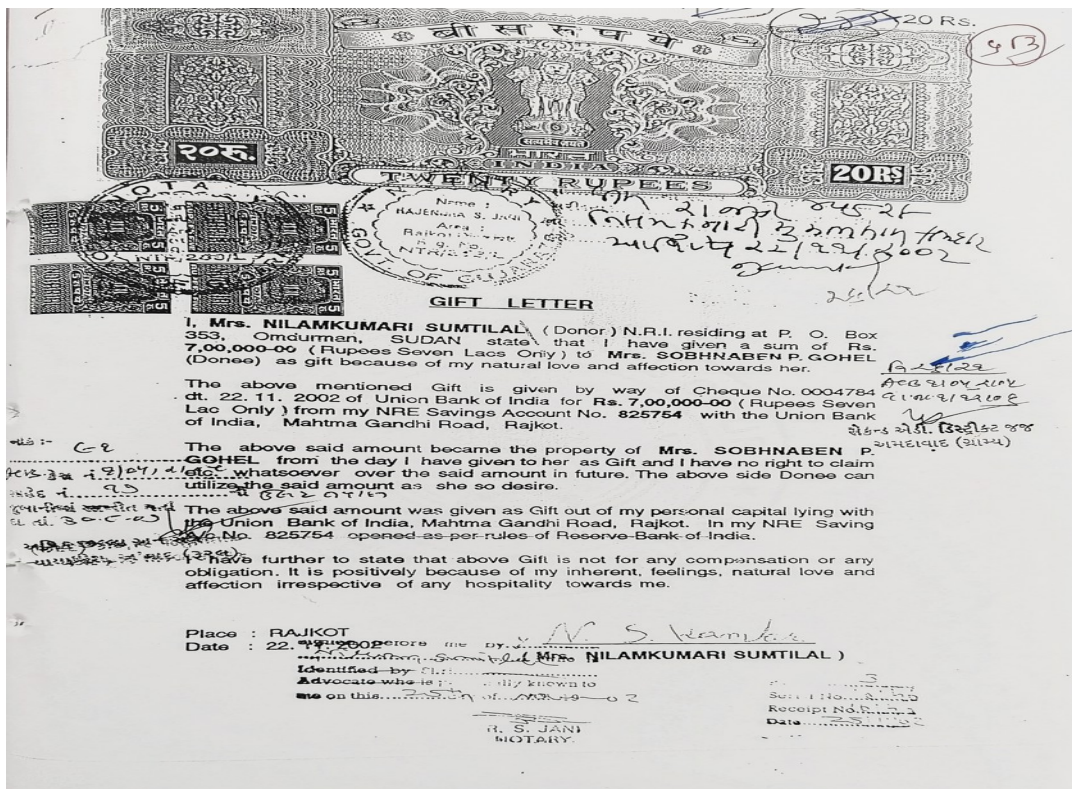
21.10 The witness stated that he had come in November, 2002 from Sudan and in that month he had opened the Bank Account. He also affirmed that on 21.11.2002, in Dev Forex Pvt. Ltd. 5000 dollars were received in his and his wife's name separately. Those were converted in rupees and deposited in the Bank.

21.11 The witness was also questioned about notarized gift deed and he stated that for drawing the deed he had appointed a Lawyer. His wife could sign in English and he had given the details in his own handwriting. The witness stated that they as husband and wife since long were often thinking to give gift to Shobhnaben and for that purpose they had conversation with their sons and the children agreed to fulfill



the wish. The witness stated that they have movable and immovable property in large quantity in Sudan and that children would always fulfill their wish.

21.12 In the cross-examination from the side of accused Nos.2 and 3, the evidence was recorded that the writing of the gift was executed in the notary's office, which was read in English and explained to them and after having affirmed, they had signed. The witness stated that he had given the copy of the document to Rathod Saheb and Malik Saheb when his statement was recorded. The witness was shown document Exh.91 and he affirmed his and his wife's signature thereon. The Scan Copy of Exh.91 is as below:





22. The document Exh.91 as referred above shows Mrs. Nilamkumari Sumatilal P.W.18 as donor of Rs.7 Lacs with donee as Mrs. Shobhnaben P.Gohel. Stamp paper valued at Rs.20/- appears to be purchased on 22.11.2002 in the name of the donor and the document was executed before the Notary - R.S. Jani on 25.11.2002. The gift amount was given by way of cheque No.0004784 dated 22.11.2002. The gift letter does not show the relation between donor and donee.

22.1 Nilamben Sumatilal Kamdar had been examined as P.W.18, the donor of gift letter Exh.91. She stated that from her birth she was residing at Jetpur. Her father was in the business of Hosiery and cutlery. Thereafter, she said that in the year 1953 they had gone to Sudan. She has referred the names of her two daughters and two sons. She stated that since last 5 to 7 years she was staying at Rajkot looking after the treatment of Thelassemia of two grandchildren along with the daughter-in-law at Rajkot. Her son from Sudan would come for six to twelve months and thereafter, would return back.

22.2 The witness P.W. 18 stated that she has a joint saving account with her husband at Union Bank of India. She has no knowledge of the limit of money she could bring and stated that it would be in the knowledge of her husband. She does not understand about bank or cheque transactions. All the transactions would be done by the sons and the husband. She stated that whenever her sons and husband would instruct her



to put signature, she would do so, otherwise she would have no knowledge.

22.3 The witness stated that she has no knowledge about the deed executed in favour of Shobhnaben. She had signed as she was asked to do so by her son. Then she volunteered to clarify that the signature was with her consent. The copy of the passport was placed in evidence at Exh.93. The witness was shown the xerox copy of counterfoil of cheque book and xerox copy of counter foil of the slip used for depositing the money in the Bank, while identifying the seal of the Bank, she stated that the details were written by her husband.

23. Here, it transpires that the gift letter Exh.91, executed in favour of Shobhnaben was not within the knowledge of this witness. She stated that she had put the signature under the instruction of her son. The fact of execution of the gift letter, for the money given by cheque of Rs.7 Lacs, out of love and affection to Shobhnaben wife of the appellant becomes a doubtful aspect. It appears that the donor without her knowledge and understanding was asked to put her signature on the gift letter. The bank transaction was by the witness husband.

23.1 In the cross-examination from the side of the present appellant, the witness P.W.18 stated that she knows to sign in English. Whenever she would have to go for monetary transaction she would be accompanied by her husband. Her Natal house is at Jetpur. She knows Jivuben of Jetpur.



According to the witness, Jivuben is the grandmother of Shobhnaben. The witness stated that Jivuben had monetarily helped her at the time of her marriage and the last prince of Porbandar Ranasaheb had adopted Jivuben whose marriage was performed through him. The witness stated that from the beginning, she and Jivuben had affectionate relation. Since Jivuben financially helped her at her marriage, she always considered it to be an obligation to her. The witness also stated that her relation with Shobhnaben was of love and affection and practically she consider Shobhnaben as her own daughter and since long she and her husband were considering to give something as gift to Shobhnaben so out of love and affection she had gifted Rs.7 Lacs to Shobhnaben and for that she and her husband together had drawn a writing before the Notary and on the writing regarding gift she had put her signature on her own volition with full understanding. She stated that one cheque of Rs.7 Lac was given to Shobhnaben as gift. She stated that there was relaxation of bringing 10,000 dollars from Sudan and often her children would bring money from Sudan.

23.2 The evidence as stated in the examination-in-chief does not reflect of any special bond between this witness and the wife of the appellant. While in the cross-examination, the relation has been joined through Jivuben of Jetpur, who has been referred as being grandmother of Shobhnaben. No evidence has been produced to prove the relation of donor and donee and of Jivuben with the wife of appellant.



24. P.W.28 - Vishal Mahendrabhai Raichuda was the witness from Dev Foreign Pvt. Ltd. Company, he stated that he was one of the Director. The vigilance officer had inquired from him and he had given the details on the letter head and according to his office record (1) on 14.11.2002, 100/- U.S. dollars, under Bulk Purchase no.155, were purchased from Union Bank of India. (2) by Bulk Purchase No.2160 on 20.11.2002 U.S. dollars 2050/- were purchased. (3) U.S. dollar 5,000/- from Milan Kumari through encashment no.471 (sic.) and had paid Rs.6,26,169/- (4) With encashment no.478, U.S. dollars 5,000/- were purchased from Shri Sumatilal Kamdar (P.W.17) and (5) U.S. dollars 4750/- on 22.11.2002 were purchased through purchase no.162 from Union Bank of India and (6) 2,650/- British Pound on 29.11.2002 were purchased from Union Bank of India. The statement with regard to the purchase price and the payment was produced in evidence at Exh.154. The witness stated that he has no knowledge about who was paid the money for the referred transaction nos.1-2-4 and 5, and further affirmed that for the entry nos.3 and 4 the transaction was legal and the payment was done in cash. The document at Exh.154 shows that the amount at serial no.3 to Nilamkumari Sumatilal (P.W.18) was made by cheque no.626169 of ICICI Bank and the payment to Sumatilal A. Kamdar (P.W.17) was made by cheque no.626170 of ICICI Bank.

25. The admitted position was of appellant being a judicial officer in service as a public servant and his wife would be his dependent. The public servant and his dependents are liable



to disclose all their earnings and had to prove that the property purchased were from the “known sources of income”. The section 13(1)(e) appended with the explanation clarifies that “known sources of income” for the purpose of section 13(1)(e) would mean income received from lawful source. The explanation thus, impresses upon the source of the money by way of income. The income received must be from the lawful source and such receipt should have been intimated in accordance with the provision of law, rules or orders for the time being applicable to a public servant. The appellant as a Judicial Officer has not brought on record that prior to his wife accepting the gift they had sought any permission or had got any approval from the administrative functionary of High Court of Gujarat. Nothing has come on record as an evidence from the side of the appellant Judicial Officer of intimating the Registry of the High Court of their intention to accept the gift from P.W.18.

26. The transaction has been made through Bank Account. The amount of Rs.7 Lacs given by way of cheque. Jivuben though has been referred as a grandmother of Shobhnaben, no such pedigree has been proved on record. Jivuben’s adoption by prince Ranasaheb, has not been proved by any documentary evidence. The obligation was of Jivuben on P.W.18 and because of that out of love and affection, the money has been given to Shobhnaben are mere words not substantiated by any documentary evidence, and too far-fetched.



26.1 The gift letter Exh.91 was drawn on 25.11.2002, the cheque no.0004784 of Rs.7 Lacs was drawn on 22.11.2002. The sale deed for purchase of the property was executed on 07.12.2002.

27. It was the argument of learned Senior Advocate Mr. Panchal that the prosecution has proved the case on their behalf and that nothing was left open by the prosecution for the accused to further lead any evidence to disprove the facts, as contemplated under Section 13(1)(e) of the Act. In accordance to argument of learned Senior Advocate Mr. Panchal, the gift letter executed and the transaction by way of cheque would be considered as legal in the eyes of law. The money has come from the legal source and the accused therefore, would not be required to explain further about the receipt of the money.

28. Further reliance has been placed by the prosecution on the evidence of P.W.19, the Branch Manager of ICICI Bank and P.W.20, one of the vendor, who had sold the house at Rs.5,51,100/-. According to Senior Advocate Mr. Panchal all the transactions were legally done and when the wife of the appellant has been acquitted, learned Senior Advocate Mr. Panchal expressed the view that the appellant cannot be convicted for the charge under Section 13(1)(e) of the Act.

28.1 P.W.19 - Mahernosh Firoz Kasad was a Branch Manager at ICICI Bank at Surat Athwaline. He was referred to Exh.98, which was a letter addressed to the Vigilance Officer



of Vigilance Cell of High Court of Gujarat on their official letter pad, informing that Shobhnaben Gohil had opened bank account on 18.12.2001, and they had informed the transaction for the period between 01.04.2002 to 30.05.2003. The letter Exh.98 informed the following details:

- 1. The correct Savings Bank Account No. of Smt Sobhanaben P Gohil is 005201015366 and the same was opened with proper introduction on 18th Dec 2001.*
- 2. Please find attached statement of account as desired*
- 3. There are no accounts in the name of Sri Premjibhai H Gohil and Pradipbhai J Makwana.*
- 4. There are no fixed deposit accounts in the name of Smt. Sobhanaben Premjibhai Gohil.*

28.2 The witness P.W.19, the Bank Manager, had also brought the form for the Bank Account No.005201015366 and the copy of photo identity card and driving license, which he produced at Exh.99. The witness stated that the amount were withdrawn in accordance to the details of document Exh.98, he had brought the copy of cheque no.456676 to 456681 from the original at their Bank and stated that it did not include cheque no.456680 and cheque no.76, 77, 78, 79 were given for preparation of Demand Draft and accordingly as per the instruction Demand Draft were issued and the witness stated that the cheque no.456676 of Rs.1,83,366/- was for Demand Draft in the name of Dineshbhai Tarachand Shah dated 28.11.2002. Cheque No.456677 of Rs.1,83,366/- was for the Demand Draft in the name of Kiritbhai Tarachand Shah. Cheque No.456678 and cheque no.456679 each of Rs.92,184/- were for the Demand Draft in the name of Shailesh



Kishorchand Shah and Rajesh Kishorchand Shah respectively and cheque no.456681 was used for cash withdrawal of Rs.1,50,000/-. The documents were jointly produced at Exh.100.

29. In the cross-examination, it was stated that on 11.12.2001, by way of pay-in slip Rs.15,000/- was deposited to open the Bank Account. The slip was produced at Exh.101. The witness stated that the account was open in the name of Shobhnaben P.Gohil in their Bank. The four drafts, which were drawn were on the basis of the cheque issued from the account of Shobhnaben P.Gohil on 28.11.2002.

30. Prosecution examined P.W.20-Dineshchandra Tarachand Shah, one of the vendor of the sale transaction in favour of wife of the appellant Shobhnaben. P.W.20, the resident of Rajkot was having a retired life staying at Ahiya Apartment. He stated that he was originally from Mangrol and they had a house in the name of their mother Manwantiben at Mangrol on secretariat road. They were three brothers. The eldest Kishorbhai died living behind Shailesh and Rajesh and his younger brother is Kiritikumar. Both the brothers and both the nephews together decided to sell the house and therefore there was conversation with Shobhnaben and her mother. Witness does not recollect the date of conversation, but appropriately he stated that it was on 25.11.2002 and they had decided to sell the house at Rs.5,51,000/-. There was no writing for the conversation and stated that Shobhnaben had given cash amount of Rs.1,100/- and it was decided that the



sale deed would be executed within a month. The sale deed was to be executed on seventh so they received the phone call from Shobhnaben to come down to Mangrol on fourth. So, he had informed Shobhnaben to bring four Drafts in their share in connection with the house for him, his brothers and for two nephews. Witness stated that the sale deed was executed on 07.12.2002 and they had received the Draft of ICICI Bank Surat of Rs.1,83,00/- in his favour and his brother, while two drafts of Rs.92,000/- were for the nephews.

31. The witness P.W.20 stated that Exh.75 sale deed was signed by all of them, and as the consideration amount was received they handed over the possession to Shobhnaben. The Vigilance Officer of High Court had recorded his statement.

31.1 In the cross-examination the witness affirmed that the property, which had been sold to Shobhnaben had a boundary on the eastern direction known as Mehta Mohanlal and ahead of that there was a name of Tibabhai Vakil. He affirmed that there was no secretariat road from Veraval to Porbandar. From the house sold, there were about ten to fifteen houses and after leaving Kharaba land thereafter was secretariat road heading from Veraval to Porbandar, and on the eastern side of the road there was secretarial building. On the western side were the house of Tribhuvan Nathuwala and on northern side was a 'Dhelo' of Khatri Pursotambhai, which was since very long time remaining close.



31.2 The witness P.W.20 further stated that Mangrol village was having the population of approximately 50,000 people, there were no shops around. The house which was sold to Shobhnaben. That house was remaining close since many years and that they had not done any renovation of the house. The house was constructed by their father 60 to 65 years ago and they were making efforts since long to sell the house. Since the house remained unoccupied and deserted therefore, could not be sold, though many persons had visited it. The witness also stated that Shobhnaben's mother Sarojben was serving in GEB Mangrol and therefore they were acquaintance. After their talks on 25.11.2002 with Shobhnaben and her mother, on the next day they had agreed for the sale of the house.

32. P.W.21 - Tapubhai Galabhai was working as an Deputy Engineer in sub-division in Road and Building Department at Keshod. The Executive Engineer at that time was Y.M. Chawda, whose office was at Junagadh. The witness stated that on 07.08.2003, the Executive Engineer had communicated of the letter of Shri A.H. Malik, Vigilance Officer for the valuation of Survey No.7618 and stated that as per the S.O.R., which meant Schedule Operates Abstracts, after his discussion with the Executive Engineer he had valued the house. The witness identified his valuation report Exh.109, which also had the attachment of Map of the house. The witness stated that as per his valuation on that day the price of the house was Rs.9,49,750/-.



33. In the cross-examination P.W.21 affirmed that nothing is on record to show that the the owner of the property, Shri Gohil, was called or any notice was issued to him. The letter of Shri Malik was produced at Exh.110 and the witness stated that as per the letter the owner of the property was Shobhnaben. He had not verified the ownership of the property at the time of the valuation. The witness stated that one of the family member of Gohilsaheb was present at the time of the measurement, who had brought the key of the house.

34. The witness P.W.21 stated that he does not remember as to which of the family member of Gohilsaheb was residing in the house, and while reading the file he stated that he came to know that the property was of Member of Legislative Assembly (M.L.A.) of Kodinar, Dinubhai Solanki. He also affirmed that when the property was valued neither Shobhnaben nor her husband Shri Gohil were the owner. The witness stated that when the property was valued he had written the price of all the items separately, running in the year 2003 and he had not made estimation of value of the house at the time when it was constructed. He affirmed that the property was purchased on 07.12.2002 at Rs.5,51,000/-. The witness stated that it was not within his jurisdiction to decide whether the market price of the property valued at Rs.5,51,000/- was paid. The witness also affirmed that neither he nor his assistant Shri Katodiya had inquired about any changes or renovation or plastering by the new purchaser after the property was sold away by Shobhnaben. The witness



also stated that it was not their duty to value the property by comparing it with the sale value of the neighboring houses. The witness stated that it was only their duty to value the house and the Town Planner had not informed them to value the price of the land.

35. Prosecution has produced the evidence through P.W.22 - Ashwinbhai Ambalal Borad of the valuation of the land, on which the house was situated. The witness as town planner has given the evidence with regard to process undertaken prior to visiting the place. The witness stated that on 7.12.2002, per square meter price of the land was Rs.3500. The report was finalised by the meeting of the valuation committee on 28-1-2004, and was communicated to the collector, Junagadh dated 30-1-2004. According to the witness, the value of the land 746.64 sq. metre of survey number 7618 on 07.12.2002 was Rs.26,13,240/-.

35.1 In the cross examination, the witness was asked about the base adopted for the valuation of the property. According to his reply, the base was the one which was used for valuing government property. The witness specified the valuation was only of the land and not of the house upon it. The witness has affirmed about the yadi of the price decided of land of the area by the government is recognised as Jantri. The witness stated that he has not taken to consideration the Jantri while evaluating the value of the land, as according to him, the circular of the revenue department, dated 30.09.2002 the Jantri prize is fixed for the government to examine the stamp



duty and stated that Jantri prize could in no circumstances be considered for Land valuation. The witness also affirmed that in the meeting on 28-1-2004. about 11 incidence were considered for deciding the price and except the incident referred at serial number, six others were both of the question of sale or lease, belonging to the government.

36. The law governing the public servant conduct becomes relevant to be noted. No public servant can deny that he is not regulated by conduct rules. Rule 19 of the Gujarat Civil Services (Conduct) Rules, 1971 mandates every Government servant to inform on the first appointment to his service or post by submitting a return of his immovable assets on the proforma as may be prescribed by the government giving full details regarding the immovable property inherited, owned acquired or held by him on lease or mortgage either in his own name or in the name of any other family or in the name of any other person. The Rule 19(2) obligates the government servant to put to the knowledge of his prescribed authority prior to acquiring or disposing of any immovable property by lease, mortgage, purchase, gift or otherwise either in his own name or in the name of any member of his family. Rule 13 of the Conduct Rules makes provision for gifts which restricts public servant from receiving gifts and also restrains to accept gift except as provided under rules.

37. The appellant has not proved by way of any documentary evidence of communication to the authority, whereby from the High Court any sanction to receive money in the form of gift



from P.W.18 in the name of his wife, was taken.

38. The appellant has failed to show and prove the relation of his wife with P.W.18. Under Income Tax law the gifts could be received only from the relatives, who could be (a) spouse of the individual; (b) brother and sister of the individual; (c) brother or sister of spouse of the individual; (d) brother or sister of either of the parents of the individual; (e) any lineal ascendant or descendant of the individual; (f) any lineal ascendant or descendant of the spouse of the individual; (g) spouse of the persons referred to in (b) to (f).

39. In the case as referred of **M.Krishna Reddy Vs. State** (supra), the Hon'ble Supreme Court while delineating the ingredients of Section 13(1)(e) of the P.C. Act, 1988 has laid down that after establishing that the accused is a public servant, the prosecution has to prove the nature and extent of the pecuniary resources of the property, which were in the accused possession and must prove the source of income of the accused known to the prosecution and thereby objectively prove that the resources or property found in the possession of the accused were disproportionate to his known sources of income. Once these ingredients are satisfactorily established, the offence of criminal misconduct under Section 13(1)(e) is complete. Once the prosecution has proved the required ingredients, the burden of satisfactorily accounting for the possession of such resources or property shifts to the accused.



40. Here in this present matter, the prosecution by examining P.W.15 to P.W.22 and P.W.28 has *prima facie* proved on record that the money received from P.W.18 and the property purchased from P.W.20 and his brother and nephews were not from the known sources of the income of the present appellant. The known source of income of appellant would only be his salary.

41. In the case of ***N. Ramakrishnaiah v. State of A.P., (2008) 17 SCC 83***, it was held as under:

17. *“5. Section 13 of the Prevention of Corruption Act, 1988 (in short ‘the Act’) deals with various situations when a public servant can be said to have committed criminal misconduct. Clause (e) of sub-section (1) of the section is applicable when the public servant or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession, for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income. [Clause (e) of sub-section (1) of Section 5 of the old Act was on similar lines.] But there have been drastic amendments. Under the new clause, the earlier concept of ‘known sources of income’ has undergone a radical change. As per the Explanation appended, the prosecution is relieved of the burden of investigating into ‘source of income’ of an accused to a large extent, as it is stated in the Explanation that ‘known sources of income’ means income received from any lawful source, the receipt of which has been intimated in accordance with the provisions of any law, rules, orders for the time being applicable to a public servant. The expression ‘known sources of income’ has reference to sources known to the prosecution after thorough investigation of the case. It is not, and cannot be contended that ‘known sources of income’ means sources known to the accused. The prosecution cannot, in the very nature of things, be expected to know the affairs of an accused person. Those will be matters ‘specially within the knowledge’ of the accused, within the meaning of Section 106 of the Evidence Act, 1872.*”



6. *[The emphasis of the phrase 'known sources of income' in Section 13(1)(e) {old Section 5(1)(e)} is clearly on the word 'income'.] It would be primary to observe that qua the public servant, the income would be what is attached to his office or post, commonly known as remuneration or salary. The term 'income' by itself, is elastic and has a wide connotation. Whatever comes in or is received, is income. But, however wide the import and connotation of the term 'income', it is incapable of being understood as meaning receipt having no nexus to one's labour, or expertise, or property, or investment, and having further a source which may or may not yield a regular revenue. These essential characteristics are vital in understanding the term 'income'. Therefore, it can be said that, though 'income' is receipt in the hand of its recipient, every receipt would not partake the character of income. Qua the public servant, whatever return he gets from his service, will be the primary item of his income. [Other income which can conceivably be] income qua the public servant, will be in the regular receipt from (a) his property, or (b) his investment. A receipt from windfall, or gains of graft, crime or immoral secretions by persons prima facie would not be receipt from the 'known sources of income' of a public servant.*

7. *The legislature has advisedly used the expression 'satisfactorily account'. The emphasis must be on the word 'satisfactorily' and the legislature has, thus, deliberately cast a burden on the accused not only to offer a plausible explanation as to how he came by his large wealth, but also to satisfy the court that his explanation was worthy of acceptance."*

41.1 In the above referred judgment of **N. Ramakrishnaiah** (Supra), the Hon'ble Supreme Court by emphasising on the phrase 'know source of income' in section 13(1)(e) of the P.C. Act has made a special emphasis on the word 'income', primarily to observe that qua the public servant, the income would be what is attached to his office or post, commonly known as remuneration or salary. Any windfall or gains of graft, crime or immoral secretions by



persons *prima facie* would not be receipt from the known source of income of a public servant.

42. Section 13(1)(e) of the P.C. Act has a very relevantly used expression 'satisfactorily account', which cast the burden on the accused not only to offer a plausible explanation as to how he came by his large wealth, but also to satisfy the Court that his explanation was worthy of acceptance, as observed in **State of Madhya Pradesh Vs. Awadh Kishore Gupta**, (2004) 1 SCC 691.

43. The prosecution herein had proved, that the source which had been proved by examining the witnesses, was not worthy of acceptance. The appellant as accused could not prove that his wife was legally entitle to accept money as gift from P.W.18. No blood relation of the spouse of the appellant is proved with P.W.18. The legal entitlement of receiving the cash amount as gift should be in accordance to the accepted provisions of conduct rules. Acceptance of money as gift from person not being the member of the family, more specifically, those not approved by the law, would always be a windfall gain to be termed as illegal. This aspect can be well understood by making a relevant reference of the case of **K. Ponnuswamy v. State of T.N., (2001) 6 SCC 674**, where it was observed as under:

28. Now, let us see the facts of this case. The prosecution has established beyond a reasonable doubt, that prior to the check period Accused 1, 2 and 3 had no real source of income, except some meagre income i.e. Accused 1 only earned a small salary as a Lecturer and Accused 2 had a small agricultural and



other income. Accused 3 being a student had no real source of income. Prior to the check period the financial condition of the family was such that Accused 1 could not even repay his small debts. The creditors had to recover their amounts by filing suits and executing decrees. We are presuming that Accused 4 had independent income. However, prior to the check period Accused 4 had not been afflicted by any love and affection and had not made any gifts to any member of the family of Accused 1. Prior to the check period Accused 4 did not even extend help to pay off the small debts of Accused 1 even after the decrees had been passed against Accused 1. Yet suddenly, during the check period i.e. when Accused 1 is a Minister, Accused 4 donates large sums of money to Accused 2 and 3. The natural presumption, considering the common course of natural events and human conduct is that Accused 1 would have used his nephew Accused 4 to transfer his (Accused 1's) monies to Accused 2 and 3. This is the supposition which any prudent man under these circumstances would act upon considering the natural course of events. The trial court and the High Court thus rightly took this as proved by legal evidence. The prosecution having established by legal evidence that the monies were transferred by Accused 1 to Accused 2 and 3 through Accused 4 and that these were monies of Accused 1 in the hands of Accused 2 and 3, it was for the appellant to satisfactorily account for the gifts. He could have done so by showing that even before the check period Accused 4 had made gifts of substantial amounts. It has not been claimed by Accused 2 and/or 3 and/or 4 that before the check period also Accused 4 had made any such gifts. It is also not their case that after the check period gifts were made. Thus the trial court and the High Court were right in not believing the case of gifts supposedly made out of a sudden burst of love and affection. Both the trial court and the High Court were right in convicting the appellant. As we are told that the State is going to file an appeal against the acquittal of Accused 2 and 3, we are not making any comments thereon.

44. In **K. Ponnuswamy (supra)**, the Hon'ble Supreme Court was dealing with the aspects of gift to the members of the family of the accused out of love and affection. The natural presumption was drawn considering the course of events and



human conduct and it was held that the money in the hands of the accused and his family member was for accused to satisfactorily account. The Apex Court had appreciated that the Trial Court and the High Court were right in not believing the case of gifts supposedly made out of sudden burst of love and affection.

45. Learned Senior Advocate Mr. Panchal submitted that everything was disclosed in the income tax return and therefore there cannot be any doubt with regard to the amount received as gift and the property purchased by the wife of the appellant. This argument of learned senior advocate Mr. Panchal can be dealt with by making a reference of the case of **State of Karnataka v. J. Jayalalitha, (2017) 6 SCC 263**, it was observed as under:

- *In tax regime, the legality or illegality of the transactions generating profit or loss is inconsequential qua the issue whether the Income is from a lawful source or not. The scrutiny in an assessment proceeding is directed only to quantify the taxable income and the orders passed therein do not certify or authenticate that the source(s) thereof to be lawful and are thus of no significance vis-à-vis a charge under Section 13(1)(e) of the 1988 Act.*
- *Though considerable exchanges had been made in course of the arguments, centring around Section 43 of the Evidence Act, 1872, those need not be expatiated in detail. Suffice it to state that even assuming that the income tax returns, the proceedings in connection therewith and the decisions rendered therein are relevant and admissible in evidence as well, nothing as such, turns thereon definitively as those do not furnish any guarantee or authentication of the lawfulness of the source(s) of income, the pith of the charge levelled against the accused. It is the plea of the defence that the income tax returns and orders, while proved by the accused persons had not been*



objected to by the prosecution and further it (prosecution) as well had called in evidence the income tax returns/orders and thus, it cannot object to the admissibility of the records produced by the defence. To reiterate, even if such returns and orders are admissible, the probative value would depend on the nature of the information furnished, the findings recorded in the orders and having a bearing on the charge levelled. In any view of the matter, however, such returns and orders would not ipso facto either conclusively prove or disprove the charge and can at best be pieces of evidence which have to be evaluated along with the other materials on record. Noticeably, none of the accused has been examined on oath in the case in hand. Further, the Income tax returns relied upon by the defence as well as the orders passed in the proceedings pertaining thereto have been filed/passed after the charge-sheet had been submitted. Significantly, there is a charge of conspiracy and abetment against the accused persons. In the overall perspective therefore neither the Income tax returns nor the orders passed in the proceedings relatable thereto, either definitively attest the lawfulness of the sources of income of the accused persons or are of any avail to them to satisfactorily account the disproportionateness of their pecuniary resources and properties as mandated by Section 13(1)(e) of the 1988 Act.

- *Where there is unexplained cash credit, it was open to the Income Tax Officer to hold that it is the Income of the assessee and no further burden lies on the Income Tax Officer to show that that income is from any particular source and that it is for the assessee to prove that even if the cash credit represented income, It is an income from a source which had already been taxed.*
- *Though the IT returns and the orders passed in the IT proceedings in the instant case recorded the Income of the accused concerned as disclosed in their returns, in view of the charge levelled against them, such returns and the orders in the IT proceedings would not by themselves establish that such Income had been from lawful source as contemplated in the Explanation to Section 13(1)(e) of the PC Act, 1988 and that Independent evidence would be required to account for the same.*
- *Property in the name of the income tax assessee itself cannot be a ground to hold that it actually belongs to*



such an assessee and if this proposition is accepted, it would lead to disastrous consequences. In such an eventuality it will give opportunities to the corrupt public servant to amass property in the name of known person, pay income tax on their behalf and then be out from the mischief of law.

45.1 The Hon'ble Supreme Court while making a reference of the case of **State of T.N. Vs. R.Soundirarasu**, reported in **(2023) 6 SCC 768**, in the recent judgment in case of **P. Nallammal v. State, 2025 SCC OnLine SC 1040**, has made observation:

16. We must also keep in mind that insofar as corruption cases under section 13(1)(e) of the PC Act are concerned, the burden of proof is reversed, and it becomes the responsibility of the accused to dislodge the presumption against him. This position has been reiterated by this Court in State of T.N. v. R. Soundirarasu, (2023) 6 SCC 768:

“83. Section 13(1)(e) of the 1988 Act makes a departure from the principle of criminal jurisprudence that the burden will always lie on the prosecution to prove the ingredients of the offences charged and never shifts on the accused to disprove the charge framed against him. The legal effect of Section 13(1)(e) is that it is for the prosecution to establish that the accused was in possession of properties disproportionate to his known sources of income but the term “known sources of income” would mean the sources known to the prosecution and not the sources known to the accused and within the knowledge of the accused. It is for the accused to account satisfactorily for the money/assets in his hands. The onus in this regard is on the accused to give satisfactory explanation...”

In the present case, the prosecution succeeded in establishing that the accused were in possession of assets hugely disproportionate to their known sources of income. The prosecution had successfully discharged its initial burden. Thereafter, it was for the accused to satisfy the Court, through cogent evidence, that the assets are from legitimate sources. Upon perusal of the material on record and considering the concurrent findings of the Courts below, I am of the opinion that the accused miserably failed to discharge this burden



of satisfactorily explaining the source of income behind the 'disproportionate assets'.

46. The law, thus makes it clear that the 'known sources of income' would mean the sources known to the prosecution and not the sources known to the accused and within the knowledge of the accused. The accused had to satisfy the Court through cogent evidence that the assets are from legitimate sources and had been informed to the prescribed authority.

47. Here in this present matter, under Section 13(1)(e) of the P.C. Act, the accused has failed to prove that the amount received as gift by the wife had been intimated to the High Court in accordance with the provisions of law, Rules or orders applicable to the appellant. The receipt of the money as gift, the purchase of the property in the name of the wife, and the sale of the property to Dinubhai Solanki had not been proved, to have been informed to the High Court by a prior sanction. Explanation under Section 13(1)(e) of the P.C. Act further clarifies that for the purpose of section 13(1)(e) the meaning of income would be the income received from lawful source and such receipt has been intimated, as provided by law, rules or orders for the time being applicable to a public servant. The phrase "known source of income", in Section 13(1)(e) has clearly laid the emphasis on the word "income". It would be primary to observe that qua the public servant, the income would be what is attached to his office or post, commonly known as remuneration or salary.



48. In the analysis of the evidence of witnesses and law under the provision of section 13(1)(e) of the P.C. Act, with its explanation, the appellant has miserably failed to discharge his burden, which got shifted to him after the prosecution had examined the witnesses to prove that the amount received as gift was legal and the purchase of the property in the name of wife was from the legal source, known to the High Court. The appellant failed to prove that the gift transaction, purchase and sale transaction of house was informed to the High Court for prior sanction. The prosecution had proved the case beyond reasonable doubt. The judgment of conviction and sentence of the Trial Court under Section 13(1)(e) read with section 13(2) of the P.C. Act does not require any interference of this Court.

49. In the result the appeal is dismissed. The judgment of conviction and sentence dated 30.05.2011 passed by the learned Additional Sessions Judge, Ahmedabad (Rural) Mirzapur, Ahmedabad in Special A.C.B. Case No.1-2/2005 is upheld. Bail bond stands cancelled.

49.1 The appellant-accused to surrender before the jail authority within fifteen days of this judgment, to serve the sentence. Record and Proceedings be sent back to the concerned Trial Court forthwith.

(GITA GOPI,J)

Pankaj/1