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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.07.2026

PRONOUNCED ON : 27.08.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.Nos.662 & 674 of 2016

Crl.A.No.662 of 2016 :-

1. K. Raju (Deceased)
   S/o. P. Kandan,

2. R. Valarmathi,
   W/o. K. Raju,
   Both Residing At
   No.5, Kothandan Street, Sekar Nagar,
   Jafferkhanpet, Chennai - 600 083.

3. R.V. Prakasavel
   S/o Late K.Raju
   Door No. 5/2 Kothandamstreet Sekar Nagar
   Jafferkhanpet Mambalam (Taluk),
   Chennai-600083
   (Amended as per order dated15/02/2024
   in Crl.M.P.No 2722/2024 in Crl.A.662/2016)

...Appellant(s) in
Crl.A.No.662 of 2016

Ashok Kumar Jain @ Ashok Kumar Golecha,
S/o.M.R.Golecha,
No.33, Clements Road,
Purasaivakkam,
Chennai – 600 007

...Appellant(s) in
Crl.A.No.674 of 2016

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Vs.

State rep. by the Inspector Of
Police, SPE: CBI: ACB
Chennai.
(RC MA 1 2004 A 0056)

...Respondent(s) in both Crl.As.

COMMON PRAYER: Criminal Appeals filed under Section 374(2) of Cr.P.C., to call for the records set aside the judgment dated 18.08.2016 rendered by the learned Principal Special Judge for CBI Cases/Additional City Civil Court, Chennai in C.C.No.12 of 2006 and acquit the appellants from the above case.

For Appellant(s) in Crl.A.No.662 of 2016	Mr.A.Ashwinkumar
For Appellant(s) in Crl.A.No.674 of 2016	Mr.R.Rajarathinam, Senior Counsel For Mr.S.R.Ramachandran
For Respondent(s) in both Crl.As.:	Mr. K.Srinivasan Special Public Prosecutor for CBI cases

COMMON JUDGMENT

Both the Criminal Appeals have been preferred as against the judgment dated 18.08.2016, passed by the learned Principal Special Judge for CBI Cases, VIII Additional City Civil Court, Chennai, in C.C.No.12 of 2006, thereby convicting the appellants for the offences punishable under Sections 120B, 193, 465 r/w. 471 of IPC and Section

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13(2) r/w. 13(1)(e) of the Prevention of Corruption Act, 1988 (hereinafter referred to as "the PC Act").

2. The case of the prosecution is that the first accused was a public servant who served as a Junior Telecom Officer, Madras Telephones, and subsequently as Sub-Divisional Engineer (Legal), BSNL, Chennai. The second accused is the wife of the first accused, and the third accused is the Chartered Accountant of the first accused. It is alleged that, during the period from 01.10.1991 to 02.09.2004, all the accused entered into a criminal conspiracy and acquired movable and immovable properties in the names of the first and second accused, which were allegedly disproportionate to the known sources of income of the first accused, to the tune of Rs.58,86,971/-. On the basis of the said allegations, the respondent registered an FIR and upon completion of the investigation, the respondent filed the final report, and the same was taken cognizance by the Trial Court in C.C.No.12 of 2006.

3. In order to establish the charges, the prosecution examined P.W.1 to P.W.59 and marked documents as Ex.P.1 to Ex.P.217. The prosecution also produced one material object marked as M.O.1. On the side of the accused, D.W.1 to D.W.3 were examined and documents were

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marked as Ex.D.1 to Ex.D.4. Upon perusal of the oral and documentary evidence, the Trial Court found all the accused guilty of the offences punishable under Sections 120-B, 465 read with 471 of the IPC and Section 13(2) read with Section 13(1)(e) of the PC Act and acquitted them for the offence under Section 193 of IPC. Accordingly convicted and sentenced them as follows:-

Section	Sentence
120(B) of IPC (all the accused)	To undergo rigorous imprisonment for one year and to pay a fine of Rs.5,000/- each in default to undergo simple imprisonment for three months.
465 r/w. 471 of IPC (8 counts - all the accused)	To undergo rigorous imprisonment for one year and to pay a fine of Rs.1,000/- each in default to undergo simple imprisonment for three months.
Section 13(2) r/w. 13(1)(e) of PC Act (A1 alone)	To undergo rigorous imprisonment for two years and to pay a fine of Rs.10,000/- each in default to undergo simple imprisonment for six months.

The above sentences were ordered to run concurrently. Aggrieved by the conviction and sentence, the appellants filed the present Criminal Appeals. While pending the appeal, the first accused, who was the public servant, died and as such all the charges as against the first accused are abated.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

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5. On perusal of the submissions made by the learned counsel appearing on either side, it is revealed that the first accused, while serving as a public servant in the capacity of Junior Telecom Officer, Madras Telephones, and subsequently as Sub-Divisional Engineer (Legal), BSNL, Chennai, allegedly entered into a conspiracy with A2 and A3 and acquired movable and immovable properties in the names of the first and second accused, which were alleged to be disproportionate to the known sources of income of the first accused, to the tune of Rs.58,86,971/-, during the check period from 01.10.1991 to 02.09.2004.

6. The second accused is the wife of the first accused and was independently carrying on business in the name and style of R.V. Enterprises, from which, she was earning independent income. It is the specific case of the second accused that she acquired the properties out of her own independent and lawful income derived from the said business, as well as from her ancestral properties. Therefore, according to the second accused, the properties acquired by her cannot be treated or equated as part and parcel of the assets acquired out of the income of the first accused. The particulars and valuation of the properties acquired by the second accused are set out hereunder:-

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Sl. No.	Date	Description of property	Value
1	18.12.1991	Value of purchase of constructed old house at Old No.2 New No.5 Kothandan Street, Sekar Nagar, Jafferkhanpet.	Rs.1,90,000/-
2	04.03.2005	Valuation report of the estimate of Cost of construction (Civil) of the house at Old No.2, New No.5 Kothandan Street, Sekar Nagar, Jafferkhanpet.	Rs. 16,97,400/-
3	10.05.2005	Valuation report of the estimated cost of electrical services for the house at Old No.2, New No.5 Kothandan Street, Sekar Nagar, Jafferkhanpet.	Rs.76,390/-
4	15.07.1996	Value of property at Plot No.32, Natarajan Street, Balakrishnan Nagar, Jafferkhanpet, Chennai-83 by A.2 registered with Sub-Registrar Office, Kodambakkam, Chennai vide Doc.No.3651/1996.	Rs.3,00,000/-
5	21.01.1999	Value of vacant plot at No.133, Balakrishnan Street, Sathyamoorthy Block, Jafferkhanpet, K.K.Nagar, Chennai-78 purchased by A.2 registered with Sub-Registrar Office, Ashok Nagar, Chennai vide Doc.No.141/1999.	Rs.4,90,000/-
6	04.03.2005	Valuation report of the estimated cost of construction (Civil) of the house at No.133, Balakrishnan Street, Sathyamoorthy Block, Jafferkhan pet, K.K.Nagar, Chennai-78.	Rs.23,32,600/-

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7	10.05.2005	Valuation report of the estimated cost of electrical services for the house at No.133, Balakrishnan Street, Sathyamoorthy Block, Jafferkhanpet, K.K.Nagar, Chennai-78.	Rs.61,905/-
8	04.03.2005	Valuation report of the estimated cost of the Construction (Civil) of the Flats at Door No.27, Plot No.32, Vengeeswarar Nagar, First Street, Vadapalani, Chennai constructed by Annamalai Builders.	Rs.13,64,400/-
9	10.05.2005	Valuation report of the estimated cost of electrical services for the Flats at Door No.27, Plot No.32, Vengeeswarar Nagar, First Street, Vadapalani, Chennai constructed by Annamalai Builders.	Rs.12,631/-
		Total	Rs, 65,25,326/-

7. The second accused had independent sources of income, and the entire income earned by her was disclosed in her Income Tax Returns, which were marked as Ex.P.195 to Ex.P.198. The prosecution had seized the said Income Tax Returns from the residence of the second accused during the course of the house search. If there had been any default or evasion of income tax, the Income Tax Department would have issued a notice under Section 143(1) of the Income Tax Act. However, the Income Tax Returns filed by the second accused were neither disputed nor challenged by the prosecution. No Income Tax Officer was examined by

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the prosecution to dispute the genuineness or correctness of the said returns. In fact, the prosecution had accepted the said documents as genuine and marked them before the Trial Court. It is further relevant to note that the second accused had been filing her Income Tax Returns from the year 2001, and the last return during the relevant period was filed on 31.08.2004. Thus, the Income Tax Returns constitute relevant material to establish the independent source of income of the second accused during the check period.

8. According to the prosecution, the disproportionate assets were calculated at Rs.58,86,971/- by including the value of the properties acquired by the second accused. In particular, the prosecution had included three properties situated at Kothandam Street, Balakrishnan Street and the Annamalai Flat at Vadapalani. The total value of these three properties was assessed at Rs.53,94,400/-. Thus, it is evident that nearly 90% of the alleged disproportionate assets were attributable to the aforesaid three house properties standing in the name of the second accused. Therefore, the determination of whether these properties were acquired from the independent and lawful sources of income of the second accused assumes significance in assessing the alleged disproportionate assets of the first accused.

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9. On perusal of the documents marked as Ex.P.195 to Ex.P.198, it is revealed that the properties acquired by the second accused were disclosed by her in her Income Tax Returns and the applicable taxes were duly paid thereon. Admittedly, the Income Tax Returns were filed even prior to the registration of the FIR against the accused. In particular, the Income Tax Return for the year 2004 was filed by the second accused on 31.08.2004. Therefore, the aforesaid properties cannot, merely on the basis of their standing in the name of the second accused, be treated as assets acquired out of the income of the first accused. The materials on record indicate that the properties were acquired by the second accused from her independent income derived from the business carried on in the name and style of R.V. Enterprises. It is further revealed that R.V. Enterprises is a partnership firm in which the second accused and her son, namely, the third appellant in Crl.A.No.662 of 2016, are partners. It is pertinent to note that, though the son of the second accused was also one of the partners of R.V. Enterprises, the prosecution did not array him as an accused in the present case.

10. The said R.V. Enterprises was primarily engaged in executing works for Chennai Metro Water Supply and Sewerage Board

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and also undertook works for Reliance, Bharti Airtel and Aircel, including digging and laying fibre-optic cables, with a substantial portion of the workforce being engaged from the native place of the second accused. In fact, the prosecution examined P.W.57, on behalf of Bharti Airtel, who deposed regarding the entrustment of work to the partnership firm of the second accused and the payments made to the said firm. The statements of account of R.V. Enterprises were marked as Ex.P.172 to Ex.P.174. The said documents reveal that, during the period from July 2002 to September 2004, R.V. Enterprises raised bills amounting to Rs.1,06,07,381/-, and after deduction of TDS, a sum of Rs.92,97,342/- was paid to the firm. Further, during the period from September 2004 to April 2005, R.V. Enterprises raised bills to the tune of Rs.26,41,164/-, and after deduction of TDS, a sum of Rs.22,34,234/- was paid to the firm.

11. Thus, the materials on record establish that R.V. Enterprises was carrying on substantial business during the relevant period and generating income, out of which the second accused, being one of the partners, was entitled to her share of the income. The said firm also earned a profit in the range of approximately 32% to 40%, out of which 50% of the income was attributable to the share of the second accused. Apart from the income derived from R.V. Enterprises, the second accused

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also had rental income from her properties amounting to Rs.3,73,050/-. The same is also borne out from the evidence of P.W.24, P.W.40 and P.W.41. However, the learned Trial Court failed to properly consider the income derived by the second accused from R.V. Enterprises as well as the rental income earned by her while determining the alleged disproportionate assets. Such income, being independently attributable to the second accused, is relevant for determining whether the properties standing in her name could legitimately be treated as assets acquired out of the income of the first accused.

12. The house property owned by the second accused was valued by the prosecution on the basis of the valuation report submitted by P.W.7, which was marked as Ex.P.10. According to the said valuation report, the property was valued at Rs.16,97,400/-. However, while assessing the value of the property, P.W.7 failed to consider the existing construction which was found at the property, as reflected in Ex.P.5. Whereas, P.W.7 adopted the plinth area rate for the purpose of valuation. Such method of valuation is appropriate for assessing the cost of a new construction and cannot be mechanically applied to an existing structure without taking into account its age, nature, condition and other relevant factors.

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13. On the side of the second accused, D.W.3, a qualified Civil Engineer, was examined, and he had assessed the value of the property at a substantially lower amount than that arrived at by P.W.7. His evidence assumes significance inasmuch as it demonstrates that the valuation adopted by the prosecution was on the higher side. Further, the second accused, being a partner of the partnership firm, had access to construction resources and was able to undertake the construction at a comparatively lower cost. Therefore, the actual expenditure incurred for the construction was substantially less than the amount assessed by the prosecution. Consequently, the valuation adopted by P.W.7, without properly considering the existing construction and the actual expenditure incurred, cannot be relied upon for determining the alleged disproportionate assets.

14. The domestic expenditure incurred by the first accused and his family members during the check period has been set out in Statement-D prepared by the prosecution. In this regard, the accused examined D.W.2, who was serving as a Statistical Officer in the Department of Economics and Statistics. He deposed that, upon request, his department furnished particulars relating to the annual family

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consumption expenditure of urban non-manual employees to agencies such as the Vigilance Department and the CBI. According to the evidence of D.W.2, the criteria adopted by the Department of Economics and Statistics for determining the annual family consumption expenditure included expenditure towards food and beverages, fuel and lighting, housing, clothing and miscellaneous items. Thus, the domestic expenditure was assessed at 33% of the total income, which already included expenditure towards education, fuel, transport and other miscellaneous heads. Therefore, the separate inclusion of the amounts reflected under Serial Nos.11 to 16, 22, 25, 27 and 28 of Statement-D amounts to duplication of expenditure under heads which had already been taken into consideration while arriving at the annual family consumption expenditure. Hence, the amounts separately included under the aforesaid heads are erroneous and liable to be excluded from the total expenditure for the purpose of calculating the alleged disproportionate assets.

15. Insofar as the alleged abetment by the second accused is concerned, the prosecution has failed to satisfy the essential legal requirements necessary to constitute abetment under the provisions of the PC Act. Mere acquisition or possession of property by the second

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accused, without establishing the requisite ingredients of abetment as contemplated under Section 107 of the IPC, cannot by itself attract liability under the PC Act. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India reported in **1999 SCC (Cri) 1133**, in ***P. Nallammal and Another v. State by Inspector of Police*****,** wherein the Apex Court considered the scope of abetment in the context of Section 13(1)(e) of the PC Act and illustrated the manner in which the three clauses of Section 107 of the IPC relating to abetment by instigation, conspiracy and intentional aid operate. The relevant observations of the Hon'ble Supreme Court are extracted hereunder:-

> *"First Illustration: If A, a close relative of the public servant tells him of how other public servants have become more wealthy by receiving bribes and A persuades the public servant to do the same in order to become rich and the public servant acts accordingly. If it is a proved position there cannot be any doubt that A has abetted the offence by instigation.*
>
> *Second Illustration: Four persons including the public servant decide to raise a bulk amount through bribery and remaining persons prompt the public servant to keep such money in their names. If this is a proved position then all the said persons are guilty of abetment through conspiracy.*

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Third illustration: If a public servant tells A, a close friend of his, that he has acquired considerable wealth through bribery but he cannot keep them as he has no known source of income to account, he requests A to keep the said wealth in A's name, and A obliges the public servant is doing so. If it is a proved position A is guilt of abetment falling under the "Thirdly" clause of Section 107 of the Penal Code."

16. Therefore, the prosecution is required to adduce cogent and convincing evidence to establish the essential ingredients of abetment. Mere relationship with a public servant, or the mere fact that certain properties stand in the name of another person, by itself, is wholly insufficient to attract criminal liability for abetment. In the absence of evidence establishing instigation, conspiracy or intentional aid, as contemplated under Section 107 of the IPC, the charge of abetment cannot be sustained. Consequently, the prosecution has failed to establish the essential ingredients of the offence under Section 120-B of the IPC as against the accused beyond reasonable doubt. Hence, the charge under Section 120-B of the IPC is not proved against the accused.

17. Insofar as the charge of forgery is concerned, the prosecution relied upon certain gold purchase receipts, which were allegedly forged

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by the accused, and marked them as Ex.P.149 series. However, the said documents are only photocopies of the gold purchase receipts allegedly produced by the second accused during the course of investigation. On the other hand, the original gold purchase receipts were marked as Ex.P.154 series, and significantly, the originals did not contain the signature of the independent witness. Whereas, the photocopies of the receipts marked as Ex.P.149 series contain the signature purportedly belonging to the independent witness. In this regard, the prosecution examined the said independent witness as P.W.49. In his evidence, P.W.49 categorically admitted that, when he was called by the Investigating Officer, P.W.59, on 06.06.2005, no one other than P.W.59 was present. He further deposed that he merely signed the receipt memo at the request of P.W.59 and did not witness either the first accused or the second accused producing any document. He also stated that he was unaware as to how the documents marked as Ex.P.149 series came into existence.

18. It is further significant that the signature of P.W.49 appearing on the documents marked as Ex.P.149 series differs from the signature found in his deposition. Thus, the prosecution has failed to establish the circumstances in which the photocopies marked as Ex.P.149 series came into existence or to prove that the accused had forged or fabricated the

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said documents. In the absence of cogent and reliable evidence establishing the making of a false document or the involvement of the accused in the alleged forgery, the essential ingredients of the offence of forgery have not been established. Hence, the prosecution has failed to prove the charge of forgery against the accused beyond reasonable doubt and as such the conviction and sentence cannot be sustained and are liable to be set aside.

19. Insofar as the third accused is concerned, he is a duly qualified Chartered Accountant who had rendered professional services to the second accused. His role was confined to preparing the statement of gold ornaments and filing the Income Tax Returns on the basis of the documents and particulars furnished by the second accused. The third accused had merely signed the statement of facts prepared on the basis of the records produced by the second accused. Merely because some of the documents relied upon by the second accused are alleged to have been fabricated, the third accused cannot be implicated in a criminal conspiracy. To establish the offence of criminal conspiracy, the prosecution is required to prove an agreement or meeting of minds between the accused to commit an illegal act or to accomplish a lawful act by illegal means.

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20. In the present case, there is no independent material to establish that the third accused had knowledge of any alleged fabrication or that he had entered into any agreement or shared a common intention with the other accused to fabricate the documents or conceal the alleged disproportionate assets. The mere act of signing the statement of facts, in the course of rendering professional services on the basis of the materials furnished by the client, without anything more, would not constitute the offence of criminal conspiracy. Therefore, the prosecution has failed to establish the essential ingredients of the offence under Section 120-B of the IPC as against the third accused.

21. In this regard, it is relevant to rely upon the judgment of the Hon'ble Delhi High Court reported in **2007 SCC OnLine Del 1248**, in ***Swaminathan v. State of Delhi***, wherein it was held that where a Chartered Accountant merely certifies a statement of facts on the basis of the records and documents produced by a company, the mere allegation that such records were subsequently found to be fabricated would not, by itself, be sufficient to frame a charge of criminal conspiracy against the Chartered Accountant.

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22. In another judgment reported in **2022 SCC OnLine Ori 3938**, in ***Kulamani Parida v. State of Odisha*,** the Hon'ble High Court of Orissa at Cuttack held that, in the absence of any material demonstrating that the Chartered Accountant had any personal interest in the gain or loss of the parties conducting the business, apart from his professional interest, an allegation of forgery or fabrication cannot be sustained against him merely on the basis of his professional involvement.

23. Therefore, in the absence of any evidence to establish that the third accused had derived any personal gain or pecuniary benefit from the acts of the first and second accused, or that he had knowingly participated in the alleged conspiracy or fabrication of documents, the conviction and sentence imposed upon the third accused cannot be sustained in law and liable to be set aside.

24. Accordingly, the conviction and sentence imposed upon the appellants by the judgment dated 18.08.2016, passed by the learned Principal Special Judge for CBI Cases, VIII Additional City Civil Court, Chennai, in C.C.No.12 of 2006, are hereby set aside. Consequently, the appellants/accused are acquitted of all the charges framed against them in C.C.No.12 of 2006. Fine amount, if any paid, shall be refunded to the

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appellants/accused forthwith. Bail bonds, if any executed, shall stand cancelled.

25. In result, both the Criminal Appeals stand allowed.

27.08.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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To

1. Principal Special Judge for CBI Cases/
VIII Additional City Civil Court, Chennai.

2. The Inspector Of
Police, SPE: CBI: ACB
Chennai.

3. The Speical Public Prosecutor (CBI Cases)
Madras High Court,
Chennai.

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G.K.ILANTHIRAIYAN, J.

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Common Judgement in
Crl.A.Nos.662 & 674 of 2016

27.08.2026

https://www.mhc.tn.gov.in/judis (Uploaded on: 27/08/2026 03:47:08 pm)