



**THE COURT OF THE ENQUIRY COMMISSIONER AND
SPECIAL JUDGE (VIGILANCE), KOTTAYAM.**

Present:

**Sri. K V Rejanish., The Enquiry Commissioner and
Special Judge (Vigilance), Kottayam.**

Thursday, the 17th day of September, 2026/ 26th day of Bhadra, 1948 SE

C.C.03/2020

(VC.03/2007/SCE)

Complainant:

State of Kerala represented by the Deputy
Superintendent of Police, Vigilance and
Anti-Corruption Bureau, Special Cell
Ernakulam.

By Sri. Sreekanth K.K.

Public Prosecutor, V&ACB, Kottayam.

Accused:

Sri. Tomin J Thachankary

By Adv.V.N. Anil Kumar

Adv. Sreemol Govind

Adv. Lijo Kurian Jose

Adv. Cimil C Kottalil

Adv. Ananthan Anil Kumar

Adv. Nibun John

Adv. Mintu Cherian

Adv. Sidharth.J.Karuppath

Charge:

U/s.13(2) r/w S.13(1)(e) of the Prevention
of Corruption Act, 1988.

Plea of accused:

Not guilty

Findings: The accused is found guilty.

Sentence of Order: *Rigorous imprisonment for 4 (Four) years and to pay a fine of Rs.30,84,892/- (Thirty Lakhs Eighty Four Thousand Eight Hundred and Ninety Two) for the offence punishable under S.13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988; in default of payment of the fine, he shall further undergo rigorous imprisonment for 2(Two) months.*

This case having been finally heard on 16th day of September, 2026 in the presence of the counsel appearing on either side and having stood over for consideration till this day and the Court delivered the following:

JUDGMENT

1. This case arose from the final report filed by PW96, the Superintendent of Police, Vigilance and Anti-Corruption Bureau, Special Cell Ernakulam, in VC No. 03/2007, alleging the offence punishable under Section 13(2) r/w Section 13(1)(e) of the Prevention of Corruption Act, 1988.

2. The case of the prosecution is that the accused while working as Inspector General of Police and, as such, being a public servant, during the period from 01.01.2003 to 04.07.2007, acquired assets and pecuniary resources disproportionate to his known sources of income. As on 04.07.2007, the accused was in possession of pecuniary resources and properties to the extent of Rs. 64,70,891/-, which were disproportionate to his known sources of income and for which he could not satisfactorily account. It is alleged that, the accused, by abusing his official position as a public servant, acquired assets disproportionate to his known sources of income to the extent of ₹ 64,70,891/-. Thereby, the accused is alleged to have committed the aforesaid offence.

3. The crime was registered by PW88 on 04.07.2007 under Section 13(2) read with Sections 13(1)(e) and (d) of the Prevention of Corruption Act, on the basis of an order issued by the Vigilance Director. After the investigation, PW96 filed the final report against the accused before the Court of the Enquiry Commissioner and Special Judge, Thrissur. The Special Judge Thrissur, took cognizance of the offence punishable under Section 13(2) read with Section 13(1)(e) of the

Prevention of Corruption Act, 1988. The copies of the relevant records of the prosecution were supplied to the accused upon his appearance. Thereafter, the case was transferred to the Court of the Enquiry Commissioner and Special Judge Muvattupuzha, as per order of the Special Judge, Thrissur in Crl.MP. No. 932/2016. Later, the case was again transferred to this Court, by the order of the Hon'ble High Court of Kerala in Tr.P.(Crl.) No. 93/2019. As there was no material to hold that the charge against the accused was groundless and there were grounds for presuming that the accused had committed the alleged offences, a charge was framed against the accused under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988. When the charge was read over to the accused, he pleaded not guilty. The accused was defended by counsel of his choice.

4. The prosecution examined PW1 to PW96 and marked Exts. P1 to P272 to prove their case. The accused were questioned under Section 351(1)(b) of the BNSS with reference to the incriminating circumstances that appeared against him in the evidence, and he stated that he was falsely implicated in this case. The accused filed his written

statement under Section 351(5) of the BNSS. The accused examined DW1 to DW23 and marked Ext.D1 to D56 in support of his defence. Heard both sides. The accused and Public Prosecutor have also submitted memorandum of their arguments under Section 352 (1) of the BNSS. Thereafter, on 07.09.2026, the accused again filed an additional argument notes. All the written arguments submitted by both sides have been duly considered for the disposal of this case.

The points:

5. In the nature of this case, the following points arise for consideration:

1. *Was the accused a public servant and valid sanction under Section 19 of the Prevention of Corruption Act 1988, accorded for his prosecution?*
2. *What were the assets held by the accused as on 01.01.2003, the beginning of the check period?*
3. *What were the assets held by the accused as on 04.07.2007, the end of the check period?*
4. *What was the income derived by the accused from the known sources, during the check period?*

5. *What was the expenditure incurred by the accused in the said period?*
6. *Did the prosecution prove that in the check period, the accused had possessed any assets disproportionate to his known sources of income?*
7. *What, if any, is the offence committed by the accused?*
8. *In the event of finding the accused guilty of any offence, what shall be the proper order of sentence?*

The Evidence:

6. PW1, then Tahsildar Muvattupuzha, deposed that, pursuant to the District Collectorate's instructions dated 04.07.2007, he accompanied the Vigilance Deputy Superintendent of Police on 05.07.2007 to Riyan Studio, Thammanam, where a search was conducted. He stated that certain documents, including more than ten registers relating to the studio, were seized. The Deputy Superintendent of Police prepared the search memorandum at the spot, which PW1 signed as a witness; he identified his signatures on all its pages, and the same was marked as Ext.P1. He stated that the premises was a studio where studio work and allied activities were carried on.

7. PW2, then Additional Tahsildar Kochi Taluk Office, deposed that, pursuant to directions received from the Collector's Camp Office, he accompanied the Vigilance team on 05.07.2007 to a house at Thammanam, where a search was conducted. He stated that, deposit records, title deeds and bank passbooks were seized and that the Deputy Superintendent of Police prepared the search memorandum at the spot. PW2 identified the memorandum and his signatures on all its pages, and it was marked as Ext.P2. In cross-examination, he stated that he had not personally verified the passbooks or fixed deposit receipts and that his knowledge regarding the records and Thankamma's financial status was based on the police version and the documents.

8. PW3, then Special Tahsildar and Land Acquisition Officer, NHLA Unit No.3, Vyttila, deposed that, pursuant to the District Collector's directions, he accompanied the Vigilance party on 05.07.2007 to a residential flat at Thevara, understood to be the residence of Tissin Thachankary, brother of Tomin J. Thachankary, IPS. He stated that the Deputy Superintendent of Police prepared the search memorandum at the spot, which he signed as a witness; he identified his

signatures on all its pages, and it was marked as Ext.P3. He further explained the procedure for fixation of land value, stating that comparable sale deeds within three kilometres and executed during the preceding five years are collected from the Sub Registrar's Office and considered for fixation of land value by the Collector. He also stated that, in his experience, market value is generally higher than the value shown in sale deeds, as parties usually understate the consideration.

9. PW4 was working as Superintendent in the office of the Deputy Director of Education, Kakkanad. He deposed that, pursuant to a written order from the Collectorate, he accompanied the Vigilance officials on 05.07.2007 for inspection at Books and Publications, Kakkanad. He stated that certain documents, including audit reports, were seized and that the Vigilance officer prepared a search memorandum, which he signed as a witness. He identified the memorandum and his signatures on all its pages, and it was marked as Ext.P4.

10. PW5 was working as Senior Superintendent in Pathanamthitta CDRF in 2007. He deposed that, pursuant to the

direction of the President of CDRF, he accompanied the Deputy Superintendent of Police, Pathanamthitta, on 05.07.2007 for a search at a house in Ayroor Village, Ranni Taluk. He stated that certain documents, including title deeds, were seized and that the Deputy Superintendent of Police prepared the search memorandum, which he signed as a witness. He identified the document and his signature, and it was marked as Ext.P5.

11. PW6 was working as Clerk in the Maradu Sub Registrar Office in 2007. He deposed that, he signed as a witness to the mahazars prepared by the Vigilance Deputy Superintendent of Police on 13.11.2007 and 15.11.2007, marked as Ext.P6, Ext.P9 and Ext.P12. He stated that 16 title deeds were seized under Ext.P6 mahazar; items 1 to 13 were sale deeds transferred in favour of Tomin J. Thachankary and items 14 to 16 were registered in the names of Tomin J. Thachankary and his mother P.J. Thankamma. Copies thereof were marked, subject to proof, as Ext.P7 and Ext.P8 series. He stated that the particulars were obtained from Book No.1 maintained in the Sub Registrar Office.

12. PW6 further deposed that, five title deeds were seized under Ext.P9 mahazar, marked in the inventory as Ext.P10; except item No.2, they were transferred in favour of Anita alias Anne Mary Thachankary by Tomin J. Thachankary, while item No.2 was executed by P.J. Thankamma in her favour. Two title deeds were seized under Ext.P12 mahazar, the inventory being Ext.P13, relating to properties purchased in the name of Tomin J. Thachankary; copies were marked, subject to proof, as Ext.P11 and Ext.P14 series respectively. The Form No.1 documents were marked as Ext.P15 series, and the mahazar relating to three encumbrance certificates as Ext.P16; the certificates were marked as Ext.P17 to Ext.P19.

13. PW7 was working as Deputy Collector in the Ernakulam Collectorate in 2007. He deposed that, pursuant to instructions received from the Collectorate on 04.07.2007, he accompanied the Vigilance Deputy Superintendent of Police on 05.07.2007 for a search at the residence of Tomin J. Thachankary at Thammanam. He stated that the accused himself opened the house and gate and that the Deputy Superintendent of Police prepared the search

memorandum at the spot, which he signed as a witness. PW7 identified the memorandum and his signatures on all its pages, and it was marked as Ext.P20. He further stated that a passport and certain income-tax records were seized during the search.

14. PW8 was working as a licensed document writer and stamp vendor within the jurisdiction of the Tripunithura Sub Registrar Office. He deposed that certain documents relating to Tomin J. Thachankary, prepared before 2010, bore his licence number but had actually been prepared by one Mr.Leo Xavier. He stated that he had never prepared or registered any document for Tomin J. Thachankary and was unaware of the use of his licence number by Leo Xavier. He further stated that, on coming to know of the same, he instructed Leo Xavier to discontinue its use, after which Leo Xavier obtained his own licence and started preparing and registering documents independently.

15. PW9 was working as Valuation Assistant in the Special Tahsildar, NH No.3 Office, Vyttila, in 2008. He deposed that, he signed as a witness to the mahazars prepared by the Vigilance on 21.02.2008 and 29.02.2008, marked as Ext.P21 and Ext.P22 respectively. He stated

that the land acquisition files were produced before the Vigilance by U.D. Clerk Shyamala and identified his signatures in the said mahazars.

16. PW10 deposed that, he had submitted complaints alleging unauthorised acquisition of properties by the accused during his official service. He stated that he had not produced any documents in support of the complaints. He further stated that he had approached the High Court against further investigation by way of W.A.No.1291/2021, in which the High Court directed expeditious completion of the trial. He deposed that, after filing of the charge sheet, the accused complained to the Chief Minister, pursuant to which the Government ordered further investigation, which he challenged before the High Court.

17. PW11 deposed that, following acquisition of one cent of her property at Ponnurunni for construction of an overbridge, she and her children applied for enhanced compensation, as the compensation initially received was insufficient. She identified the application bearing their signatures, which was marked subject to proof as Ext.P23. She stated that, on approaching the court, she received additional compensation but could not recollect the exact amount.

18. PW12, a retired officer of the State Bank, deposed that she owned 38.5 cents of land at Poonithura and that Tomin J. Thachankary purchased the property under two sale deeds. She also stated that, he purchased properties belonging to her father and maternal aunt and identified Ext.P7(b) and Ext.P7(c) as sale deeds executed by her father in his favour. She was declared hostile and portions of her previous statements were marked as Ext.P24 to Ext.P27. In cross-examination, she admitted receiving the sale consideration mentioned in the deeds and purchasing a house plot at Vennala thereafter. She denied having stated to the police that Tomin J. Thachankary had sought purchase of the property, that K.J. Paul was involved, or that the market value had been fixed at Rs.50,000/- per cent. She also denied that she had sold the property at a higher market value and was falsely deposing in favour of the accused.

19. PW13 was working as Village Assistant in the LA Tahsildar Office, Vyttila, in 2008. He deposed that, he witnessed the production of land acquisition files by Shyamala before the Vigilance

Police and signed the mahazars prepared in that regard. He identified Ext.P21 and Ext.P22 and his signatures therein.

20. PW14 was working as U.D. Clerk in the LA Tahsildar Office, Vyttila, in 2008. She deposed that, pursuant to the Vigilance direction, Shyamala produced the files relating to land acquired for construction of the Ponnurunni overbridge before the Vigilance Police. He witnessed the production and signed the mahazar prepared in that regard, which was marked as Ext.P28.

21. PW15 was working as Branch Manager of Catholic Syrian Bank, Kalamassery, in 2008. He deposed that, pursuant to the Vigilance requisition, he produced the account statements of Punchakkunnil Steels relating to Account Nos.71 and 19 for the relevant periods, duly certified under the Bankers' Books Evidence Act. The statements were marked as Ext.P29. He stated that Ext.P29 showed a cash deposit of Rs.2,00,000/- on 31.03.2004 and that the loan account was settled under a One Time Settlement with a reduction of Rs.45,509/. The photocopy of the cash deposit challan was marked subject to proof as Ext.P30.

22. PW16 was working as Branch Manager of Catholic Syrian Bank, Ponnurunni, in 2008. He deposed that, pursuant to the Vigilance requisition, he produced various account statements duly certified under the Bankers' Books Evidence Act, marked as Ext.P31. He stated that the joint account of Raman Pillai and Indira reflected credits of Rs.2,50,000/- on 19.08.2004, Rs.2,50,000/- on 25.04.2004, Rs.5,00,000/- on 01.09.2004 and Rs.3,80,000/- on 20.01.2005. He further stated that Rs.1,00,000/- and Rs.2,00,000/- were transferred from Raman Pillai's account to Sashikumar P.R.'s account on 20.08.2005 and 02.02.2004 respectively, and that Rs.1,05,172/- and Rs.1,10,607/- were credited to the joint account of Rajmohan, Indira and Maya Devi Anand on 29.11.2005 and 12.09.2006 on closure of deposits.

23. PW17 was working as Assistant Manager of Catholic Syrian Bank, Kalamassery Branch, in 2008. He deposed that, when Ext.P29 and Ext.P30 were produced before the Vigilance Police, a mahazar was prepared on 30.04.2008. He signed the mahazar as a witness, identified it and his signature therein, and it was marked as Ext.P32.

24. PW18 was working as Chief Manager of Federal Bank, Vyttila Branch, in 2007. He deposed that, pursuant to the Vigilance requisition, he produced the statement of SB Account No.2453 of Tomin J. Thachankary for the period 2003–2007 with connected records, duly certified under the Bankers' Books Evidence Act, marked as Ext.P33, along with the covering letter marked as Ext.P34. He identified five credit vouchers, marked as Ext.P35 series, showing credits of Rs.6,50,000/- on 22.09.2003, Rs.6,00,000/- on 06.10.2004, Rs.3,30,000/- on 12.07.2005, Rs.1,000/- on 19.05.2006 and Rs.50,00,000/- on 30.10.2006. He further identified debit vouchers marked as Ext.P36 series, including withdrawal of Rs.6,50,000/- on 22.09.2003 for conversion into a fixed deposit. He stated that Rs.4,39,400/- was withdrawn on 13.12.2003 for pay orders of Rs.1,99,000/- in favour of Narayanan Unni and Rs.2,40,000/- in favour of Rajalakshmi, with bank charges of Rs.400/-, the relevant records being marked as Ext.P37 and Ext.P38. He further stated that Rs.1,00,000/- was withdrawn on 08.11.2006 and a demand draft for the same amount was issued in favour of Joseph Karukayil, marked as

Ext.P39 and Ext.P40. The cheque clearance records were marked as Ext.P41 series and the covering letter as Ext.P42. He stated that the account was operative during the relevant period and that the balance as on 28.04.2007 was Rs.4,52,468.60.

25. PW19 was working as Taluk Surveyor, Kunnathunad Taluk Office, in 2009. He deposed that he prepared the survey plan relating to the land acquired for the Ponnurunni Railway Overbridge, marked as Ext.P43, after verifying the relevant title deeds and revenue records. The documents so verified were marked as Ext.P7(a) to P7(l), Ext.P8(a) to P8(c) and Ext.P44 series, subject to proof. He stated that Survey Nos.409/2, 409/3 and 409/4 were situated 279.3 metres aerially from Palarivattom-Ponnurunni Road and 168.7 metres from the Edappally-Vyttila NH Bypass, and that Riyan Studio was situated within the said distance. He further stated that the plan showed the relevant road and pathway and was prepared under the direction of the District Collector.

26. PW20 was working as Additional Tahsildar, Kanayannur, in 2009. He deposed that, pursuant to the Vigilance

requisition, he produced Ext.P43 and countersigned it. The covering letter accompanying the document, bearing his signature and seal, was marked as Ext.P45.

27. PW21 deposed that, he was engaged in property development and had purchased about 6¼ cents of land at Poonithura in 2003, which was subsequently sold to Tomin J. Thachankary. He identified the sale deed as Ext.P7(l) and stated that the property was purchased from Narayanan Unni. He admitted that properties covered by his agreements with Abhijith and others were also purchased by Tomin J. Thachankary and that the consideration was paid by him. He stated that the property was sold at Rs.50,000/- per cent, though Ext.P7(l) showed a consideration of Rs.76,000/-, which he attributed to the absence of a pathway. He was treated as hostile and denied or could not recollect portions of his previous statements, marked as Ext.P46. He identified Ext.P7(a) and P7(b) and stated that Leo Xavier prepared the documents executed in favour of Tomin J. Thachankary.

28. PW22 was working as Sub Registrar, Edappally Sub Registrar Office, in 2010. He deposed that, pursuant to the Vigilance

requisition, he verified Book No.1, Volumes 1638 and 1636, and produced documents Nos.224/2004, 241/2004 and 2817/2004, marked as Ext.P48 to Ext.P50. He identified the documents and his attestations thereon. The mahazar relating to production and return of the volumes was marked as Ext.P51.

29. PW23 was working as Branch Manager of Riya Travel and Tours India Pvt. Ltd., in 2009. She deposed that, pursuant to the Vigilance requisition, he produced the foreign travel details of Tomin J. Thachankary for the period from 01.01.2003 to 04.05.2007, marked as Ext.P52. He identified invoices and connected records showing ticket charges of Rs.16,614/-, Rs.16,950/-, Rs.16,525/-, Rs.13,400/- and Rs.4,450/-, marked as Ext.P52(a) to P52(m). He further produced three invoices and a cash voucher, marked as Ext.P53 series. In cross-examination, he stated that the amount shown in the cash voucher dated 24.08.2007 was received by cheque issued by Joseph T.T., cheque No.163608 dated 24.08.2007.

30. PW24 was working in Riya Travel and Tours India Pvt. Ltd., in 2009. He deposed that, the Manager produced Ext.P52 and

Ext.P53 before the Vigilance Police and that he signed the mahazar prepared in connection with such production. The mahazar was marked as Ext.P54.

31. PW25 was working as Senior Scientist in 2010. He deposed that, pursuant to the court's forwarding note, he examined the hard disk of a Sony laptop and submitted a report, marked as Ext.P55. He stated that the disk contained digital files, including financial data and e-mail records, and that the files examined were last accessed on 27.05.2007. He also examined an external hard disk containing, mainly, expense-related data.

32. PW26 was working as Administrator in a school during 2002–2009. He deposed that, he occupied an apartment at Millennium Apartment, Jagathy, which belonged to Tomin J. Thachankary and was taken on rent by the school for his accommodation. He identified the rental agreement, marked subject to proof as Ext.P56, and stated that the monthly rent was initially Rs.7,000/-, subsequently enhanced during 2008–2009. He further stated that the rent was remitted to the account of Tomin J. Thachankary from the school's account.

33. PW27 was working as Account Officer in the AGC Office in 2010. She deposed that, pursuant to the Vigilance requisition, he produced records relating to a loan of Rs.6,00,000/- availed by Tomin J. Thachankary from his PF account. The records were marked as Ext.P57 series. He stated that the records showed withdrawal of Rs.6,00,000/- through the Ernakulam Treasury on 06.10.2004 and that, at the relevant time, Tomin J. Thachankary was on deputation as Managing Director of KBPS, Kakkanad.

34. PW28 was working in the AG's Office in 2012. He deposed that, the document shown to him contained the service and leave particulars of Tomin J. Thachankary and had been produced before the Vigilance pursuant to its requisition. He stated that he was not working in the office at the relevant time and that the document had been produced by Sreekala.

35. PW29 was working as Assistant Director in the Agriculture Department in 2010. She deposed that, pursuant to the Investigating Officer's direction, she inspected the property of Tomin J. Thachankary and assessed his annual agricultural income for 2003–

2007. Her report was marked as Ext.P58 and the covering letter as Ext.P59.

36. PW30 was working as Additional Secretary in the Thiruvananthapuram Municipal Corporation in 2012. He deposed that the document shown to him was a letter allegedly issued by the former Corporation Secretary, Johnson K. John, to the Vigilance on 30.05.2008, containing details of property-tax assessment and payment relating to two buildings at Poojappura and Vazhuthacaud. The accused objected to its marking under Section 162 Cr.P.C., and the objection was sustained; hence, the document was not marked.

37. PW31 was working as Income Tax Officer, Ward-4, Kottayam, in 2012. He deposed that, pursuant to the Investigating Officer's requisition, he produced the tax details of Tomin J. Thachankary for the period from 01.01.2003 to 05.07.2007 through a letter dated 29.07.2015. The accused objected to its marking under Section 162 Cr.P.C., and the objection was sustained; hence, the document was not marked.

38. PW32 was working in EVM Honda in 2012. He deposed that, pursuant to the Vigilance requisition, he verified and produced records relating to the purchase of a vehicle by Tomin J. Thachankary in 2003, showing expenditure of ₹40,246/-. The accused objected to its marking under Section 162 Cr.P.C., and the objection was sustained; hence, the document was not marked.

39. PW33 deposed that, in connection with the Ponnurunni Railway Overbridge, 2 cents of his property in Survey No.555/1 was acquired, for which he initially received ₹3,00,000/- and, pursuant to a claim for enhanced compensation, a further ₹3,80,000/-. He identified the applications for enhancement as Ext.P60 and Ext.P61 and stated that the claim was based on the prevailing value of properties in the locality, which he estimated at about ₹4,00,000/-.

40. PW34 deposed that, at about 1 to 1¼ cents of his father's property in Survey No.543/7 was acquired for the Ponnurunni Railway Overbridge and that compensation below ₹2,30,000/- was initially received. He stated that, considering the location and prevailing property values, a claim for enhanced compensation was filed, pursuant

to which an additional amount of about ₹1,85,000/- was received. The application for enhancement was marked as Ext.P62.

41. PW35, then Sub Registrar Maradu SRO, deposed that, pursuant to the Court's direction, he produced certified copies of 23 documents and the corresponding Book No.1 volumes. He identified the certified copies marked as Ext.P7(m) to P7(y), Ext.P8(c) to P8(e), Ext.P11(e) to P11(i) and Ext.P14(b) to P14(c) as having been prepared from the corresponding volumes maintained in the office.

42. PW36 was working as Sub Registrar, Maradu SRO, from 2006 to 2010. He deposed that, Ext.P14 and Ext.P14(a) related to properties purchased by Tomin J. Thachankary for ₹3,76,000/- and ₹1,24,000/- respectively. He stated that, at the relevant time, there was no fair-value system and documents were registered on the value declared by the parties, though the actual market value was generally higher. He identified the undervaluation document as Ext.P63, subject to objection. He further stated that, of the documents referred to in Ext.P63, 13 were not subjected to undervaluation proceedings, Ext.P8(c) and Ext.P8(d) were referred and settled on payment, and Ext.P8(e) was

referred but remained undisposed of. He stated that undervaluation was assessed with reference to the relevant guidelines and that the District Registrar had power to reduce the demand in appropriate cases.

43. PW37 deposed that, 2½ cents of his brother Nandakumar C's property was acquired for the Railway Overbridge and that he, as his power-of-attorney holder, filed an application for enhancement of compensation, marked as Ext.P64. He stated that compensation was initially received at about ₹1,85,000/- per cent and that additional compensation was subsequently obtained pursuant to the claim, which was made considering the good value of properties in the locality. The application submitted by his brother was marked as Ext.P65, subject to proof.

44. PW38 deposed that, about one cent of his property in Survey No.543/7 was acquired for the Ponnurunni Railway Overbridge and that he initially received ₹99,818/- as compensation. He filed applications for enhancement, marked as Ext.P66 and Ext.P67, stating that the locality contained schools, a church, hospital and Government institutions and that the prevailing value was about ₹3,50,000/- per cent.

Pursuant to the proceedings, he received more than ₹1,00,000/- as additional compensation.

45. PW39, who was declared hostile, deposed that he owned 78 cents in Poonithura Village and sold the property in 2004 through four sale deeds, two in favour of Anita Thachankari and two in favour of Tomin Thachankari. He stated that he had agreed with K.J. Paul to sell the property at ₹20,000/- per cent and that Paul had paid ₹6,00,000/- in cash, while the total consideration received was ₹15,60,000/-. He denied any agreement to sell at ₹50,000/- per cent. He identified Ext.P7(v) and Ext.P7(w) as sale deeds relating to 20 cents and 10 cents sold to Tomin J. Thachankary. He stated that the property had no road access, was agricultural land, and that access through adjoining property would have increased its value. He further stated that Anita Thachankari and her manager paid ₹9,60,000/- at his residence on the date of execution, though the sale deeds recorded receipt of consideration from Tomin J. Thachankary.

46. PW40 was working as Special Senior Superintendent, VACB, Ernakulam, during 2008–2009. He deposed that, the Annual

Property Statement of Tomin J. Thachankary forwarded by the Chief Secretary to the Vigilance Director was received in his office and handed over to the Investigating Officer. The statement and covering letter were marked as Ext.P70.

47. PW41, who was declared hostile, deposed that she sold 19.750 cents of her property in Poonithura Village to Tomin Thachankari in 2005 under Ext.P8(e) for the consideration of ₹3,00,000/- shown in the deed. She stated that the consideration was paid by a staff member from Tomin Thachankari's office and received in cash. She further stated that she had not intended to sell the property but was compelled to do so as Tomin Thachankari acquired surrounding properties and her property was left without access. She described the property as marshy land, though Ext.P8(e) did not contain such description, and stated that she did not know its market value or the rate per cent.

48. PW42 was working as Sub Registrar, Maradu SRO, in 2010. He deposed that, pursuant to the Vigilance requisition, he prepared a report regarding undervaluation of properties, marked as Ext.P73

subject to objection, after examining Ext.P7(n) to P7(t). He stated that, as no fair value had then been fixed, undervaluation was assessed under departmental guidelines and that proceedings could be initiated by the Sub Registrar or by the District Registrar suo motu. He further stated that the District Registrar had initiated undervaluation proceedings suo motu in respect of the documents relating to properties purchased by Tomin J. Thachankary and that no amount had been paid pursuant thereto. He identified Ext.P11(e), Ext.P11(g), Ext.P11(h) and Ext.P11(i) as documents registered in his office and stated that, in assessing undervaluation, the sale price of nearby properties, road access and the commercial value of the property were relevant considerations.

49. PW43 was working as Junior Superintendent in the LA Section of the Ernakulam Collectorate in 2009. He deposed that, he signed as a witness to the mahazar prepared on 29.01.2009 at the time of production of Ext.P43 sketch before the Investigating Officer. The mahazar was marked as Ext.P74.

50. PW44 deposed that, in 2004, he took on Otti the house of Tomin Thachankary at Perunna Village, Changanassery, by

transferring ₹3,50,000/- to Tomin J. Thachankary's bank account. After residing there for about one year, he received ₹3,40,000/- back from Tomin Thachankary in 2005, after deduction of ₹10,000/-, the reason for which he could not recollect.

51. PW45, who did not support the prosecution regarding the sale consideration, deposed that he sold 1.5 cents with a house to Tomin Thachankary in 2004 under Ext.P7(x). Though he initially stated that he received ₹30,000/-, he admitted that ₹1,70,000/- was received and deposited in his bank account and was utilised towards purchase of another property at Chullickavattam. He stated that the sale was also influenced by waterlogging and loss of access caused by purchase of surrounding properties by Tomin Thachankary. He denied receiving ₹1,99,000/- as alleged by the prosecution.

52. PW46, declared hostile regarding the sale consideration, deposed that he sold 2.5 cents with a small house to Tomin Thachankary in 2004 under Ext.P7(s). He stated that he received ₹45,000/- from Anita Thachankary and used the amount towards purchasing 3.75 cents with road access at Chalakkavattom/Vennala. He

stated that the property sold was waterlogged and without commercial importance and denied receiving ₹2,50,000/- as alleged by the prosecution. He also stated that an agreement had been entered into with Tomin Thachankary's wife prior to the sale, though he could not recollect the advance amount.

53. PW47, declared hostile, deposed that he, his mother and sister sold 2.25 cents with a house at Koothappady to Tomin Thachankary in 2004 under Ext.P7(t). He stated that the property was waterlogged and was sold for ₹38,000/-, which was received in cash. He denied receiving ₹2.25 lakhs as alleged by the prosecution and stated that the property was sold at the prevailing market value. He further stated that, about two years later, they purchased 2.75 cents at Chalakkavattom for ₹1 lakh.

54. PW48, declared hostile, deposed that he and his brother sold 1.5 cents of property in Poonithura Village to Tomin Thachankary in 2004 under Ext.P7(u). He stated that surrounding properties were also being sold and that Tomin Thachankary's wife had purchased neighbouring properties. He received ₹30,000/- as consideration, which

was used for his marriage expenses, and denied receiving ₹1,50,000/-. He stated that the adjoining property was Riyan Studio belonging to Tomin Thachankary and that water problems in the locality were also a reason for the sale.

55. PW49, Managing Director of N.J.K Builders, deposed that, according to the company's records, Rajalakshmi paid ₹3,00,000/- in three instalments during 2004–2005, as reflected in Ext.P81, and a total of ₹13,00,000/- during 2004–2006, as reflected in Ext.P82, both marked subject to proof. Ext.P83 series contained receipts for payments made by cheque, with the cheque numbers mentioned therein.

56. PW50 was working as Peon in the Edappally Sub Registrar Office in 2010. He deposed that, Book Nos.1636 and 1638 were produced before the Vigilance Police and that he signed the related mahazar, marked as Ext.P51.

57. PW51 deposed that, her husband sold their 3.5-cent property with a house at Thammanam to Tomin J. Thachankary under Ext.P14(c) for ₹3,76,000/-. She stated that the sale proceeds were used to purchase another house and that an additional ₹1,00,000/- was

subsequently received from Tomin Thachankary and used towards repayment of their housing loan. She stated that the negotiations were handled by her brother-in-law and that she had no knowledge of the actual market value, advance amount or other terms of the transaction. She stated that the property had only footpath access, was described as purayidam in the deed, and was situated near Riyan Studio. She denied that ₹13,00,000/- was received as sale consideration.

58. PW52, declared hostile, deposed that Tomin J. Thachankary was his younger brother and that their grandfather had jointly gifted 1.75 acres at Perunna Village, Changanassery, to the three brothers. The property was subsequently divided, with about 62 cents allotted to Tomin, who later sold his share and executed a release deed in respect of the remaining property. He stated that Tomin, an IPS officer, was financially independent after entering Government service and that his wife Anita was engaged in various businesses, including Riyan Studio. He further stated that some properties at Thammanam were initially purchased in Tomin's name due to apprehensions regarding land-ceiling issues and were later transferred to Anita. He

denied providing financial assistance to Tomin, except that he was aware that one brother and one sister had each given him ₹2.5 lakhs on one occasion. He admitted that he had no records regarding Anita's income and that part of his knowledge regarding her financial affairs was based on information from others.

59. PW53 was working as Sub Registrar, Changanassery, in 2010. She deposed that the encumbrance certificate relating to 1 acre 27 cents in Survey No.7/11, Block No.141 of Changanassery Village was marked as Ext.P85. He identified Ext.D5 as the sale deed dated 14.11.2003 for 6 cents for a consideration of ₹4 lakhs and Ext.D7 as the sale deed dated 30.10.2006 for 22.80 square metres for a consideration of ₹50 lakhs. He stated that, at the relevant time, ROR and BTR extracts were not required for registration and that prior documents, tax receipts and relevant records were generally verified. He further stated that unusually low consideration would ordinarily attract notice, whereas higher consideration was not normally questioned. The prior title deed was marked as Ext.P86.

60. PW54 deposed that, he resided in the SI Flats at Vellayambalam, Thiruvananthapuram, belonging to Tomin J. Thachankary, as a tenant from 2006 to 2009 on a monthly rent of ₹10,000/-. He identified the rent deed, marked as Ext.P87 subject to proof, and stated that he had paid an advance of ₹30,000/-, which was subsequently returned.

61. PW55 deposed that, he had filed a complaint against the accused before the Vigilance Court Thrissur, in 2003, based on newspaper reports concerning the accused, pursuant to which a preliminary inquiry was ordered. He stated that he had no further evidence in his possession regarding the case.

62. PW56 was working as Sub Registrar, Chalai SRO, during 2012. She deposed that, he certified and produced before the Vigilance Police Sale Deed No.1116/07 relating to a flat in Millennium Apartments, Jagathy, executed by the Thiruvananthapuram Housing Co-operative Society in favour of Tomin Thachankary. The deed was marked as Ext.P88. He stated that flats having a property value below Rs.5 lakhs were exempt from stamp duty and that the value of the flat

was Rs.3,56,100/-, with Rs.7,128/- paid as registration fee. In cross-examination, he stated that Ext.P88 showed that Tomin Thachankary had purchased the property after paying the sale consideration and registration fee.

63. PW57 was working as Manager of the Poojappura Branch of the Kerala State Co-operative Bank during 2010–2013. He deposed regarding Account No.5448, later renumbered as Account No.7.11.40421, belonging to Tomin J. Thachankary. The account statement for 01.01.2006 to 31.03.2008, certified by former Manager T.G. Divakar and bearing the bank seal, was marked subject to proof as Ext.P89. The corresponding ledger extract, also certified by T.G. Divakar, was marked subject to proof as Ext.P90. He stated that the balance was Rs.3,70,199.56 as on 28.06.2007 and 05.07.2007 and that, during the relevant period, there was only one debit transaction, on 16.03.2007, while the remaining transactions were credits.

64. PW58, LA Tahsildar, Ernakulam and Special Tahsildar, National Highway No.3, deposed that he was in charge of the land acquisition proceedings for the Ponnurunni Railway Over Bridge. He

identified the Collector's order entrusting the proceedings, marked subject to proof as Ext.P91. He stated that the land value was assessed on the basis of comparable documents relating to similarly situated properties within five kilometers and executed within three years. After examining 22 such documents, he prepared the Basic Valuation Report (BVR), marked subject to proof as Ext.P92, together with its abstract, Ext.P93. He identified the mahazar relating to properties covered by Document Nos.3464/2000 and 3469/2000, marked as Ext.P94, and the corresponding title deeds, Ext.P44 and Ext.P44A, relating to 5 cents sold for Rs.4,50,000/- and 4.238 cents sold for Rs.2,50,000/- respectively. He further identified the Collector-approved valuation proceedings, Ext.P95, valuation statements in Forms 8 marked as Exts.P96 to P133, property sketch Ext.P134, complaints seeking enhancement as Ext.P135 series, the common judgment enhancing compensation as Ext.P136, and treasury bills as Ext.P137. He stated that Ext.P43 was the original certified copy of the sketch and that Exts.P34, P94 and P134 were identical. He also stated that the property covered by Ext.P44 was situated in Survey No.202/3 Part-1 of Poonithura Village.

65. PW59 was working as U.D. Clerk in the L.A. Tahsildar's Office, Vyttila, during 2008. She deposed that, as directed, he produced before the Vigilance Police Ext.P65, Exts.P96 to P134, the file containing 38 applications of L.A. claimants, Exts.P91 to P95, Ext.P44, Ext.P44A, the relevant High Court judgment and the common judgment of the Sub Court, Ernakulam. Three photocopies of the High Court judgment were marked subject to proof as Ext.P138 series. He also identified the file containing the 38 applications.

66. PW60, Sub Registrar, Sasthamangalam SRO, during 2010, identified the certified copy of Sale Deed No.1316/2005, marked as Ext.P139. He stated that the deed was executed by Southern Investors in favour of Tomin J. Thachankary for Rs.1,16,212/-, with stamp duty of Rs.7,330/- and registration fee of Rs.2,132/-, and that Manoj Chacko was shown as the power of attorney holder of the executant.

67. PW61 deposed that, in 2006, her husband's wholesale bag business operated from three shop rooms bearing No.303 in Ward No.23 of Changanassery Municipality, taken on rent from Tomin Thachankary under an agreement dated 21.10.2006. The photocopy of

the agreement was marked as Ext.P140. She stated that the monthly rent was Rs.6,750/- for 11 months, with three months' rent paid in advance and later adjusted towards rent. She had met Tomin Thachankary at his Ernakulam office when the original agreement was executed and stated that the monthly rent was collected by a person sent for that purpose.

68. PW62 deposed that, she occupied Tomin Thachankary's flat at Windbrook Place, Thiruvananthapuram, as a tenant under an agreement dated 23.05.2005, effective from 01.06.2005. Its copy was marked as Ext.P141. She stated that the monthly rent was Rs.10,000/- and that Rs.30,000/- was paid as security deposit for three months. The rent and advance were paid through bank transactions into Tomin Thachankary's Co-operative Bank account, and the advance was subsequently adjusted towards rent when she continued in occupation beyond the agreed period. She stated that the transactions were arranged through Satheesh, a police officer, and that the original agreement might be with Tomin Thachankary or Satheesh.

69. PW63 deposed that, while working as Joint Secretary in the GAD Section of the Chief Secretary's Office in 2012, he produced,

pursuant to the Vigilance requisition, the original Annual Property Returns of Tomin J. Thachankary, IPS, for 01.01.2002 to 01.01.2008, except the return as on 01.01.2007, which was unavailable in the official folder. The returns from 01.01.2002 to 2006 and the return as on 01.01.2008, along with the covering letter dated 16.07.2012, were marked as Ext.P142 series. He stated that the returns were official and confidential documents addressed to the Chief Secretary and maintained in the concerned officer's confidential folder, and that they were taken out only with the Chief Secretary's permission when required for cases or other proceedings. He further stated that, during his tenure, no Annual Property Return had been reported missing and that the responsibility for ensuring receipt of the return lay with the officer sending it.

70. PW64 was working as Joint Secretary to the Chief Secretary in the General Administration Special Department, Secretariat, dealing with service matters of All India Service Officers in 2008. He deposed that, pursuant to the Vigilance Director's request and the Chief Secretary's direction, he asked Tomin J. Thachankary, IPS, to submit his Special Property Statement. Accordingly, Tomin submitted the

statement on 27.02.2008. He identified the statement as on 05.07.2007 (Ext.P143); statements as on 01.01.2003 and 05.07.2007 (Ext.P144 series) relating to immovable properties; movable property statement as on 05.07.2007 (Ext.P145); disposal of movable properties between 01.01.2003 and 05.07.2007 (Ext.P146); movable property investments and cash as on 05.07.2007 (Ext.P147); movable property investments from 01.01.2003 to 01.05.2007 (Ext.P148); and the covering letter addressed by Tomin to the Chief Secretary (Ext.P149). He stated that Exts.P143 to P149 were forwarded to the Vigilance Director along with the covering letter already marked as Ext.P70. He had not scrutinised the contents of Exts.P143 to P148, which were forwarded as furnished by Tomin, and stated that responsibility for their contents rested with the officer who submitted them. In cross-examination, he stated that he had never worked as Chief Secretary and that matters concerning confidential affairs of officers, including Annual Property Returns, were dealt with by the strictly confidential section of the Chief Secretary's Office. His knowledge regarding these matters was based on official records.

71. PW65, who is Presently working as Special Tahsildar, Ponnumvila Office, National Highway No.3, Vyttila, PW65 deposed that, pursuant to the Court's direction, he produced the files relating to LAC Nos.1/23 to 38/2003, except LAC No.13/2003, in which no LAR was filed. The original claimant applications could not be produced as they had already been forwarded to the Sub Court as references, which was noted in the files and intimated to the opposite party. He produced the original District Collector's proceedings No.C3-51382/2001 dated 24.10.2001, the true copy being Ext.P91, and the original was returned after comparison and making the marking absolute. He also produced the original proceedings No.A3-753/2001 dated 17.08.2002 and the original Abstract of Valuation, whose true copies were marked Ext.P92 and Ext.P93, respectively. The original District Collector's proceedings No.C3-51382/2001 dated 26.11.2002 and Mahazar dated 14.08.2002 were also produced, their true copies being marked Ext.P95 and Ext.P94, respectively. He further produced the original Form No.8 valuation statements relating to LAC Nos.1/2003 to 38/2003, corresponding to Exts.P96 to P133, excluding Ext.P108 and Ext.P130,

as no such documents were referred to. The originals were compared with the copies, marked accordingly and returned as they were required for official purposes.

72. PW66, the Chief Manager of Canara Bank, Changanassery Main Branch, produced, pursuant to Court summons, the account statements of Tomin J. Thachankary for 01.08.2002 to 07.02.2008, the account having been closed on 07.02.2008, and of Thankamma Joseph for 02.05.2002 to 18.05.2004, the account having been closed on 18.05.2004. Both statements were certified under the Bankers' Books Evidence Act and marked as Exts.P150 and P150(a) and Exts.P151 and P151(a) respectively. He further identified the statement of Tomin's account for 02.01.2003 to 05.07.2007 as Ext.P152, stating that its entries were also available in Ext.P150, and identified Thankamma's account statement for 01.06.2002 to 18.05.2004 as Ext.P153, whose entries were reflected in Ext.P151.

73. PW67, Superintendent in the Revenue Department of Thiruvananthapuram Corporation, produced, as authorised by the Secretary, the records relating to buildings TC 17/2348/25 and TC

15/194/11, marked as Ext.P155 and Ext.P156 series. TC 17/2348/25 was a flat standing in the name of Tomin J. Thachankary from 2007 to 2022, later transferred to Dr. Jackson James by sale deed dated 05.04.2022; tax records from 2005 onwards showed half-yearly tax of ₹718/-, later increased to ₹827/- in 2020, while records for 2002–2008 could not be traced despite enquiry. TC 15/194/11 stood in Tomin's name from 2005 to 2020, having been purchased in 2005 and later transferred to Philip Varghese by sale deed dated 23.12.2020; tax records from 2005 onwards showed half-yearly tax of ₹1,880/-, later increased to ₹2,574/- in 2020. The non-availability of earlier records was confirmed by search and affidavit (Ext.P176). He stated that Ext.P155 showed annual tax of ₹1,437/- for TC 17/2348/25 and stated that tax for 2005–06, 2006–07 and 2007–08 was paid only in 2009. Ext.P156 showed annual tax of ₹4,699/- for TC 15/194/11, and taxes for 2006, 2007 and 2008 were paid on 28.02.2009. The tax payment details were marked as Ext.P177. He further stated that building tax was revised in 2011 and stated that records showed payment for TC 17/2348/25 for 2002–2005 through Receipt No.76070 dated 19.08.2004, and for TC 15/194/11 for 2002–

2006 through Receipt No.130904 dated 27.03.2006 and for 2006–07 through Receipt No.86381 dated 13.02.2007, though the originals were unavailable. He stated that Ext.P177 dated 30.05.2008 showed tax arrears for both buildings for 2005–2008, which were subsequently cleared as reflected in Exts.P155 and P156, and that Ext.P177 was consistent with those records.P156.

74. PW68, the Sub Postmaster at Vyttila Post Office, produced the records relating to Account No.132855 for the period from 18.12.2003 to 11.01.2010. He stated that Rs.3,00,000/- was deposited on 18.12.2003 and identified the certified statement as Ext.P157. The reply of the Post Office regarding the deposit was marked as Ext.P158. He admitted that Ext.P157 could be produced with proper certification.

75. PW69, the Branch Manager of Union Bank of India, Panampilly Nagar Branch, produced the statement of account of Riyan Optical Disc for the period from 26.08.2004 to 04.07.2007. The statement was marked as Ext.P159, and the certification marked as Ext.P159(a).

76. PW70, the Controller of Finance and Accounts at Kerala Books and Publications Office, stated that Tomin J. Thachankary was its Managing Director from 2003 to 2007. He produced his salary and arrear details for 2004–2007 as Ext.P160 series and travelling allowance details as Ext.P161. He stated that the total salary/net amount received was Rs.4,81,185/-/Rs.3,00,443/- in 2004–05; Rs.4,44,464/-/Rs.2,97,536/- in 2005–06; Rs.5,36,179/-/Rs.3,48,195/- in 2006–07; and Rs.2,39,260/-/Rs.1,75,510/- for 01.03.2007–09.07.2007. The travelling allowance paid from 08.02.2004 to 23.05.2007 was Rs.1,81,450/-. He also stated that he had given a statement to the Vigilance Police.

77. PW71, the Agricultural Officer, Changanassery, inspected 55 cents in Survey No.141/6, Changanassery Village, and assessed the agricultural income. The property was found to be purayidam (garden land) with coconut, arecanut, jackfruit, mango, banana, vegetables and tuber crops, and did not appear to have been recently converted from marsh land. He assessed the annual agricultural income, after expenses, at Rs.26,000/-, based on prevailing rates, and

stated that the owner was Tomin J. Thachankary. His report was marked as Ext.P162.

78. PW72, the Manager of Union Bank, Thrikkakara Branch, produced the account statement of Tomin J. Thachankary, SB A/c No.385402010041410, for the period 30.08.2005 to 31.07.2007, marked as Ext.P163, with certification as Ext.P163(a). The balance on 29.06.2007 was Rs.33,737/-. The account showed withdrawals of Rs.1,24,000/- by cheque dated 03.11.2006 through pay order and Rs.2,76,000/- by cheque dated 08.11.2006 through draft. He also produced the credit card statement, marked as Ext.P164, showing transactions from 06.11.2006 to 10.10.2007, with total purchases of Rs.10,534.76/- and payments of Rs.12,375.62/-; it was marked subject to proof as Ext.P165.

79. PW73 was working as Sub Registrar, Edappally, and he stated that he had produced before the Court the documents required as per the summons. He stated that Exts.P48, P49 and P50 shown to him were the certified copies of the respective documents and the same were marked as Ext.P166 series, namely Ext.P166 corresponding to Ext.P48,

Ext.P166(a) corresponding to Ext.P49 and Ext.P166(c) corresponding to Ext.P50. He stated that the corresponding volumes of the above documents had also been produced before the Court and that the said volumes were the office volumes maintained for daily use. He further stated that the above documents were certified by him.

80. PW74, the Manager of Kerala State Co-operative Bank, Poojappura Branch, produced the account statement of Tomin J. Thachankary, relating to old A/c No.5448 and new A/c No.00007011000040421, for the period 14.01.2006 to 11.12.2012, marked as Ext.P167 series, with Ext.P167 corresponding to Ext.P89. He stated that the balance of Rs.3,70,199/- as on 28.06.2007 shown in Ext.P89 was reflected in Ext.P167. Records prior to 14.01.2006 could not be produced as the old records had been transferred to the Head Office after shifting of the branch and could not be traced.

81. PW75, the DySP, Vigilance Special Cell, Thiruvananthapuram, conducted a search on 05.07.2007, pursuant to a search warrant, at the two-storeyed residential house No.32/2899, Thammanam, Kochi Corporation, where Tomin J. Thachankary and his

family resided. CW1 and CW2, Gazetted Officers, were present as witnesses. The search list, already marked as Ext.P20, contained his signature and those of the proceeding officers. Tomin J. Thachankary was initially present and opened the house, but later left to see a doctor; his Manager George Joseph was directed to remain with the search team and signed Ext.P20. A Sony laptop was seized, and the house particulars were recorded in the search memorandum. The search was conducted from 8.40 a.m. to 10.45 p.m., after which the search list and seized articles were handed over to the concerned SHO.

82. PW76, the DySP, Vigilance, Ernakulam, conducted a search on 05.07.2007, pursuant to a search warrant, at Building No.31/2107, Poonithura Village, belonging to P.J. Thankamma Thachankary. The search list was marked as Ext.P20 and bore his signature and those of the witnesses, including CW6 and CW7, Gazetted Officers. The search commenced at 9.45 a.m. and concluded at 2.45 p.m. A copy of the search list was handed over to Ajesh, who acknowledged receipt by signing it. The documents/items numbered 1 to 30 in the search list were found during the search and handed over to the SHO.

83. PW77, the DySP, Vigilance Special Cell, Thiruvananthapuram, conducted a search of Flat No.12B, Wellington Enclave, belonging to Tomin J. Thachankary, pursuant to a Court-issued search warrant. The search was conducted from 9.00 a.m. to 8.30 p.m. The search memorandum and list were marked as Ext.P3, bearing his and the witnesses' signatures. CW7 and CW8 were present as witnesses. A copy of the search list was given to Tomin J. Thachankary, who acknowledged it by signing "received". The search list was thereafter handed over to the SHO.

84. PW78, the DySP, Pathanamthitta Vigilance Unit, conducted a search on 05.07.2007 at the house of P.C. Varghese Cherian, father-in-law of Tomin J. Thachankary, at Adoor Village, Pathanamthitta District, pursuant to a search warrant. The search was conducted from 8.30 a.m. to 7.00 p.m. The search list was marked as Ext.P5, bearing his and the witnesses' signatures. CW11 and CW12 were present as witnesses. Varghese Cherian was present, received a copy of the search list and signed it. Documents/items 1 to 11 mentioned in Ext.P5 were seized and handed over to the SHO.

85. PW79, the Income Tax Officer, Kottayam Ward IV, produced the income-tax records of Tomin J. Thachankary for 2002–03 to 2006–07, marked as Ext.P168 series. The information furnished to the Investigating Officer was marked as Ext.P169. Form No.16 and salary particulars were marked as Ext.P170, and income-tax return particulars relating to income from salary, house property and other sources as Ext.P171 series. He stated that the sources for purchase of properties during 2004–05 to 2006–07 were not shown in the returns, and that a cash deposit of Rs.50 lakhs in Federal Bank, Vyttila, was not shown, though interest of Rs.6,010/- was disclosed. The alleged gift of Rs.52 lakhs to Anita Thachankary and lease advance of Rs.3,50,000/- were also not reflected. The taxable incomes disclosed included Rs.2,65,155/- (AY 2002–03), Rs.3,84,786/- (2003–04), Rs.4,14,560/- (2004–05), Rs.5,07,070/- (2005–06), and Rs.5,04,128/- plus Rs.49,410/- (2006–07). He stated that the case was later reopened under Section 148 of the Income Tax Act, and revised returns were filed after registration of the Vigilance case. He further stated that Ext.D13 showed capital gains based on sale consideration of Rs.50 lakhs, purchase value of

Rs.8,76,747/-, and additions of Rs.27,70,463/-. He had examined the source of income from records and called for the Asset and Liability Register, but had not verified the Annual Property Returns submitted to the Government. He denied the suggestion of PP that, he improperly accepting the revised returns or acting to help the accused.

86. PW80, the Special Dy.S.P.-II, Ernakulam Vigilance stated that he took charge as Investigating Officer on 25.04.2018 from PW124 and continued till 16.12.2011, when he handed the file back to PW124. He stated that the investigation had already been completed when he took charge and the file had been sent for prosecution sanction, and therefore he conducted no further investigation. He further stated that the Central Government was the competent authority to grant sanction for prosecution and that, to his knowledge, he had not previously dealt with a similar case involving an IPS officer as accused.

87. PW81, the Under Secretary, IPS-II Section, Ministry of Home Affairs, New Delhi, authenticated the prosecution sanction order issued in the name of the President of India against Tomin J. Thachankary, marked as Ext.P172, under Rule 2 of the Authentication

Rules. He stated that the records received from the Government of Kerala, including the inquiry report and supporting documents, were examined and sanction was issued after application of mind by the competent authority. For the check period 01.01.2003 to 04.07.2007, income was assessed at Rs.47,64,913/-, including salary, agricultural and rental income, GPF withdrawal, bank deposits and sale of ancestral property. Assets acquired were calculated at Rs.10,05,816/-, while expenditure included property purchases, stamp duty, registration charges, agricultural and household expenses, vehicle maintenance, gift/loan to spouse, foreign travel, income tax and other expenses. The disproportionate assets were calculated at Rs.64,70,891/-, i.e., 135.80% of known sources of income.

88. PW81 stated that the earlier sanction dated 25.06.2012, marked Ext.P173, was superseded by Ext.P172, and the corrigendum correcting the date was marked Ext.P172(a). The revised sanction followed discrepancies pointed out by the State Government and a supplementary factual report. The ancestral property sale was taken as Rs.16.66 lakhs as shown in the original income-tax return, rather than

Rs.50 lakhs shown in the revised return, and gifts from the mother and sister were excluded as they were not disclosed in the income-tax returns. He stated that the accused's representation dated 05.08.2011, the VIP reference, State Government comments and the Central Vigilance Commission's recommendation were considered, including the alleged failure to file Annual Property Returns and disclose gifts. He stated that the competent authority had never rejected sanction and that the difference between the two sanction orders was mainly in calculation. The first sanction was considered during P. Chidambaram's tenure as Home Minister, while the revised sanction was considered by then Home minister Sushil Kumar Shinde.

89. PW82 was working as DySP, Special Cell, Vigilance Police Unit, Ernakulam during the year 2010. He deposed that, CW120 retired from service on 31.03.2010 and the case file was handed over to him on that day. He further stated that he handed over the investigation of the case to CW122 on 08.04.2010. He deposed that he had not conducted any specific investigation in this case.

90. PW83 was working as Secretary of the Trivandrum Golf Club during 2012 and also during 2002–2005 and 2008–2012. He stated that, Tomin J. Thachankary was an ordinary member of the club bearing Membership No.564 and had paid membership and activity charges during 2004–2006. On verification of the club records at the request of the Vigilance Police, he furnished the details in Ext.P175. He stated that Tomin J. Thachankary paid ₹1,000/- on 30.09.2004 towards part membership fee, ₹14,000/- on 28.07.2005 towards final membership fee, and usage charges of ₹1,525/- on 01.12.2005, ₹720/- on 10.03.2006, ₹300/- on 20.05.2006 and ₹1,300/- on 15.09.2006, totalling ₹18,845/-. He stated that Ext.P175 was prepared after verifying the club's accounts and ledger extracts for 2004–2006, and that after the Government took over the Golf Club in 2010, the relevant records were no longer available with the club.

91. PW84 was working as DySP, Special Cell, Ernakulam, from 08.04.2010 to 28.04.2010. He stated that, he received the investigation of the case from CW121 on 08.04.2010 and handed it over to CW123 on 28.04.2010, without conducting any specific investigation.

92. PW85, the officer in charge of the Sub Registrar Office, Sasthamangalam, stated that, pursuant to the Court's direction, he produced the certified copy of Document No.1316/05 along with its corresponding volume. The certified copy issued from his office was marked as Ext.P139(a). He stated that the volume was an official record maintained in the ordinary course, and after comparing it with the certified copy, the volume was returned as it was required for day-to-day official use.

93. PW86, the officer in charge of the Sub Registrar Office, Maradu, stated that, he produced the certified copies of Document Nos.3464/2000 and 3469/2000 with their corresponding official volumes. After comparison, the copies were marked as Exts.P8(f) and P8(g), and the volumes were returned as they were required for official use. He also produced the undervaluation proceedings relating to Document Nos.364/2005 and 849/2005, marked as Ext.P178, along with the original undervaluation register. Certified copies of Document Nos.3740/2004, 4193/2004, 4652/2004, 4826/2004, 5950/2004, 3739/2004 and 3604/2004 were marked as Exts.P179 to P185. He stated

that undervaluation proceedings had been initiated in respect of these seven documents, and the communication sent to the Vigilance was marked as Ext.P186.

94. As per the undervaluation register, the details were: Document No.3604/2004—SRO value ₹2,00,000/- against the document value of ₹1,55,000/-, with additional stamp duty of ₹2,700/- and registration fee of ₹900/-; 3739/2004—₹3,86,000/- against ₹1,86,000/-, with ₹11,960/- stamp duty and ₹4,000/- registration fee; 3740/2004—₹3,07,000/- against ₹1,57,000/-, with ₹8,970/- stamp duty and ₹3,000/- registration fee; 4193/2004—₹2,55,000/- against ₹1,55,000/-, with ₹11,960/- stamp duty and ₹9,300/- registration fee; 4652/2004—₹2,50,000/- against ₹1,25,000/-, with ₹7,500/- stamp duty and ₹2,500/- registration fee; 4826/2004—₹1,40,000/- against ₹70,000/-, with ₹4,200/- stamp duty and ₹1,400/- registration fee; and 5950/2004—₹7,50,000/- against ₹1,86,000/-, with ₹33,840/- stamp duty and ₹11,280/- registration fee.

95. PW87 was working as Sub Treasury Officer at Vellayambalam Treasury Office during 2010-12. He deposed that, as

requested by the Investigating Officer, he furnished the salary particulars of the accused Tomin J. Thachankary to the Vigilance Police for the period from 01.01.2003 to 31.01.2004. The certified copy of the said salary particulars, bearing his signature and office seal, was identified by him and marked as Ext.P187. He further stated that the said particulars were prepared from the salary register maintained in the office and that a handwritten statement showing the same salary particulars was also issued to the Vigilance Police, which was marked as Ext.P188.

96. PW88, while working as Special S.P., Ernakulam Vigilance, from June 2007 onwards, deposed that, pursuant to the order dated 04.07.2007 of the Vigilance Director, the FIR in this case was registered on that day under Sections 13(1)(e) and 13(1)(d) read with Section 13(2) of the PC Act. The FIR was marked through him as Ext.P189. He further identified the letter containing the aforesaid directions of the Vigilance Director, on the basis of which the FIR was registered, which was marked as Ext.P189(a). After registration of the FIR, he submitted an application before the Court for obtaining search warrants for locating the material evidence, specifying therein the places

to be searched. The said application shown to him was marked as Ext.P190. Pursuant thereto, permission was obtained from the Court to search the six houses mentioned in the application, and the said orders were marked as Ext.P191 series. He further deposed that he separately endorsed and entrusted the aforesaid warrants to the Dy.S.P. concerned for execution, as directed by the Vigilance Director.

97. PW89 was working as Accounts Officer (Mobile), BSNL, Ernakulam. She stated that, she produced the billing details of mobile No.9446040229, Billing Account No.501155122, standing in the name of Tomin J. Thachankary, with address 32/2855, Thammanam P.O., Kochi-682032, for the period from 16.12.2005 to 20.08.2007. The statement was marked as Ext.P192 and the certificate for the computer-generated record under Section 63(A) of BNSS as Ext.P192(a). She stated that the customer application form was unavailable, as it was required to be retained only for three years after disconnection of the connection on 30.07.2007; the record regarding its non-availability was marked as Exts.P193 and P193(a). She further stated that the connection was post-paid and stood in the name of Tomin J. Thachankary, and that

the payment entry dated 20.08.2007 related to the bill subsequently generated for usage up to 30.07.2007.

98. PW90 was working as DySP, Special Cell, Ernakulam during the periods from 04.03.2011 to 25.04.2011 and from 16.12.2011 to 02.02.2012. He deposed that, he was holding the file relating to this case during the said periods. He further stated that, while he was holding the file, the proposal for obtaining prosecution sanction against the accused was pending and that he had not conducted any specific investigation in this case.

99. PW91 was working as Assistant General Manager at BSNL, Ernakulam. He deposed that, though the summons was addressed to the BSNL Office at Thiruvananthapuram, the said office was no longer functioning there and its operations were being carried out from Ernakulam. He stated that the Customer Application Form and bill payment details relating to connection No. 9947065800 were required to be produced before the Court, but the same could not be produced as they were not available in the office. He further stated that the account details relating to A/c No. 501799777 connected with the said telephone

number would be available with the Accounts Section of BSNL, which was a separate department and not under his control. He stated that CDR and Customer Application Forms were related to the section handled by him and that, since the connection was disconnected in 2018, the Customer Application Form and related records were not available. He further stated that such details would have been available if the connection was active. An affidavit explaining the above facts, bearing his signature, was produced and marked as Ext.P194.

100. PW92, who was working as DySP, Vigilance Special Cell, Ernakulam during 2007–2010, deposed that on 05.07.2007, as directed by the Superintendent of Police and on the basis of the search warrant endorsed to him by his superior officer, he conducted a search at Ryan Studio Complex, Thammanam, Ernakulam from 8.30 a.m. to 6.30 p.m. in the presence of witnesses and seized 16 items of properties, which were described in the mahazar and handed over along with the mahazar to the SP. He identified the search list prepared by him as Ext.P195 and its carbon copy as Ext.P1, and the search warrant as Ext.P196. He further stated that the investigation of the case was

entrusted to him on 01.11.2007 by order of the SP. He deposed regarding the seizure of various documents during the course of investigation, including sale deeds from the Maradu Sub Registrar Office, Book No.1 volumes, encumbrance certificates, land acquisition records, claim statements, bank account statements, cheque issue registers, postal records, service details, salary particulars, income tax records, vehicle registration details, valuation reports, travel payment records and other connected documents. He identified the respective seizure mahazars and documents marked as Exts.P6, P7 series, P9, P10, P11 series, P14, P14(a), P16 to P19, P21, P22, P28, P30 to P42, P48 to P50, P51, P52 series, P54, P60 to P66, P70, P74, P89, P90, P91 to P94, P136, P137, P143 to P149, P152, P153, P157, P158, P159, P160, P161, P163, P163(a), P164, P165, P168 to P171, P177, P179 to P186, P192, P192(a), P193, P193(a), P203 series, P207, P209, P217, P219, P222, P224, P231, P233, P235, P237, P240, P241 and P242, among others. He stated that wherever original records were taken from public offices, the same were returned under proper receipts with directions to produce them before the Court as and when required. He also stated that the

investigation conducted by him included recording statements of witnesses CW8 and CW13 to CW74, and that after his retirement, the remaining investigation was continued by other officers.

101. PW92 further deposed that, Ext.P168 income tax records for the assessment year 2007–2008 showed the land sale consideration relating to the transaction dated 30.10.2006 as ₹16,66,666/-, whereas Ext.D5 revised income tax return disclosed the sale value as ₹50 lakhs, and that both documents together reflected a total sale consideration of ₹66,66,666/-. He admitted that the sale consideration shown in Ext.D7 sale deed was ₹50 lakhs and that such consideration could not be seen from Ext.P168 income tax return. He further stated that, as per Ext.P1 mahazar, George Joseph was shown as the manager of Ryan Studio, and explained that he described him as the manager of Anitha Thachankary since he had furnished the details of the building. He stated that during his period of investigation he could not collect any documents showing the legal income of Anitha Thachankary. He also stated that Ext.P165 file and credit card details were seized as per Ext.P210 seizure mahazar. The witness identified the documents

marked during examination and confirmed that the signatures appearing on the mahazars and inventories were his and those of the witnesses who were present at the time of seizure.

102. PW93, working as Accounts Officer in the office of the Principal General Manager, BSNL, Ernakulam stated that he produced the account payment details relating to mobile No.9447065800, which was marked as Ext.P245 with his signature and seal. As the data was computer-generated, the certificate under Section 65B of the Indian Evidence Act was also produced and marked as Ext.P245(a). He stated that the Customer Application Form could not be produced since such records were retained only for three years after disconnection, and the connection had been disconnected in September 2019; the certified email reply regarding its non-availability was marked as Ext.P245(b). He further stated that Ext.P233 was similar to Ext.P245 and contained payment details from 18.07.2007 to 19.09.2008, all of which were also reflected in Ext.P245.

103. PW94 was working as DySP, Special Cell, Vigilance, Ernakulam, in 2010. He stated that, he conducted the investigation from

28.04.2010 to 04.03.2011. During investigation, he seized Ext.P73 under the seizure mahazar dated 06.07.2010, marked as Ext.P246; UTI Mutual Fund details in the name of Kavya Thachankary under the mahazar dated 29.07.2010, marked as Ext.P247; and Exts.P81 to P83 under the mahazar dated 28.09.2010, marked as Ext.P248. He further seized the accused's foreign travel details relating to his tenure at Kerala Books and Publications Limited under the mahazar dated 11.10.2010, marked as Ext.P249, with the travel details marked as Ext.P250. Under the mahazar dated 01.11.2010, marked as Ext.P251, he seized Ext.P86, Ext.D5 and Ext.D7. On the same day, he prepared another mahazar, Ext.P252, for the building details furnished by the President of Millennium Apartments, Jagathy, and seized the allotment document in favour of the accused, marked as Ext.P253. He also seized Exts.P58 and P59 under the mahazar dated 09.11.2010, marked as Ext.P254. He produced the hard-disk examination report relating to the laptop involved in the case as Ext.P255 and confirmed receipt of the report. He stated that he recorded the statements of CW77 to CW97 and that further investigation was conducted by CW124.

104. PW94 further deposed that, during his investigation, he came to understand that Anitha Thachankary had passed B.Sc. Home Science and was pursuing M.Sc. Extension Education, and that she was married. He stated that he could not collect any document showing that Anitha Thachankary was holding any official position or any licence issued by an official establishment, nor could he find any income earned by her in such capacity. He stated that Ext.D8 document shows that the stamp paper was purchased on 03.06.2006, but the name of the purchaser cannot be ascertained from the document. He further stated that Ext.D7 relates to a sale consideration of ₹50 lakhs and that he could not say whether the said amount was reflected in Ext.D33 bank statement. He stated that Ext.D33 bank statement shows deposit of ₹50 lakhs in cash at the Federal Bank, Vyttila Branch, Ernakulam. He also stated that Ext.D7 shows that the parties to the document registered the sale deed at Changanassery Sub Registrar Office on 30.10.2006 at 2.30 p.m.

105. PW95 was working as DySP, Vigilance Special Unit, Ernakulam, in 2012. He stated that, he took over the investigation on

02.12.2012. During investigation, Ext.P142 was seized under the mahazar dated 20.07.2012, marked as Ext.P256; Exts.P85 and P88 on 19.07.2012 under Exts.P257 and P258; and Ext.P22 on 27.07.2012 under Ext.P259. On the same date, Ext.D21, Exts.P57, P56, P141, P87, P140 and Ext.D8 were seized under Ext.P260. He further seized the Honda Activa price invoice from EVM Motors, Thiruvananthapuram, showing a price of ₹40,246/-, marked as Ext.P261, with the seizure mahazar, marked as Ext.P262. Ext.P175 was seized on 03.08.2012 under Ext.P263, and Ext.P187 series on 07.08.2012 under Ext.P265. The accused's income-tax statement obtained from the Income Tax Office, Kottayam, Ward No.4, was seized under Ext.P266 and marked as Ext.P267. He thereafter prepared a supplementary factual report and forwarded it through the Superintendent of Police for obtaining prosecution sanction. He identified the first sanction order as Ext.P173, contained in Ministry of Home Affairs File No.26011/13/2011 IPS2, marked as Exts.P268 and P268(a), and the subsequent sanction order dated 13.06.2013 as Ext.P172. He stated that he recorded the statements of CW98 to CW108, CW110 and CW127, after which further

investigation was conducted by CW128. He also identified the order entrusting the investigation to him as Ext.P269.

106. During examination, PW95 further stated that Ext.P148 series consisted of the statements furnished by the accused after registration of the case under the Prevention of Corruption Act and that the same related to the opportunity given to the accused, being a government servant, to submit his explanation. He stated that the said statements did not contain any details regarding the income of the wife of the accused. He further stated that, he had not found any document showing that the wife of the accused had any legally earned income or employment. He stated that the only similarity between Ext.D7 and Ext.P132 was that both reflected transactions involving ₹50 lakhs and that the transactions were separate, one at Changanassery and the other at Vyttila, Ernakulam. He further stated that, sanction under the Prevention of Corruption Act was required for prosecuting an accused under the said Act. He stated that, Ext.P173 contained sanction for offences under the Prevention of Corruption Act and also offences punishable under other provisions of law, whereas Ext.P172 contained

sanction specifically for offences under the Prevention of Corruption Act. He further deposed that the sanction proceedings were forwarded through the proper channel and that the files were processed through the Vigilance Directorate, Chief Secretary and thereafter to the Central Government. He stated that the communications in the sanction file were between the Chief Secretary, Government of Kerala, and the Home Ministry of the Central Government and that there was no direct communication between the Vigilance Department and the Central Government. He further stated that, he came to know from the file that the Central Vigilance Commission had issued directions regarding recording of a warning in the service book of the accused in connection with departmental proceedings.

107. PW96, who was working as Superintendent of Police, Vigilance Special Cell, Ernakulam in July 2012, stated that after verifying the investigation and documents collected by the previous officers, he filed the charge sheet. He stated that the check period was from 01.01.2003 to 04.07.2007, though the FIR initially showed 01.03.2003 to 31.03.2005. The case was initially registered under

Sections 13(1)(d) and 13(1)(e) read with 13(2) of the Prevention of Corruption Act, but Section 13(1)(d) was later deleted and the charge sheet was filed under Section 13(1)(e), as per Ext.P270. He stated that Statement 'A' of the final report showed opening assets of ₹9,97,363/-, Statement 'B' closing assets of ₹20,03,179/-, Statement 'C' income of ₹47,64,913/-, and Statement 'D' expenditure of ₹1,02,29,988/-. Applying the formula $(B-A+D)-C$, the disproportionate assets were calculated at ₹64,70,891/-, i.e., 135.8%. He further stated that, at the time of registration of the FIR, the accused was Managing Director of Kerala Books and Publications Limited on deputation from the Police Department, and the FIR was registered at Thiruvananthapuram considering his senior position and the need for confidentiality.

108. He further deposed that, Ext.D6 showed receipt of ₹2 lakhs in cash, while Ext.P150 showed transfer of ₹1,99,000/- on 25.06.2003, and that no other transaction relating to Mohammed Shareef was found. Ext.D5 showed purchase of land by Mohammed Shareef for ₹4 lakhs, but Ext.P150 did not show payment of ₹7,25,000/- in cash by him. He stated that the transactions in Exts.P88 and P139 fell within the

check period. He stated that, there was no document showing payment of income tax by the accused's mother, Thankamma. He stated that Ext.D7 showed receipt of ₹50 lakhs by the accused and his siblings, of which ₹16,66,666/- was attributed to the accused based on his Statements I to VI and income tax statement, and that payment of income tax on an amount credited to an account did not by itself establish it as legal income. He further stated that the investigation found no independent income of Anita Thachankary, the accused's wife, and that no such income was disclosed by the accused in his statements; he recalled that she was a Home Science graduate. He stated that in a disproportionate assets case, the accused is given an opportunity to explain his assets and income, for which Statements I to VI are obtained before the final decision, but those statements contained no details of Anita Thachankary's income. He also stated that, as he understood, Ryan Studio was started by the accused's father-in-law. On 22.08.2026, agreement for sale of accused's two wheeler marked as Ext.P272 u/s 348 BNSS as per order in CrI.MP 1200/2026.

The defence case and evidence:

109. The accused denied all the incriminating circumstances appeared against him in evidence, and contended that he is innocent. He specifically denied the allegation of having amassed wealth disproportionate to his known sources of income. According to the accused, he has been falsely implicated in the case. In support of his defence, he relied the defence evidence of DW 1 to 23, and Exts.D1 to D56. The defence evidence will be evaluated under the relevant points for determination.

Point No.1 -The Sanction under S.19 of the PC Act, 1988:

110. The accused was a 1987-batch IPS officer, and was working in the Kerala Cadre as an Inspector General of Police (IGP) during the check period. The Central Government was his sanctioning authority. Exts. P172 is the sanction order issued by the Central Government for prosecuting the accused under section 13(2) r/w 13(1) (e) of the P.C.Act,1988.The sanction order was marked and proved through the competent employee of the Central Government, PW81. The accused does not dispute the fact that he was a public servant or that the

Central Government was the competent sanctioning authority. However, the accused challenges the validity of the sanction on the ground that the sanctioning authority, without proper application of mind, issued two sanction orders in this case. According to the accused, Ext. P173 was the first sanction order legally issued in this case.

111. The accused contended that PW94 had completed his investigation on 04.03.2011, on which date the investigation was handed over to PW90. PW94 was thereafter requested to obtain sanction. According to the accused, there was no investigation in the case from 04.03.2011 to 02.12.2012. The accused further relied upon the evidence of PW81 to contend that, after issuance of Ext. P173 sanction order, the documents received from the State Government were sent back to the State Government. According to the accused, the investigating officers had no case that any English translations of the records were subsequently sent to the Central Government after issuance of Ext. P173. All the papers sent to the Central Ministry were returned immediately after issuance of Ext. P173 and, consequently, nothing

remained with the Ministry on the basis of which it could apply its mind and issue Ext P172, a second sanction order by superseding Ext P 173.

112. The accused further contended that the second sanction order was obtained by the investigating agency by sending a supplementary report to the Central Government. According to the accused, the Vigilance Police had forced the Central Government to issue the sanction in accordance with the supplementary report submitted by the investigating agency. It was argued that, had the first sanction order been accepted by the prosecution, a case of disproportionate assets could not have been framed against the accused in the present manner. So the accused would contend that, there was no application of mind by the Central Government while issuing Ext. P172 sanction order. The accused consequently argued that, if the sanction was not legally valid, the case would come to an end at that stage and the accused would be entitled to an acquittal on that ground. In support of above contentions, the accused relied upon the following decisions of the Hon'ble Supreme Court: *Dinesh Kumar v. Airport Authority of India*, (2012) 1 SCC (Cri) 509; *Mohammed Iqbal v. State of A.P.*, (1979) SCC

(Cri) 926; *State of Karnataka v. Ameer Jan*, (2008) 1 SCC (Cri) 130; *Mansukh Lal Vithal Das Chouhan v. State of Gujarat*, (1997) SCC (Cri) 1120; *State of T.N. v. M.M. Rajendran*, (1998) 2 SCC (Cri) 1000; and *State v. Dr. R.C. Anand and another*, (2004) SCC (Cri) 1380.

113. I have gone through both sanction orders. The accused himself had called for the original files relating to the sanction from the Ministry of Home Affairs (MHA), Government of India, and the same was marked as Ext. P268 and Ext. P268(a). Ext. P268 is the main file and Ext. P268(a) contains the notes/proceedings recorded on different dates in connection with the process of sanction against the accused. Normally, in cases under the Prevention of Corruption Act, the original files relating to sanction would not be available before the Court. Ordinarily, only the sanction orders would be marked through the competent witnesses. In the present case, the original sanction file itself is before this Court for examination. So this Court is in a better position to answer the arguments canvassed by the accused in this regard.

114. The main argument of the accused is that Ext. P172 sanction order was issued by the Central Government at the compulsion

of the Vigilance Police, Kerala. However, Ext. P268 & P268(a) files would show otherwise. All the communications from the Government of Kerala regarding sanction for prosecution of the accused were made by the Chief Secretary/Addl. Chief Secretary (Home) of the Government of Kerala. The files do not disclose any communication made directly by the Vigilance Police to the Central Government. The Central Government was communicated with only through the Chief Secretary/Addl. Secretary of the Government of Kerala. Therefore, the contention of the accused that, at the compulsion of the Vigilance Police, the Central Government issued Ext. P172 sanction order cannot be accepted.

115. This Court must next examine the reason for issuance of Ext. P172 by superseding Ext. P173. Ext. P268 file shows that the Government of Kerala initiated proceedings for sanction for prosecution against the accused by its letter dated 25.02.2011. The corresponding notes in Ext. P268(a), show that the matter was assigned file No. 26011/13/2011-IPS-II. The first entry in the notes file was made on 31.03.2011. After the opening of the file, an interesting development

took place. Ext. P268 file contains a letter dated 20.05.2011 addressed by a Member of Parliament (Rajya Sabha) to the Secretary, MHA. The letter itself is marked as “confidential” in the file. The said letter has been exhibited in the file and the corresponding notes in the file also refer that letter. The said Member of Parliament directly addressed the Secretary, Ministry of Home Affairs, Government of India, and that letter reads as follows:

“Dear Sri. Pillai Ji

I am enclosing herewith a copy of self-explanatory petition, addressed to you by Shri Tomin J. Thachankary, IPS (KL-87), along with its enclosures, for your perusal. The Officer is alleging that the vigilance case filed against him in connection with acquiring assets disproportionate to his known sources of income, is on the basis of accusations that he did not inform the Government about the purchases and sale of a few properties through the annual property returns, whereas he claims to have submitted not only the annual property returns, but also intimated the Government, through separate independent letters, about details of the property transactions, from time to time. Copies of all such intimations given by him to the Government have been enclosed with the petition.

However, the Government of Kerala have requested the Central Government for sanction to prosecute the Officer, even though no apparent case is made out against him. Hence, the Officer has requested you to get all the facts verified and to afford him an opportunity of personal hearing, to present all evidence in support of facts, before a decision on the request of the Government of Kerala is taken.

Going through the petition, it appears that the petitioner is being subjected to a witch-hunt by filing false cases against him under the provisions of the Prevention of Corruption Act. As such, I would request you to give an opportunity of personal hearing to the Officer and get the facts verified before any decision is taken in the case.”

116. Ext. P268 file also contains the representation submitted by the accused dated 08.05.2011. Thus, the Ministry of Home Affairs considered the detailed representation submitted by the accused. I have gone through the representation submitted by the accused. The said representation substantially contained the defence case of the accused. Since there was a reference of M.P, the Home Ministry considered the defence put forward by the accused through the above-mentioned representation. The evidence of PW81 would establish that there was no

practice in the Ministry of Home Affairs of considering the representation of an accused or hearing the accused during the process of sanction. This circumstance would establish that, because of the reference of M.P, the Home Ministry was made to consider the defence case put forward by the accused. Accordingly, the Central Government formulated eleven points arising from the representation of the accused and sought the response of the State Government. Pages 3 and 4 of Ext. P268(a) disclose the same. In the said note, the Home Ministry specifically referred to the Member of Parliament and recorded that the Member of Parliament had forwarded the representation submitted by the accused against the prosecution sanction contemplated against him under the Prevention of Corruption Act.

117. Thereafter, comments from the State Government were received. Those comments have been summarised at pages 10 to 12 of Ext. P268(a) in two separate columns, namely, the points raised in the representation and the comments of the State Government. At page 13, the views of the Ministry of Home Affairs are also recorded. The subsequent pages of Ext. P268(a), it could see that the Ministry of Home

Affairs conducted what may be described as a mini-trial regarding the disproportionate assets of the accused for the purpose of arriving at a decision regarding sanction for prosecution. All these exercises were undertaken by the Ministry of Home Affairs pursuant to the representation submitted by the accused against the proposed sanction. Thereafter, the Ministry of Home Affairs recalculated the figures and arrived at a different figure contrary to the figures contained in the records submitted by the Government of Kerala.

118. Moreover, Ext. P173 sanction order had accorded sanction to prosecute the accused under the Prevention of Corruption Act as well as for "any other offences punishable under other provisions of law". The prosecution had sought sanction only for prosecuting the accused under the provisions of the Prevention of Corruption Act. Nevertheless, the Central Government, in Ext. P173, included sanction to prosecute the accused for offences under other provisions of law also. The Ministry of Home Affairs had also recalculated the figures contrary to the calculations made by the prosecution. This exercise was undertaken upon consideration of the above-mentioned representation of

the accused, and it was in that context that the first sanction order came to be issued.

119. In this context, another legal question arises for consideration: whether a Member of Parliament or any other person has any right to interfere with the process of sanction which takes place between two Governments, namely, the State Government and the Central Government?. The sanctioning authority can examine the records submitted by the investigating agency through the State Government. Such authority can also call for additional documents or any other records from the investigating agency for the purpose of taking a decision in the matter. If the sanctioning authority is not satisfied with the records supplied by the investigating agency, it may reject the request for sanction. The power of the sanctioning authority at this stage is limited. It has to consider whether a prima facie case is made out so as to grant sanction for prosecution of the accused. If the sanctioning authority deviates from the records furnished by the prosecution and grants sanction on the basis of different heads of amounts and different offences, the case made out by the prosecution will collapse. The law

does not envisage such a situation under the Prevention of Corruption Act, 1988 during the process of sanction. If such a power is given to the sanctioning authority, the sanctioning authority could easily destroy any criminal case against a public servant.

120. Moreover, in all cases, sanction is sought by the prosecution after completion of the investigation. If different figures are determined and arrived at by the sanctioning authority in disproportionate-assets case, the prosecution will be compelled to conduct another investigation again in accordance with such findings on the sanction order. On that event, the investigation agency may be compelled to ask for another sanction, if such a further investigation is taken place. In the present case, the Government of Kerala initiated proceedings against the accused again after receiving Ext. P173 order from the Central Government. The State Government pointed out all the above anomalies to the Central Government with a supplementary report along with connected records, and requested that the defects be cured. In such circumstances, Ext.P172 was issued by the Central Government. So this Court finds that, there is no illegality in Ext.P172 sanction order.

121. The accused has a further case that, while issuing the second sanction order, there was no material before the Central Government on the basis of which Ext. P172 could validly have been issued. Ext. P173 was approved by the then Home Minister, Sri. Chidambaram, whereas Ext. P172 was approved by the then Home Minister, Sri. Sushil Kumar Shinde. Therefore, the accused contended that, there was no proper application of mind while issuing Ext. P172 sanction order.

122. The answer to the above contention can be found in Ext. P268(a) file. Page 34 of Ext. P268(a), Sl. No. 29(R), contains the following proceedings:

“1. Sanction for prosecution against Shri. Tomin J Thachankary, under the PC Act was granted on 25.06.2012, as approved by the HM. The documents mentioned from the State Government have been returned to them on 28.06.2012.

2. The Government of Kerala has informed that there are certain discrepancies in the amount arrived at in the factual report and in the prosecution sanction order issued by MHA,

the matter was referred to the Director Vigilance & Anti-Corruption Bureau, Kerala. The supplementary report was submitted by the Anti-Corruption Bureau. The I.O. has mentioned that while arriving at the disproportionate assets amounts, the difference between the assets at the end of the check period and assets at the beginning has not been taken into account, which amounts to Rs. 10,05,816/-. The State Government has requested to issue a fresh sanction order.

3. The documents connected with the prosecution sanction have already been returned to the State Government on 28.06.2012, the State Government be requested to forward the same, for taking necessary action. A draft letter is accordingly put up for approval, please.”

123. The subsequent proceedings recorded in the file pursuant to the above proceedings show that all the materials had again been produced by the State Government for the purpose of enabling the Central Government to take a second decision in the matter. Moreover, the Ministry of Home Affairs requested the State Government to depute

the concerned Investigating Officer to Delhi for discussion and reconsideration of the matter. This proceeding is reflected at page 37 of Ext. P268(a), Sl. No. 33(R). Thereafter, the Investigating Officer responded to the same, and the said response is also reflected in the proceedings contained in the file. Further, the file was sent to the Central Vigilance Commission for its advice, and the advice of the Central Vigilance Commission was also obtained. Ext. P268 shows that the Central Vigilance Commission had also made adverse remarks against the accused. Finally, the proceedings contained at page 42 of Ext. P268(a) state as follows:

“A revised prosecution sanction against Sri. Tomin J Thachankary, IPS(KL:87) was issued by the Ministry on 07.06.2013. The documents received from the state Government on 22-12-2012 in connection with the revised prosecution sanction, be returned to the State Government.”

124. Thus, it is crystal clear from Ext. P268 and Ext. P268(a) that the Ministry of Home Affairs had before it the records supplied by the Government of Kerala before taking a decision regarding the revised

sanction. The notes file, Ext. P268(a), clearly shows that two Home Ministers, several Secretaries to the Government, the Central Vigilance Commission and other authorities had examined the entire records before the decision was taken in the matter. The competent authority had undertaken an elaborate exercise before arriving at the decision to grant the revised sanction against the accused. The Ministry had also considered the representation of the accused, although such consideration was not normally undertaken in other cases. The original file demonstrates that the Central Government examined the materials before it, obtained the comments of the State Government, considered the issues raised in the representation of the accused, recalculated the figures, obtained the response of the Investigating Officer, and obtained the advice of the Central Vigilance Commission before issuing the revised sanction.

125. The entire sequence of proceedings reflected in Ext.P268 and Ext.P268(a), therefore, establishes that the Central Government had before it the relevant materials when the revised sanction was considered and issued. In the light of the above evidence,

the contention of the accused that Ext. P172 was issued without application of mind cannot be accepted. The records demonstrate that the Central Government had undertaken an elaborate consideration of the matter and had sufficient material before it when Ext P 172 was issued. Hence this Court finds that Ext. P172, the order of sanction issued by the Central Government in the name of the President of India and authenticated through PW81, constitutes a valid sanction under Section 19 of the Prevention of Corruption Act, 1988. **Accordingly, the Point No. 1 is found in favour of the prosecution.**

The arguments against investigation:

126. The accused has also challenged the competency of various investigating officers on the strength of S.17 of the P.C. Act. It was contended that several officers who conducted investigation had no written authorisation and that, although PW92 stated that there was a written order of authorisation, the same was not produced. Similar criticism is made against PW95, one of the main I.Os of this case. The defence side relied upon State Inspector of Police, Visakhapatnam v. Surya Sankaram Karri (2006) 3 SCC (Cri) 225 and Ashok Tshering

Bhutia v. State of Sikkim.(2011)2 SCC(Cri)258 in support of this argument.

127. There is substance in the proposition that the prosecution has to establish statutory authority where such authority is specifically challenged. At the same time, above mentioned Ashok Tshering Bhutia case makes it clear that a defect or irregularity in investigation does not automatically vitiate the trial unless miscarriage of justice is shown. In the present case, the prosecution evidence regarding the assets, bank balances, sale deeds, income-tax records, property returns and expenditure consists predominantly of documentary evidence proved through competent witnesses. The accused was given full opportunity to cross-examine those witnesses and, in fact, produced extensive defence evidence. Moreover, PW95, who conducted the investigation has produced the written order of S.P authorising him to conduct investigation of this case and the same has been marked through him as Ext P 269. Apart from that, S.17 of the P.C. Act does not state about a written order, but specifically state about an order. That order need not always in writing as per the scheme of the Act. A Vigilance

Police Officer cannot take over any investigation without any authorisation from his superior officer. Moreover this challenge has not been made by the accused at the earliest opportunity. Even in his discharge petition, that ground not specifically raised. So the contention of the accused in this regard is not sustainable.

Point No.2 - Assets at the beginning of the check period:

128. The prosecution has taken the assets at the beginning of the check period at ₹9,97,363/-. The items are: Cash balance – ₹64,492/-, Bank balance – ₹71,621/-, Laptop computer – ₹80,000/-, Ancestral property at Changanassery – No value assigned, Flat in Officers' Colony, Thiruvananthapuram – ₹7,81,250/-. The accused does not dispute the above figures. The accused in his argument notes stated the same in following manner: "*In the ultimate analysis, it is humbly submitted that the figure in statement A Rs.9,97,363/- is accepted by the accused.*" His only correction is that the bank balance should be ₹71,629/- instead of ₹71,621/-. The difference is only ₹8/-

129. The flat was admittedly acquired before the check period. The laptop was purchased in 1997 and was admittedly in the

possession of the accused before the check period. The ancestral property is reflected in the property records and was subsequently dealt with during the check period. Therefore the figure of ₹9,97,363/- accepted as the assets of the accused at the commencement of the check period. The minor difference of ₹8/- claimed by the accused does not alter the prosecution calculation and, in any event, is insignificant. Since the accused has accepted the figure for the purpose of his final calculation also, Statement 'A' is fixed at:

Sl.No	Description	Amount
1	Cash balance	₹64,492/-
2	Bank balance	₹71,621/-
3	Laptop computer	₹80,000/-
4	Ancestral property	No value assigned
5	Officers' Colony flat at Thrivandrum	₹7,81,250/-
Total		₹9,97,363/-

Hence the Point No.2 is found in favour of the prosecution.

Point No.3 - Assets at the end of the check period:

130. The prosecution has calculated the assets at the end of the check period at ₹20,03,179/-. The disputed item is the S.I. Flat of Southern Investments Pvt. Ltd., Thiruvananthapuram, valued by the prosecution at ₹1,25,644/-. The prosecution relies upon Ext.P139 sale deed. The defence, however, has produced substantial evidence to show that the flat had actually been purchased and paid for by the father-in-law, Sri Varghese Cherian, before the check period and was thereafter gifted to the accused. PW92, the investigating officer, admitted that he knew that the flat had been purchased by the father-in-law and given to the accused. The relevant document had been seized but was not marked by the prosecution and was subsequently marked as D17. PW92 further admitted that the document shows the allotment in the name of Varghese Cherian and that the entire payment was made by him. He also admitted that Varghese Cherian had not been questioned by him.

131. More importantly, DW13 Manoj Chacko, who had worked as Deputy General Manager of Southern Investments Ltd., tendered evidence that the entire payment was made by Varghese

Cherian and that the flat was registered in the name of the accused at his direction. He proved the relevant allotment and payment documents. Eventhough he has been cross examined at length by PP, he asserted his above mentioned stand. The accused had also disclosed in his Ext P143 property statement that the flat was gifted by his father-in-law. This is not a case where the defence has merely offered an oral explanation. There is contemporaneous documentary material, the evidence of the person connected with the transaction and the admission of the investigating officer himself to prove the defence case in this regard.

132. The PP would contend that the registration of the property was done on 23.03.2005, that during the check period and expenses in this respect is ₹1,25,644/- and this amount is the registration value of the property. Ext P139 sale deed proved through PW60 would clearly prove that the sale consideration of the property ₹1,16,212/-. So contention of the P.P in this regard is not sustainable and this amount cannot taken as the asset of the accused at the end of the check period due to the clear defence evidence in this regard. Therefore the accused is entitled to the benefit of this disputed item. Hence the prosecution has

failed to establish that ₹1,25,644/- represented an asset acquired by the accused during the check period. Accordingly the calculation in this regard is: ₹20,03,179 – ₹1,25,644 = ₹18,77,535/-.

133. So the Statement 'B' is fixed at:

Sl.No.	Description	Amount
1	Laptop computer	₹80,000/-
2	Officers' Colony flat	₹7,81,250/-
3	S.I. Flat	Excluded
4	Canara Bank balance	₹1,59,881/-
5	Federal Bank balance	₹4,52,468/-
6	Kerala State Co-operative Bank balance	₹3,70,199/-
7	Union Bank balance	₹33,737/-
Total		₹18,77,535/-

Thus, the assets at the end of the check period are: ₹18,77,535. **Hence the point No.3 is answered accordingly.**

Point No.4 - Income during the check period:

134. The prosecution has shown ₹47,64,913/- as income of the accused during check period. The defence side claims several additional amounts on this head. So, each item has to be examined on the basis of evidence adduced on that regard.

1. Salary:

135. The prosecution has taken net salary of ₹13,51,001/- as income of the accused during check period. The evidence of PW87 regarding the salary from January 2003 to January 2004 and PW70 regarding salary from KBPS establishes the salary received during the respective periods. The defence has pointed out an omission of ₹24,846/- in the computation, comprising the salary received on 01.01.2003 and DA arrears. PW87's cross-examination supports this omission. This is not merely an assertion by the accused. It is an arithmetical discrepancy demonstrable from the prosecution's own evidence. Therefore, the accused is entitled to an additional amount of ₹24,846/- on this head. Thus salary income is : ₹13,51,001 + ₹24,846 = ₹13,75,847/-

2. Agricultural income:

136. The prosecution has taken ₹2,23,750/- on this head. The accused does not dispute this figure. The defence objection is that the agricultural expenditure of ₹11,045/- was separately deducted from the agricultural income and again included in Statement D. That contention is considered under expenditure. For present purposes, the agricultural income remains ₹2,23,750/-.

3. Rental income:

137. The prosecution has taken ₹8,73,795/- after deducting 30% standard deduction on this head. The defence contends that the actual rent received was ₹12,50,288/- and that 30% deduction under the Income-tax Act is only a notional deduction for taxation and not actual expenditure. There is considerable force in this contention. PW79, Income Tax Officer, Kottayam Ward IV has stated that 30% is a standard deduction for income-tax purposes. The defence has also relied upon the evidence of DW14, a Chartered Accountant. The prosecution has not produced evidence that the amount of 30% was actually spent towards repairs or maintenance. However, in the context of the present

prosecution, the relevant question is the amount of income available to the accused after accounting for expenditure. The accused himself had declared the net rental income after claiming the statutory deduction in his income-tax returns. The prosecution adopted that declared figure. Therefore this Court does not find sufficient basis to substitute the gross rent for the net rental income merely because the statutory deduction was not necessarily actually spent. The rental income is therefore retained at: ₹8,73,795/-.

4. GPF withdrawal:

138. The prosecution has taken ₹6,00,000/- as GPF withdrawal. PW27 proved the withdrawal and the corresponding bank credit. The accused accepts the receipt. It was a non-refundable withdrawal. So this amount is treated as an available source during the check period. So income of ₹6,00,000/- is accepted.

5. Income from other sources:

139. The prosecution has taken ₹49,701/- on this head. The accused claims an additional ₹9,311/- towards bank interest attributable to April-June 2007. The assessment year 2008-09 covers April-June

2007. The evidence relied upon by the accused establishes the interest figure. Since the relevant period falls within the check period, the amount has to receive credit. Thus the actual amount is: ₹49,701 + ₹9,311 = ₹59,012/-.

6. Sale of 55 Cents at Changanassery:

140. This is the most important disputed item of income. The property was originally gifted by the grandfather to the accused and his two brothers. Ext.D7 sale deed establishes sale of 55 cents for ₹50 lakhs on 30.10.2006. Ext.P33 shows a credit of ₹50 lakhs in the Federal Bank account of the accused on the same day. The defence relies upon Ext D8, claimed to be a release deed, evidence of PW52, evidence concerning the family arrangement, D13 revised income-tax return and other materials to contend that the entire ₹50 lakhs was the accused's income.

141. Prima facie, there is evidence supporting the fact that, ₹50 lakhs has been reflected in the Ext.P33 statement of account of the accused. The accused also relied upon for the family arrangement and Ext.D13 revised income-tax return. However, the criminal charge concerns the accused's lawful income, and not merely money which

physically passed through his bank account. Ext.P86 establishes that the property was gifted to the accused and his two brothers jointly. The registered sale deed D7 does not by itself alter the legal ownership structure. D7 clearly stated that the consideration was received by all co-owners of the property and there is no mention in that document that the consideration fully received by the accused. The defence relies upon Ext.D8 an alleged family arrangement and release of rights, but this Court is not satisfied that the defence has established, with the degree of certainty required for treating the entire ₹50 lakhs as the accused's lawful personal income, that the other two brothers had legally surrendered their proprietary interests before the sale.

142. Moreover, that deed is not a registered deed. A release deed requires compulsory registration as per S.17 of the Registration Act,1908. Admittedly, such registration is not there in Ext.D8. The impact of non- registration has been stated in S.49 of the Registration Act,1908 itself. When a document that needs mandatory registration is left unregistered, that document cannot create, charge, or end any right, title, or interest in immovable property, and that document cannot use as

an evidence in Court to prove a transaction affecting that property. Here the accused claims that he relinquished all his rights in the remaining property of Changanassery, after the above mentioned sale and by receiving full consideration of ₹50 Lakhs. But, while applying the above principle of law into the present situation, Ext D 8 cannot be relied upon and to prove the transaction as claimed by the accused. PW52's oral evidence regarding the family arrangement is relevant, but it cannot displace the registered title reflected in Ext.P86. The fact that ₹50 lakhs was credited to the accused's account on the same day of sale is also not conclusive of his beneficial entitlement to the entire consideration. This is an instance where the defence has established receipt of the amount but has not satisfactorily established that the entire amount constituted the accused's lawful income.

143. Thus, two different propositions have to be kept separate: ₹50 lakhs was credited in the accused's account; and the accused was beneficially entitled to the entire ₹50 lakhs as his own income. The first proposition may be accepted to the extent borne out by Ext.P33. The second does not automatically follow from it. The accused

has to establish the connection between the cash deposited in his account and his alleged exclusive entitlement to the entire sale consideration. When documents of the title disclose three co-owners, mere physical receipt of the money into one co-owner's account cannot, without more, convert the entire consideration into that person's lawful income. The mode of receipt relied upon by the accused itself creates a further difficulty. The defence argument proceeds on the footing that the ₹50 lakhs appearing in Ext.P33 represents the sale consideration under Ext.D7. But the evidence does not establish who carried the cash to the bank or who deposited it. The accused does not adduce any evidence in this regard eventhough he examined 23 number of defence witnesses. Ext.D7 may establish the sale consideration and Ext.P33 may establish the cash credit, but there is no independent evidence identifying the depositor or establishing the precise movement of the sale consideration from the purchaser to the accused.

144. Further, the accused in his earlier representation dated 08.05.2011 to the Central Government had stated that the ₹50 lakhs was received by him by cheque, whereas Ext.P33 records a cash credit. The

exact wordings of the accused in his representation contained in Ext.P268 are as follows: " *The sale prize shown in sale deed is Rs.50 Lakhs. The above amount was received by me through bank cheque as reflected in my bank account.*" He had also repeated the same assertion in his other representations dated 10.11.2011 to the Union Home Secretary and Joint Secretary, Ministry of Home Affairs, and same could also see in Ext.P268 file. But, no evidence of such cheque, its drawer or the corresponding banking transaction has been adduced by the accused. This material inconsistency in the accused's own version assumes significance when he seeks to rely upon the entire ₹50 lakhs as his lawful income.

145. There is another material circumstance to reject the argument of the accused in this regard. For the relevant assessment year, the accused himself declared only ₹16,66,666/-, namely one-third of ₹50 lakhs in Ext.P168(e) as income from the sale of the property. The defence seeks to explain this by relying upon the release deed and the fact that the entire amount was credited to the accused's bank account. But this Court cannot ignore the fact that, when the accused himself was

required to declare his income to the Income-tax Department, he treated only one-third of the sale consideration as his income. This earlier declaration is particularly relevant because it is consistent with the registered title reflected in Ext.P86 and Ext.D7, both of which disclose the interests of the three brothers. If the accused had in fact acquired the entire beneficial interest in the property before the sale, or if his brothers had transferred their entire rights to him so that the whole sale consideration legally belonged to him, one would reasonably expect that position to be reflected consistently in the contemporaneous documentary record. Instead, the accused's own income-tax declaration was only confined to one-third.

146. The accused further argues that ₹45 lakhs was transferred from his Federal Bank account to the account of his wife on 08.11.2006 and that itself demonstrates that the preceding ₹50 lakh credit belonged entirely to him. This argument also cannot be accepted. The fact that the accused had sufficient funds in his account to issue a cheque for ₹45 lakhs establishes the existence of funds in his account. It does not establish the beneficial ownership of the entire preceding ₹50

lakh credit in connection with the sale of property at Changanassery. Indeed, if the defence relies upon the sequence of transactions, the same sequence must be considered in its entirety. The bank account received ₹50 lakhs in cash; thereafter ₹45 lakhs was transferred to the wife. But neither transaction establishes that the accused was legally entitled to the two-thirds share of his brothers. The prosecution is therefore not taking inconsistent positions by crediting the accused with one-third of the sale consideration while treating the subsequent proved transfer of ₹45 lakhs as an expenditure. The two questions are legally distinct: what amount was the accused entitled to as income from the jointly owned property, and what amount did he subsequently expend from the funds under his control?

147. The accused would also contend that, Ext D13 revised income tax return has disclosed the entire sale consideration, and he remitted tax for the same. The accused's earlier Income-tax return treated only ₹16,66,666/- as his income from the sale. The subsequent revised return, Ext.D13, dated 25.03.2009, in which the entire ₹50 lakhs was declared, was filed long after registration of the Vigilance crime on

04.07.2007 and when the accused was already aware that his financial affairs were under Vigilance scrutiny. Though this Court does not presume any particular motive in filing the revised return, its subsequent nature and timing require that it be assessed with caution. Payment of tax on the subsequently declared amount does not conclusively establish that the entire amount constituted lawful income for the purpose of Section 13(1)(e) of the P.C. Act. The revised return cannot retrospectively enlarge the accused's proprietary entitlement in the property. The accused's present claim for the entire ₹50 lakhs is also rendered less satisfactory by the inconsistency between his earlier declaration and the subsequent revised declaration and by the absence of satisfactory evidence regarding the actual source and depositor of the ₹50 lakh cash credit.

148. The contention that the subsequent disclosure of the entire amount in the Income-tax return and payment of tax thereon should, by itself, entitle the accused to treat the entire amount as income for the purpose of the disproportionate assets calculation cannot be accepted. If such a proposition is accepted, the very object of Section

13(1)(e) of the Prevention of Corruption Act would be defeated. A person found in possession of pecuniary resources disproportionate to his known sources of income could, after the commencement of scrutiny or investigation, make a subsequent declaration of the disputed amount before the Income-tax authorities, pay tax thereon and thereby claim that the disputed resource has ceased to be unexplained. Such an approach would virtually confer upon the accused an option to regularise, for the purposes of a criminal prosecution under the Prevention of Corruption Act, an otherwise unexplained resource merely by subjecting it to tax.

149. Payment of tax and determination of taxable income operate in a different statutory field from the determination of whether a public servant possessed pecuniary resources disproportionate to his known sources of income. The fact that an amount is brought to tax does not, by that circumstance alone, establish its source, legality, ownership or availability to the public servant during the check period. What is relevant in a disproportionate assets case is not merely whether tax has subsequently been paid upon an amount, but whether the accused has established that the amount constituted a lawful source of income

available to him during the relevant period. Otherwise, the consequence would be anomalous: the greater the unexplained amount detected during investigation, the greater would be the opportunity of the accused to neutralise the allegation merely by offering the same amount for taxation. Criminal liability under the Prevention of Corruption Act cannot depend upon the subsequent fiscal treatment chosen by the accused after the alleged disproportion is detected. A subsequent tax payment may be a circumstance for consideration, but it cannot by itself erase the evidentiary circumstances which rendered the resource unexplained in the first place.

150. There is yet another circumstance arising from the conduct of the accused which requires consideration. The accused had initially treated only one-third of the ₹50 lakhs, namely ₹16,66,666/-, as his income from the sale and had paid tax accordingly. Subsequently, he filed the revised return in which the entire ₹50 lakhs was declared as his income and tax was paid on the entire amount. The defence seeks to rely upon this subsequent payment of tax as demonstrating the bona fides of the accused. At first sight, payment of additional tax may appear to be a

circumstance favourable to the accused. But the manner in which the subsequent payment was made requires closer examination. If the intention of the accused was merely to correct the earlier return by bringing the omitted portion of the sale consideration to tax, the natural course would have been to offer for taxation only the balance amount which had not already been declared and taxed. Having initially declared one-third of ₹50 lakhs, the amount additionally required to be brought to tax would ordinarily have been the remaining two-thirds. Instead, the accused subsequently declared the entire ₹50 lakhs once again as his income.

151. Thus, the consequence was that the same transaction, which had earlier been treated as yielding ₹16,66,666/- of taxable income, was subsequently presented as yielding ₹50 lakhs of taxable income. Therefore, tax was paid on approximately ₹66.66 lakhs in respect of a sale consideration of ₹50 lakhs. This conduct calls for an explanation, and that area has not been explained by the accused. If the revised return was intended simply to correct the earlier omission and to bring the omitted portion of the sale proceeds to tax, it is difficult to

understand why the amount already declared and taxed was again included without an appropriate adjustment for the tax treatment already made in respect of the first one-third. The circumstance is particularly significant because the revised return was not a contemporaneous document prepared immediately after the sale. It was filed on 25.03.2009, after the Vigilance crime had already been registered on 04.07.2007 and while the accused's financial affairs were under investigation.

152. There is one more circumstance which assumes considerable significance in appreciating the claim of the accused regarding the alleged receipt of ₹50,00,000/- from the sale of 55 cents of property at Changanassery. Ext.P142 series consists of the annual property statements of the accused for different years. The accused, being a member of the Indian Police Service, was under an obligation under Rule 16 of the All India Services (Conduct) Rules, 1968 to furnish annual property returns. The very object of such annual return is to place before the Government, contemporaneously, the particulars of the immovable properties owned, acquired or disposed of by the officer.

153. PW63, the officer who was the custodian of the relevant records in the office of the Chief Secretary, has stated that, Ext.P142 series had received in the Chief Secretaries Office. But, the date of receipt in the office seal of the Chief Secretary would bear the date 09.07.2007 in all property statements, except in 2008 property statement. The significance of this evidence cannot be overlooked. The statements relating to several different years are thus shown by the official record to have reached the office together on a single date. More importantly, the property statement relating to the year 2006, which ought to reflect the position as on 01.01.2007, is not available in the records. PW63 specifically denied the suggestion that the accused had submitted the said statement and stated that, if such a statement had been submitted, it would have been retained in the confidential folder maintained for the accused and that there was no case of any such document going missing during his tenure.

154. The accused had the opportunity to dispel this circumstance. He cross examined PW63 and was aware of the specific stand of the witness regarding the non-receipt of the 2006 property

statement. Yet, despite having adduced substantial defence evidence, the accused did not produce any office copy of the alleged 2006 property statement. He has also not produced any acknowledgement, covering letter, dispatch record or other contemporaneous material to establish that the annual statements were in fact submitted in the respective years in accordance with the requirement of above mentioned Rule 16. He could have obtained or summoned the relevant records from the office where he was serving or from the office of the Chief Secretary, if such records existed. No such attempt has been made by the accused. This assumes greater significance because the sale of the 55 cents of land at Changanassery admittedly took place on 30.10.2006 under Ext.D7. Therefore, if, as now contended by the accused, the entire sale consideration of ₹50,00,000/- was received by him and constituted his income, the transaction was a matter which would naturally be expected to find place in the annual property statement relating to the year 2006, particularly when such statement was intended to disclose the acquisition and disposal of immovable property and the financial particulars connected therewith.

155. The absence of the 2006 property statement, coupled with the receipt of the remaining Ext.P142 series property statements only on 09.07.2007, is therefore not a mere procedural irregularity. It materially affects the evidentiary value of those statements as contemporaneous declarations. The dates appearing on the statements cannot, merely because they are accompanied by the signature of the accused, be treated as conclusive proof that the documents were actually submitted on those dates. When the official receiving record shows that the statements were received together on 09.07.2007, and when the statement for the crucial year 2006 is itself absent, this Court is entitled to consider whether the documents were prepared or produced subsequently and bears the dates of the respective years. This Court is not required to record a positive finding of fabrication or antedating in order to draw the evidentiary inference arising from these circumstances. What is material is that the accused has failed to establish that these were contemporaneous annual declarations submitted in the ordinary course.

156. On a cumulative appreciation of these circumstances, this Court is not satisfied that the accused has established that the entire ₹50,00,000/- received in the account was his exclusive lawful income from the sale of the 55 cents. The evidence satisfactorily establishes the sale consideration and the credit of ₹50,00,000/-, but it does not satisfactorily establish that the whole of that amount constituted the accused's lawful income. In these circumstances, it is only possible to take the accused's one-third share, namely ₹16,66,666/-, as the income attributable to him from the sale of the 55 cents. The claim for treating the entire ₹50,00,000/- as his income is rejected.

7. Sale of 6 cents at Changanassery:

157. This item stands on an entirely different footing. The defence relies upon D5 sale deed, D6 agreement for sale, the evidence of PW52 and DW11 Mohammed Shereef, and the bank statements. DW11 categorically stated that the property was sold for ₹7,25,000/- and that ₹1,99,000/- and ₹5,25,000/- were transferred from his bank account to the accused's bank account. The accused's property returns, Ext.P168(b) also disclosed the transaction. Thus, there is contemporaneous

documentary corroboration, evidence of bank statement, evidence of the purchaser and disclosure by the accused to the authorities concerned. Therefore, this income is satisfactorily established as a lawful receipt of the accused and was intimated to the authorities concerned in his Ext.P168(b) property returns. Therefore, ₹7,25,000/- is added as income of the accused.

8. Lease amount from Deenkutty:

158. PW44 is stated to have paid ₹3,50,000/- as lease amount, of which ₹3,40,000/- was subsequently returned. The balance ₹10,000/- was retained by the accused. The retained ₹10,000/- is therefore properly treated as income during the check period. So ₹10,000/- is added as income of the accused.

9. Rental advances:

159. The defence relies upon ₹30,000/- received from Dibin Liju Mathew and ₹20,250/- received from Jincy Shajan. These amounts were refundable advances and were admittedly returned after the check period. Strictly speaking, they are not income. Nevertheless, under the cash-flow methodology adopted in the case, the amounts were resources

available to the accused during the check period and were returned only subsequently. The defence itself has included them as available sources. Since the object is to ascertain whether the accused had resources available for meeting expenditure during the check period, the accused should be given that benefit and credit ₹50,250/-.

10. Gift from sister Tiji Joseph:

160. The prosecution itself had documentary evidence regarding the foreign remittance. Ext. P209 shows the remittance and Ext.D21 contains the confirmation from Tiji Joseph. DW10, the sister of the accused also deposed regarding this gift. That amount has been reflected in Ext D24 statement of account of the accused during check period. The above evidence is sufficient to establish the receipt of gift from the sister of the accused. So, ₹2,35,174/- is credited to the accused.

11. Amount received from mother:

161. The defence claims that the accused received ₹15 lakhs from the mother. There is an evidence of transfer of ₹5,850/- and ₹69,213.61 from her account to the accused's account. However, the alleged cash payment of ₹15 lakhs rests substantially on the oral

evidence of DW17, the person who claims to be the manager of wife of the accused. There is no corresponding bank trail establishing that the entire ₹15 lakhs reached the accused. The two proved bank transfers through Ext P151, however, are clearly established: ₹5,850 + ₹69,213.61 = ₹75,063.61 received by the accused from his mother's account. Therefore, the accused is entitled to credit of ₹75,063.61, but not the alleged ₹15 lakhs. After considering each disputed item in statement 'C', the findings on that regard as follows:

Sl.No.	Description	Amount
1	Net salary	₹13,75,847.00
2	Agricultural income	₹2,23,750.00
3	Rental income	₹8,73,795.00
4	GPF withdrawal	₹6,00,000.00
5	Other income including additional interest	₹59,012.00
6	55 cents Changanassery sale – 1/3 share	₹16,66,666.00
7	Sale of 6 cents	₹7,25,000.00
8	Lease amount retained	₹10,000.00

9	Rental advances	₹50,250.00
10	Gift from Tiji Joseph	₹2,35,174.00
11	Bank transfers from mother	₹75,063.61
Total		₹58,94,557.61

Thus the income during the check period is fixed at ₹58,94,557.61.

Point no.5 – Expenditure during the check period:

162. The prosecution has originally shown expenditure of ₹1,02,29,988/-. The defence has disputed almost every major item. So this Court has to distinguish:

- a. expenditure actually proved,
- b. expenditure supported only by an estimate or inadmissible material, and
- c. expenditure which, though incurred, has been satisfactorily shown to have been met from another person's resources.

1. Purchase of 18 properties and stamp duty:

163. The prosecution has taken ₹31,04,000/- towards the value of the 18 properties and ₹3,07,556/- towards stamp duty and registration charges. The registered consideration is not disputed. The

real dispute is who paid the consideration. The prosecution has included in Statement 'D' the expenditure incurred in connection with the purchase of 18 items of properties during the check period. The prosecution has taken the consideration shown in the respective registered deeds and the stamp duty and registration charges payable in respect thereof. The relevant sale deeds, namely Exts.P7 series, P8 series, P11 series and P14 series, were produced through the officials of the Sub Registry Office. The prosecution relies upon this documentary evidence for establishing the expenditure.

164. The defence contention is that these properties were not acquired with the funds of the accused but were purchased for and on behalf of his wife, who allegedly had independent sources of income and sufficient funds. It is further contended that the properties were initially registered in the name of the accused for reasons connected with the Land Ceiling law and were subsequently transferred to the wife.

165. This Court considered the above contention in the light of the entire evidence. The most significant circumstance is that the registered deeds relating to the acquisitions stand in the name of the

accused. The prosecution is not relying merely upon the oral testimony of the vendors to establish the transactions. The relevant deeds were produced through the Sub Registry officials. Several of the vendors examined by the prosecution turned hostile. The prosecution itself has referred to PW12, PW21, PW39, PW41, PW45, PW46, PW47, PW48 and PW51 as hostile witnesses in relation to the property transactions. This Court does not place undue reliance upon the evidence of those vendors. The relevant deeds consistently show the accused as purchaser. This documentary circumstance assumes considerable significance when considered along with the property returns and special property statements of the accused produced by PW63 and PW64.

166. The defence has relied upon the financial capacity of the wife and upon certain withdrawals from her accounts to contend that she had actually provided the consideration. The mere fact that the wife possessed funds, however, does not establish that those funds were utilised for the purchase of each of the properties standing in the name of the accused. What is required is satisfactory evidence connecting the particular funds with the particular acquisition. The defence explanation

is further rendered doubtful by the accused's own stand in Ext.P149. In that explanation furnished to the Chief Secretary Kerala, the accused stated that “his wife was an independent person and that her income, assets, liabilities and expenditure were not relevant to his property position.” The present defence, however, seeks to explain the acquisition of the 18 properties by attributing the source of consideration substantially to the very wife whose income and assets the accused had earlier represented as irrelevant to his property position.

167. This subsequent explanation cannot be accepted merely because the wife is shown to have had financial resources. The subsequent transfer of the properties to the wife also does not, by itself, establish that the original consideration had been paid by her. A subsequent transfer is equally consistent with the prosecution case that the properties were first acquired in the name of the accused and were thereafter transferred. The defence has thus failed to establish a satisfactory and convincing nexus between the wife's alleged funds and the consideration paid for the 18 acquisitions as a whole.

168. It is true that some of the vendors did not support the prosecution during trial. But the prosecution case regarding the expenditure does not rest exclusively upon their testimony. The registered conveyances and the official evidence regarding their registration remain on record. Therefore, the fact that some vendors subsequently turned hostile cannot be treated as sufficient to reject the expenditure reflected in the registered documents.

169. Three properties jointly standing in the names of the accused and his mother. There is one important qualification which has already been incorporated by the prosecution itself. In respect of the three properties jointly standing in the names of the accused and his mother, the prosecution has already excluded the mother's half share and has taken only the accused's share for the purpose of calculating the disproportionate assets. Therefore, no further deduction on this account is warranted.

170. The evidence relating to the mother's account was produced through PW66, who produced the account details of the accused and his mother. The prosecution, while calculating the

expenditure, has already restricted the amount attributable to these three properties to the accused's share. Consequently, the figure of ₹31,04,000/- represents the expenditure towards the purchase of the 18 properties after giving the accused the benefit of the mother's half share in the three jointly held properties. Similarly, the prosecution has taken ₹3,07,556/- towards stamp duty and registration charges in respect of the transactions. Since these are actual expenditure incurred in connection with the acquisition and the prosecution calculation has already given the benefit applicable to the mother's share, the said amount is liable to be retained.

171. The defence contention that the entire expenditure should be excluded because the properties were allegedly acquired out of the wife's funds therefore cannot be accepted. On an overall appreciation of the documentary and oral evidence, the finding is that the prosecution has established the expenditure relating to the acquisition of the 18 properties. The finding is not founded principally on the testimony of the vendors who turned hostile, but on the registered sale deeds, the official registration records, the property statements and

the surrounding documentary evidence. The defence has failed to establish that the 18 properties were purchased with the wife's funds merely because she possessed financial resources. In particular, no satisfactory transaction-wise evidence has been produced to establish that the consideration for the properties registered in the accused's name was actually paid by the wife. So the explanation regarding purchase in the accused's name for the benefit of the wife and subsequent transfer to her is therefore rejected. At the same time, the prosecution has already given the accused the benefit of the mother's half share in the three properties standing jointly in the names of the accused and his mother. That benefit shall remain undisturbed. Accordingly, this Court finds that:

(i) Expenditure towards purchase of the 18 properties: ₹31,04,000/-

(ii) Stamp duty and registration charges: ₹3,07,556/-

Total Expenditure under items 1 and 2 : ₹34,11,556/-. Thus, ₹34,11,556/- shall be retained in Statement 'D' under these two items.

The defence regarding the income of the wife:

172. The accused has advanced a comprehensive defence that his wife, Smt. Anitha Thachankary, was a woman of substantial

independent means, that she was carrying on business and was handling very large amounts of money through accounts maintained by her in different banks and that the properties standing in the name of the accused were, in fact, acquired out of her funds. The defence relies upon various bank statements and other documents to contend that crores of rupees had passed through her accounts during check period.

173. This Court also considered above contention. The mere fact that substantial amounts were transacted through the wife's bank accounts does not establish that those amounts constituted her tax-paid lawful income, nor does it establish that the particular amounts were utilised for the acquisition of the properties standing in the name of the accused. The Public Prosecutor has rightly drawn attention to a particularly significant feature of the defence. The wife's income was not projected by the accused as a source relevant to his property position at the earlier stages of the proceedings. On the contrary, the accused himself had taken a different stand. In Ex.P149 explanation submitted by the accused to the Chief Secretary, he specifically stated that his wife was not his dependent and was an independent person and that her

income, assets, liabilities and expenditure were not relevant to his property position. The Public Prosecutor relies upon this statement to contend that the accused had himself excluded the wife's financial affairs from the explanation of his assets and expenditure.

174. The present defence is not merely that the wife possessed independent wealth. The accused now seeks to go much further and contends that he had utilised that wealth for acquiring properties standing in his own name. If that had been his case from the beginning, the wife's income and her contribution towards the accused's acquisitions would necessarily have been a matter directly relevant to his explanation of his property position. But that was not the stand taken by the accused at the earlier stages. The subsequent attempt to introduce the wife's income as a major source for explaining the accused's acquisitions must therefore be examined against this background.

175. The accused remained silent for 14 years regarding the alleged utilisation of his wife's substantial income for his acquisitions and that the defence concerning the wife's income was introduced only at a much later stage. The accused raised the plea regarding the wife's

huge income only at the fag end of the proceedings, despite having had opportunities to raise the issue earlier. The crime was registered on 04.07.2007. The accused had also approached this Court seeking discharge in this case by way of Crl.M.P No.152/2020 on 06.02.2020. The fact that the accused did not, at that stage, set up a case that the properties standing in his name had been acquired by utilising his wife's income is a circumstance which cannot be ignored. A person who possesses knowledge of the source of his own property and expenditure would ordinarily be expected to put forward that explanation at the earliest stage, particularly when the prosecution alleges that the property is disproportionate to his known sources of income. The silence of the accused at the earlier stage is not, by itself, proof that the subsequent defence is false. But when the accused later introduces a substantially new explanation for a large number of property transactions, this Court is entitled to consider whether that explanation is consistent with his earlier conduct and statements. Here, it is not.

176. The accused has also relied upon Ext.D55 Government order dated 28.01.2021, in which the accused raised the issue of his

wife's income before the Government and sought further investigation. But the relevant Government order allowing further investigation was subsequently quashed by the High Court. The significance of this circumstance is not that the quashing of D55 Government Order amounts to a judicial finding that the wife's income did not exist. The significance is that the accused's attempt to introduce the wife's financial affairs as a material explanation for his property position arose substantially later in the proceedings, after the earlier opportunities available to him to disclose and establish that case.

177. The accused was a senior IPS officer and, at the relevant stage, was holding a very high position in the hierarchy of Police. This Court does not presume merely from his rank that he knew every detail of the investigation. But his position is relevant in assessing whether his failure to disclose, at the appropriate stage, the alleged source of his properties can be regarded as an innocent omission. If the accused genuinely intended to rely upon the wife's substantial independent income as the source of the properties, there was nothing to prevent him from putting forward that explanation before the

investigating agency and producing the relevant bank statements, tax records, business records and other documents at the appropriate stage. Instead, the present case is one where the defence now seeks to establish, after a considerable lapse of time, that a substantial portion of the accused's acquisitions was actually financed by his wife. That conduct requires this Court to scrutinise such explanation with caution.

178. A bank account may contain transfers, withdrawals, deposits, loans, advances, business receipts, inter-account transfers and other financial movements. The fact that large sums passed through an account does not, without further evidence, establish that the entire turnover constituted the account holder's income. More importantly, even if it is accepted that the wife had substantial financial transactions, the accused has to establish the next and essential link - namely, that the particular money used for the particular properties was money belonging to the wife and that it was actually made available to the accused for those acquisitions.

179. The defence has also relied upon the wife's account statements and Income-tax statement. The Public Prosecutor has

challenged the reliance placed upon the wife's Income-tax material and has pointed out that the bank accounts relied upon by the defence were not themselves produced in the manner claimed and that the tax treatment did not correspond with the huge financial transactions relied upon by the defence. This Court need not go to the extent of holding that every transaction reflected in the wife's accounts was unexplained or was taxable income. That would be beyond the evidence necessary for deciding the present charge. The relevant point is narrower. If the accused wants this Court to accept that his wife's alleged huge income was the source from which he acquired 18 properties in his own name, the Court must have reliable evidence of:

1. the wife's lawful source of the particular funds;
2. the availability of those funds at the relevant time;
3. the actual transfer or utilisation of those funds for the particular purchases; and
4. the reason why the properties were nevertheless acquired and registered in the accused's name.

180. The defence evidence does not satisfactorily establish all these links. The Public Prosecutor has relied upon ***State of Karnataka v. Selvi J. Jayalalitha and Others (2017 KHC 6126)***, wherein the Hon'ble Supreme Court held that, Income-tax returns and orders may be admissible but are not conclusive proof that the assets or income concerned came from lawful sources for the purpose of Section 13(1)(e) of the P.C. Act. Income-tax proceedings are directed towards quantifying taxable income and do not necessarily authenticate the source as lawful for the purposes of the Prevention of Corruption Act.

181. This principle applies with equal force to the wife's Income-tax material relied upon here. Even assuming that the wife had made tax declarations or that certain amounts had been accepted for tax purposes, that circumstance by itself does not establish that those particular amounts financed the properties purchased in the accused's name. The explanation came after the need for an explanation arose. There is a further circumstance which weighs against the defence. The accused does not merely rely upon the wife's wealth as an independent fact. He relies upon it as an explanation for expenditure which otherwise

forms part of the disproportionate assets calculation. Thus, the explanation is directly connected to the criminal charge. The accused had ample opportunity at different stages to put forward this case but did not do so and that the plea regarding the wife's huge income was raised much later in the year 2021, i.e. after 14 years, from the date of registration of this crime.

182. This circumstance relevant to the weight and credibility of the explanation, though this Court does not treat delay alone as sufficient to reject it. But, the following factors emerged from the evidence are very relevant here as against the accused:

- i. that the accused's earlier stand that his wife was an independent person and that her financial affairs were not relevant to his property position;
- ii. the absence of a contemporaneous disclosure that the accused was using his wife's income for acquiring properties in his own name;
- iii. the absence of satisfactory transaction-wise evidence connecting the wife's funds with the acquisitions;
- iv. the fact that the registered deeds stand in the accused's name;

- v. the subsequent nature of the transfer of properties and
- vi. the absence of corresponding satisfactory tax evidence supporting the enormous income now attributed to the wife.

Taken together, these circumstances render the explanation of the accused unsatisfactory. Therefore this Court finds that the accused has failed to establish that the 18 properties standing in his name were purchased out of the lawful income of his wife.

2. Stamp duty and registration charges for transfer of above mentioned 18 properties to the wife of the accused:

183. The prosecution has proved payment of ₹3,61,012/- in connection with the four settlement deeds. The defence has established through DW17 and DW2 that the wife of the accused withdrew ₹6 lakhs from her Union Bank account on 12.06.2007 and that this amount was utilised for the relevant transactions. DW2 proved the corresponding bank entry. PW36, SRO Maradu also stated that, in transactions between husband and wife, the person paying the registration charges need not necessarily be the person in whose name the document stood. The prosecution has not produced evidence showing that the accused paid

the ₹3,61,012/- on this head. Therefore this amount is excluded from the expenditure of the accused.

3. Under-valuation fine:

184. The prosecution relies upon Ext.P63 and Ext.P73 to prove this aspect. The defence points out that neither document establishes actual payment of ₹5,040/- by the accused and that the evidence of PW42 is materially contradicted. The prosecution has not produced a receipt or other reliable evidence establishing actual payment by the accused. The prosecution has not proved this payment. The accused is therefore entitled to the benefit. So, ₹5,040/- is excluded from the expenditure of the accused.

4. Professional tax:

185. The prosecution has taken ₹11,250/- on this head. The defence has established from the Ext.P160 salary records that ₹8,750/- had already been deducted from salary the salary of the accused. Therefore only the balance ₹2,500/- can be treated as expenditure separately incurred by the accused. So, the above said balance amount could only be taken on this head as expenditure of the accused.

5. Agricultural expenditure:

186. The prosecution has taken ₹11,045/- on this head. The evidence shows that the agricultural income of ₹2,23,750/- had already been arrived at after deducting agricultural expenditure. To again treat ₹11,045/- as expenditure would amount to double deduction. So the entire ₹11,045/- is therefore excluded from expenditure.

6. Maintenance of motorcycle:

187. The prosecution has taken ₹21,650/- on this head. There is no satisfactory evidence of actual maintenance expenditure incurred by the accused. The vehicle was not seized, its use was not established and DW15, driver of wife of the accused stated that the vehicle in his possession was provided by the wife's establishment and that fuel expenditure was borne by him. The prosecution has therefore failed to establish this item. So ₹21,650/- is excluded from expenditure.

7. Loss on sale of motorcycle:

188. The prosecution has taken ₹20,345/- on this head. The defence has established that the purchase price of ₹40,246/- relied upon by the prosecution was not proved through admissible primary evidence,

while Ext.P33 bank statement of the accused establishes receipt of ₹20,000/- as sale value. So this Court accepts the amount of ₹20,246/- claimed and admitted by the defence as the maximum amount established on the available evidence.

8. Gift/loan to the wife of the accused:

189. The prosecution has taken ₹52,50,000/-on this head. The defence correctly points out that there is no independent evidence establishing the alleged additional ₹7,50,000/-. The P.P also fairly concede the same during hearing. However, the Federal Bank statement of the accused, Ext.P33, clearly establishes transfer of ₹45 lakhs from the accused's account to the wife's account on 08.11.2006. The accused himself had also disclosed the transaction in his Ext P147 property statement. Accepting the entire ₹52.5 lakhs merely because it appears in a later Ext P147 property statement of the accused is not justifiable.

190. The ₹45 lakhs, however, is a proved transfer of money from the accused to his wife during the check period. The plea that husband and wife constituted one family does not erase the financial transaction, particularly when the wife herself is claimed to be an

independent person with independent assets and income. Accordingly: ₹45,00,000/- is retained as expenditure. The additional ₹7,50,000/- is excluded.

9. Mobile phone expenditure:

191. The prosecution has taken ₹8,308/-. The defence has shown that the evidence does not establish the entire amount as expenditure personally incurred by the accused. But the accused admitted that ₹6,836/- had spent on this regard. So this Court accepts ₹6,836/-, as admitted by the accused on this head, and excludes the balance.

10. Foreign travel and personal expenses:

192. The prosecution has taken ₹6,75,000/- based upon an estimated figure of ₹1,50,000/- per year. Such estimation cannot be accepted without evidence. PW23 and PW24 prove only limited ticket-related expenditure. The defence has demonstrated that the bills under Ext.P52 series total ₹67,939/-, of which ₹63,489/- related to KBPS or Ryan Studio. Thus only ₹4,450/- admitted by the accused can safely be attributed to the accused. The remaining ₹6,70,550/- is excluded.

11. Income Tax paid:

193. The prosecution has taken ₹1,88,766/- on this head. The defence has demonstrated an arithmetical error of ₹14,472/- and refunds of ₹20,604/-, giving a total adjustment of ₹35,076/-. This argument of the accused is correct. There is an arithmetical mistake in the calculation in Ext.P267, and the total amount would come only to ₹1,74,294/-. That difference would come to ₹ 14,472/-. Further, on the reverse side of Ext P267, the refund received by the accused during the check period are also mentioned. As per that details, an amount of ₹2325/- for the assessment year 2002-2003 and ₹18279 for the assessment year were paid to the accused totalling the refund of ₹ 20,604/-. The prosecution has not rebutted this arithmetic. So, an amount of ₹35,076/- should be deducted from the amount of ₹1,88,766/-. Therefore the accepted amount is: $₹1,88,766 - ₹35,076 = ₹1,53,690/-$.

12. Golf Club charges:

194. The prosecution relies upon Ext.P175, a letter communication of Golf Club to prove this amount. The original records were not produced and PW83's evidence was substantially based on the

contents of the letter. So the prosecution has failed to prove the actual payment through reliable primary evidence. Hence ₹18,845/- is excluded.

13. Building tax:

195. The prosecution relies upon Ext.P177, the tax details of the building; but the original payment records were not produced. The document itself contains inconsistent statements regarding the payment of building tax. The prosecution has therefore failed to establish this item beyond reasonable doubt. So ₹22,004/- is excluded.

14. Kitchen and living expenditure:

196. The prosecution has taken ₹2,25,167/- on a notional basis. The defence evidence is that the household expenses were met by the wife from her independent resources. The prosecution has not adduced evidence establishing that the accused actually incurred this particular amount. A notional estimate cannot automatically be converted into proved expenditure when the accused has furnished a specific explanation supported by evidence. Therefore ₹2,25,167/- is excluded. After considering each item and giving the accused the benefit

of every disputed figure which has been satisfactorily established, the actual expenditure attributable to the accused under the head 'D' is:

Sl.No.	Item	Amount
1	Purchase of 18 properties	₹31,04,000/-
2	Stamp duty & registration charges	₹3,07,556
3	Professional tax	₹2,500/-
4	Loss on motorcycle	₹20,246/-
5	Gift/transfer to wife	₹45,00,000/-
6	Mobile phone expenditure	₹6,836/-
7	Foreign travel expenditure	₹4,450/-
8	Income-tax actually established	₹1,53,690/-
Total		₹80,99,278/-

Thus, the expenditure of the accused during the check period is fixed at ₹80,99,278/-.

Point nos.6 & 7- Whether disproportionate assets are proved?, If proved, what is the offence committed by the accused?

197. Section 13(1)(e), as it stood during the relevant period, contemplated possession by a public servant of pecuniary resources or property disproportionate to his known sources of income for which he could not satisfactorily account. In ***State of Madhya Pradesh v. Awadh Kishore Gupta (AIR 2004 SC 517)***, the Supreme Court explained the expression "*known sources of income*". In ***N.Ramakrishnaiah v. State of Andhra Pradesh (2008 (17) SCC 83)***, emphasis was placed on the word "*satisfactorily*", thereby requiring not merely a plausible explanation but an explanation worthy of acceptance. These principles are also reflected in ***State of Maharashtra v. Wasudeo Ramachandra (AIR 1981 SC 1186)***. In ***K.Veerawami v. Union of India (1991 (3) SCC 655)***, the Constitution Bench held that once the prosecution establishes possession of pecuniary resources or property disproportionate to the known sources of income, the accused has an evidential burden to satisfactorily account for the disproportion. The burden is not merely discharged by throwing some doubt upon the

prosecution case. The same principle was reiterated in *Hindustan Petroleum Corporation Ltd. v. Sarvesh Berry* (AIR 2005 SC 1406), *State of Maharashtra v. Wasudeo Ramachandra* (AIR 1981 SC 1186) and *State through Deputy Superintendent Of Police v. Soundirarasu Etc* (2022 INSC 915).

198. Here the prosecution has established that: the accused was a public servant; his assets(A) at the commencement of the check period were ₹9,97,363/-; his assets(B) at the end of the check period were ₹18,77,535/-; his income(C) during the check period was ₹58,94,557.61; his expenditure(D) during the check period was ₹80,99,278/-; and the resulting disproportion was ₹30,84,892.39, representing 52.33% of his known income. The calculation methodology adopted herein is: $(B - A) + D - C$, where: B = assets at the end; A = assets at the beginning; C = income during the check period; and D = expenditure during the check period.

Whether the accused has satisfactorily accounted for the remaining disproportion?

199. The answer is in the negative. The accused has undoubtedly succeeded in reducing the prosecution's original disproportion from ₹64,70,891/- to ₹30,84,892/- That reduction is substantial and has been given in full benefit wherever the evidence justifies it. But after giving those benefits, the financial equation still leaves an unexplained disproportion of ₹30,84,892/-

200. In ***Vasanth Rao Guhe v. State of Punjab Police (2017 4 SCC (cri) 894)***, relied upon by the defence, the Supreme Court emphasised that the prosecution must establish the foundational facts before the burden shifts to the accused. That principle is fully respected here. The present finding is not based merely upon the inability of the accused to explain an allegation made by the prosecution. It is based upon the revised figures arrived at after independently considering the defence evidence. Likewise, the principle in ***M. Krishna Reddy Vs. State Deputy Superintendent of Police, Hyderabad (AIR 1993 SC 313)***, that it is the failure to satisfactorily account for the disproportion which

constitutes the gravamen of the offence, is also satisfied. The accused has been given the benefit of every material discrepancy established through evidence. What remains is still 52.33 % of his known income.

201. In *Krishnanand Agnihotri v. State of M.P (1977 KHC 494)*, the Supreme Court observed that where the disproportion is less than 10 %, the difference may be treated as a marginal one and not sufficient to sustain the offence. The present case stands on a different footing. The percentage is not merely a marginal arithmetical variation. So that decision is not applicable here. Therefore the prosecution established their disproportionate case against the accused under section 13(2) r/w 13(1) (e) of the Prevention of Corruption Act 1988, beyond any reasonable doubt.

202. In the result, the accused is found guilty of the offence punishable under Section 13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988, and he is convicted thereunder in terms of Section 271(2) of the BNSS. His bail bond stands cancelled. **Accordingly, the point No.6 and 7 are found in favour of the prosecution.**

203. This is not a fit case for invoking the benevolent provisions of the Probation of Offenders Act, 1958. Hence, this Court proceeds to hear the accused on the question of sentence under Section 271(2) of the BNSS.

(Dictated to the Confidential Assistant, transcribed and typewritten by her, corrected by me and pronounced in the open Court on this the 17th day of September, 2026)

Sd/-
K V Rejanish.
The Enquiry Commissioner and
Special Judge (Vigilance), Kottayam.

//True Copy//

By Order

Manager

Point No.8: Order on Sentence:

204. Heard the convict, the defence counsel and the Public Prosecutor.

205. The convict, while making submissions on the question of sentence, pleaded for maximum leniency. It was submitted that the

convict had undergone bypass surgery in the year 2010 and is suffering from psoriasis and other ailments, for which he is under continuous medication. It was further submitted that he had recently experienced chest pain and that the doctor had advised him to take bed rest. The convict also submitted that the wife of the convict has passed away and he is presently residing alone and is not keeping himself psychologically well. It was pointed out that he has two daughters. Taking into consideration the aforesaid circumstances, the convict pleaded for maximum leniency.

206. The learned Public Prosecutor submitted that the convict deserves to be imposed the maximum sentence prescribed by law and a heavy fine. It was argued that the convict was a senior IPS officer who, during the relevant period and thereafter, occupied several responsible positions in public service, including the rank of Director General of Police, Kerala. According to the learned Public Prosecutor, the convict, while occupying such positions of trust and authority, amassed pecuniary resources disproportionate to his known sources of income to a substantial extent. The magnitude of the disproportion and

the position held by the convict, according to the learned Public Prosecutor, warrant a sentence which would have a deterrent effect and convey a strong message that abuse of high public office for illicit enrichment cannot be dealt with leniently.

207. The learned defence counsel, on the other hand, pleaded for maximum leniency. It was submitted that the convict is suffering from various ailments. It was also brought to the notice of this Court that his wife has passed away and that he is facing personal and health-related difficulties. The defence counsel further submitted that the offence relates to the period prior to the amendment of the Prevention of Corruption Act and that, under Section 13(2) as it stood at the relevant time, the minimum prescribed sentence was one year. It was therefore contended that, having regard to the circumstances of the convict and the law applicable to the offence, a sentence at or near the minimum may be imposed.

208. This Court has considered all the above submissions. The convict was a senior officer of the Indian Police Service and had held several responsible positions during his service career, including

the rank of Director General of Police, Kerala. The higher the public office held, greater is the obligation to maintain the highest standards of integrity and probity. The disproportion of ₹30,84,892.39/-, constituting 52.33% of the known income, is neither marginal nor insignificant. It represents the unexplained enrichment accumulated during the check period from 2003 to 2007, when the said amount had substantial value.

209. This Court has also considered whether any circumstance warrants leniency, and found none. Having regard to the magnitude of the disproportion, the value of the amount at the relevant time, the status and responsibility of the convict, the breach of the public trust attached to his office, a deterrent sentence is warranted. The sentence must convey that public office is a position of trust and authority and cannot be used as a means for illicit enrichment, and that persons occupying high public offices cannot expect undue leniency for abuse of that position. So this Court finds that rigorous imprisonment for four years is just and proportionate to the gravity of the offence.

210. As regards the quantum of fine, this Court has taken into consideration the mandate of Section 16 of the Prevention of

Corruption Act, the matters to be taken into consideration for fixing fine. The disproportionate pecuniary resources found in the possession of the convict amount to ₹30,84,892.39/-. The amount was not an insignificant sum at the relevant point of time. Having regard to the magnitude of the disproportion, this Court is of the firm view that a fine corresponding to the amount of disproportion (₹30,84,892/-) would be the just and proportionate fine in this case.

In the result, the convict is sentenced to:

- 1. Rigorous imprisonment for 4 (Four) years and to pay a fine of Rs.30,84,892/- (Thirty Lakhs Eighty Four Thousand Eight Hundred and Ninety Two) for the offence punishable under S.13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988; in default of payment of the fine, he shall further undergo rigorous imprisonment for 2(Two) months.*
- 2. The convict will be sent to the Central Prison, Thiruvananthapuram to serve out the sentence.*
- 3. A copy of this judgment shall immediately be given to the convict free of cost as contemplated u/s. 404(1) of the BNSS.*

4. The convict could prefer appeal against this judgment and order on sentence before the Hon'ble High Court of Kerala within a period of 60 days from today as per Article 115 of the Limitation Act, 1963.

Word of Appreciation:

211. Before parting with the case, this Court places on record its appreciation of the valuable assistance rendered by the learned Public Prosecutor, **Sri. Sreekanth K.K.**, and the learned defence counsel, **Sri. V.N. Anil Kumar**. Both learned counsel have assisted the Court with fairness, diligence and legal acumen, which was of considerable assistance in appreciating the voluminous evidence and arriving at a just decision. This Court would particularly place on record its appreciation of the learned Public Prosecutor, Sri. Sreekanth K.K., for his sharp examination of witnesses, meticulous preparation, thorough knowledge of the subject and his ability to present and analyse the case in a brilliant manner at the final hearing. This Court also records its appreciation of the learned defence counsel, Sri. V.N. Anil Kumar, for his diligent, fair and able presentation of the case. This Court also places

on record its appreciation of the Investigating Officers, who have undertaken the investigation with diligence and determination and brought the case to its logical conclusion by filing the final report against the accused, who was a senior and high-ranking IPS officer.

(Dictated to the Confidential Assistant, transcribed and typewritten by her, corrected by me and pronounced in the open Court on this the 17th day of September, 2026)

Sd/-
K V Rejanish.
The Enquiry Commissioner and
Special Judge (Vigilance), Kottayam.

//True Copy//

By Order

Manager

APPENDIX

Prosecution witnesses

Rank	Name	Eye witness, Police witness, Medical witness, Other witness
PW1	Sri. T.Madhusudhanan Nair	Police witness
PW2	Sri. Velayudhan Pillai K	Police witness
PW3	Sri. T.K Baby	Police witness
PW4	Sri. Jagadeesh	Police witness
PW5	Sri. Saji.A	Police witness
PW6	Sri. George John	Police witness
PW7	Sri. Radhakrishnan Nair	Police witness
PW8	Sri. Krishnakumar	Police witness
PW9	Sri. Abraham Fits Gerald Michael	Police witness
PW10	Sri. BobyKuruvilla	Police witness
PW11	Smt. Geethasabu	Police witness
PW12	Smt. Rajalekshmy T.N	Police witness
PW13	Sri. K.P. Sajeev	Police witness
PW14	Sri. P. Jayanthi	Police witness

PW15	Sri. CheriyanKunju Joseph	Police witness
PW16	Sri. Jacob P.G	Police witness
PW17	Sri. M. J. Santhosh	Police witness
PW18	Sri. RajuM.V	Police witness
PW19	Sri. K.P. Sureshkumar	Police witness
PW20	Sri. Babychan E.V	Police witness
PW21	Sri. K.J. Paul	Police witness
PW22	Sri. K.P.Radhakrishnan	Police witness
PW23	Smt. KripaSivasankaran	Police witness
PW24	Sri. Joseph George	Police witness
PW25	Sri. Satheesh Kumar K	Police witness
PW26	Sri. Sarosh P. Abraham	Police witness
PW27	Smt. Rajalakshmi N	Police witness
PW28	Sri. Venugopal M.G	Police witness
PW29	Sri. Lali K.S	Police witness
PW30	Sri. Pious P.A	Police witness
PW31	Sri. JojoKuriakose	Police witness
PW32	Sri. UnniVikraman	Police witness
PW33	Sri. Sudarsan P.K	Police witness
PW34	Sri. Arunkumar U.R	Police witness

PW35	Sri.A Sujith	Additional Witness
PW36	Sri. MadhusudhananPillai.S	Police witness
PW37	Smt. Radhamany .C	Police witness
PW38	Smt. Mary Baby	Police witness
PW39	Sri. AbijithKarunakaran	Police witness
PW40	Sri. Madhusoodhanan.V	Police witness
PW41	Sri. P.D. Mani	Police witness
PW42	Sri. SudhakaranP.K	Police witness
PW43	Sri. Padmakumar	Police witness
PW44	Sri. Deenkutty V.K	Police witness
PW45	Smt. Hajara	Police witness
PW46	Sri. Anilkumar	Police witness
PW47	Sri. Smnile	Police witness
PW48	Smt. Nisha	Police witness
PW49	Sri. Jayakrishnan .N	Police witness
PW50	Sri. Santhosh Kumar	Police witness
PW51	Smt. Rani Joseph	Police witness
PW52	Sri. Tissan JosephThachankary	Police witness
PW53	Smt. Amminikutty K	Police witness

PW54	Sri. DibinLiju Mathew	Police witness
PW55	Sri. P. D. Joseph	Police witness
PW56	Smt. Sathikumari .G	Police witness
PW57	Sri. Raj Kumar M.G	Police witness
PW58	Sri. Vijayan Nair T.P	Police witness
PW59	Smt. Syamala K.R	Police witness
PW60	Sri. Reghunadhan Pillai G	Police witness
PW61	Smt. JincyShajan	Police witness
PW62	Smt. Jameela Rahim	Police witness
PW63	Sri. R. Gopakumar. IAS	Police witness
PW64	Sri. Babu. O	Police witness
PW65	Sri. AsokKumar A	Additional Witness
PW66	Sri.Sminu Das	Additional Witness
PW67	Sri. PrathapaChandran G.R	Additional witness
PW68	Smt. Sreedevi. K.R	Additional witness
PW69	Sri.Dhananjayan S.D	Additional Witness
PW70	Sri. Jayaraman V Iyer	Police witness
PW71	Smt. Rajamma. C	Police witness
PW72	Sri. T.U. Ravi	Police witness
PW73	Smt. Thanuja .C	Additional Witness

PW74	Kumari. Radha. I	Additional Witness
PW75	Sri. Girijanadhan Nair	Police witness
PW76	Sri. Abu Backer .V	Police witness
PW77	Sri. Sivakumaran Nair C	Police witness
PW78	Sri. C.P. Gopakumar	Police witness
PW79	Sri. K.J. Isaac	Police witness
PW80	Sri. K.B. Venugopal	Police witness
PW81	Sri. K. Natarajan	Police witness
PW82	Sri. R. Salim	Police witness
PW83	Sri. S.N. Raghuchandran Nair	Police witness
PW84	Sri. B. Krishnakumar	Police witness
PW85	Sri. Vipinsam E. S	Additional Witness
PW86	Sri. Sailesh. K.S	Additional Witness
PW87	Smt. Roshini. V	Police witness
PW88	Sri. MuraleedharanNair . V	Police witness
PW89	Smt. Mary Shony K.J	Additional Witness
PW90	Sri. Tomy K.M	Police witness
PW91	Sri. Vinu Martin .V	Additional witness
PW92	Sri. P.R. Baby	Police witness

PW93	Sri. SibinGlancy	Additional Witness
PW94	Sri. N. Rajan	Police witness
PW95	Sri.K.R. Venugopalan	Police witness
PW96	Sri.P. Radhakrishnan	Police witness

Prosecution exhibits

Sl.No.	Exhibit Number	Description
1	P1/PW1	Search list dated 05.07.2007
2	P2/PW2	Search Lists
3	P3/PW3	Search list dated 05.07.2007.
4	P4/PW4	Search list dated 05.07.2007
5	P5/PW5	Search list dated 05.07.2007
6	P6/PW6	Mahazar dated 13.11.2007
7	P6 series/PW6	Inventories
8	P7 Series/PW6	1 to13 items in P6
9	P7(m) to (y)/PW35	Certified copies of P7 to P7(l)
10	P8 Series/PW6	14 to 16 items in P6
11	P8(c) to e/PW35	Certified copies of P8 to P8 (b)

12	P9/PW6	Mahazar dated 15.11.2007
13	P10/PW6	Inventory dated 15-11-2007 related to P9
14	P11 to P11(d) Series/PW6	5 sale deeds
15	P11(e) to (i)/PW35	Certified copies of P11 to P11(d)
16	P12/PW6	Mahazar dated 15.11.2007
17	P13/PW6	Inventory dated 15-11-2007 related to P12
18	P14 series/PW6	2 Sale Deeds
19	P14 (b) and (c)/PW35	Certified copies of P14 and P14 (a)
10	P15 Series/PW6	3 Kaicheets
21	P16/PW6	Mahazar dated 17.11.2007
22	P17/PW6	Encumbrance Certificate number 13855/07
23	P18/PW6	Encumbrance Certificate number 13857/07
24	P19/PW6	Encumbrance Certificate number 13858/07
25	P20/PW7	Search list
27	P21/PW9	Mahazar dated 21.02.2008
28	P22/PW9	Mahazar dated 29.02.2008
29	P23/PW11	Request Leteer of PW11/CW27 to Tahsildar

30	P24/PW12	161 Statement of PW12/CW37
31	P25/PW12	161 Statement of PW12/CW37
32	P26/PW12	161 Statement of PW12/CW37
33	P27/PW12	161 Statement of PW12/CW37
34	P28/PW14	Mahazar dated 15/3/2008
35	P29/PW15	Account Statement of A/c no 000019 from 29.09.2003 to 31.03.2004
36	P30/PW15	Photocopy of Challan dated 31/3/2004
37	P31/PW16	Account Statement of A/c no 000015 from 01.01.2004 to 01.01.2005
38	P32/PW17	Mahazar dated 30.04.2008
39	P33/PW18	Account Statement of SB 2453
40	P34/PW18	Covering letter of P33
41	P35 Series/PW18	5 Credit Vouchers
42	P36 Series/PW18	2 FD Receipts
43	P37/PW18	Statement of account Number of A/C No. 2453
44	P38/PW18	Pay Order issued from 13/12/2003 to 14/12/2003
45	P39/PW18.	Cheque dated 07.06.2006
46	P40/PW18	DD dated 08.11.2006
47	P41 series	Attest copy of 6 Cheque clearance certificate

	/PW18	
48	P42/PW18	Covering letter of P41
49	P43/PW19	Survey Sketch
50	P44/PW19	3464/2000 deed
51	P44(a)/PW19	3469/2000 Deed
52	P45/PW20	Covering letter of P43
53	P46/PW21	161 Statement of PW21/CW51
54	P47/PW21	161 Statement of PW21/CW51
55	P48/PW22	Deed No.224/2004
56	P49/PW22	Deed No.241/2004
57	P50/PW22	Deed No.2817/2004
58	P51/PW22	Mahazar dated 01.03.2010
59	P52/PW23	Abroad travelling details of accused 1.1.2003 to 4.5.2007
60	P52(a) to P52(m)/PW23	Invoice , Voucher, Corresponding voucher
61	P53 (a) to P53(d)/PW23	5 invoices
62	P54/PW24	Mahazar dated 19.11.2009
63	P55/PW25	Report from CDAC
64	P56/PW26	Rent agreement PW26/CW90 & Accused
65	P57/PW27	Letter related the loan taken by accused 6 lakhs

66	P57(a) and (b)/PW27	PF Statement of accused
67	P58/PW29	Agriculture income report (2003-2007)
68	P59/PW29	Covering letter of P58
69	P60/PW33	LAC 9/2003
70	P61/PW33	Application for enhance compensation for acquisition of property
71	P62/PW34	To Special Tahsildar for enhance compensation for acquisition of land
72	P63/PW36	C.No 88/09 letter related to under valuation
73	P64/PW37	Application for enhance compensation for acquisition of property
74	P65/PW37	Application of PW37/CW38 for enhance compensation for acquisition of property
75	P66/PW38	Application to Tahasildar for enhance compensation for acquisition of property
76	P67/PW38	Application to Spl.Tahasildar for enhance compensation for acquisition of property
77	P68/PW39	161 Statement of PW39/CW54
78	P69/PW39	161 Statement of PW39/CW54
79	P70/PW40	AFS of accused Letter No. 16664/Spl.A3/2008 /GAD
80	P71/PW41	161 Statement of PW41/CW57
81	P72/PW41	161 Statement of PW41/CW57
82	P73/PW42	Under valuation Report

83	P74/PW43	Mahazar dated 29/01/2009
84	P75/PW45	161 Statement of PW45/CW55
85	P76/PW45	161 Statement of PW45/CW55
86	P77/PW46	161 Statement of PW46/CW60
87	P78/PW46	161 Statement of PW46/CW60
88	P79/PW47	161 Statement of PW47
89	P80/PW48	161 Statement of PW48
90	P81/PW49	Receipt dated 2/3/2007
91	P82/PW49	Receipt dated 5/5/2007
92	P83/PW49	Receipt amount 50,000/-
93	P83(a)/PW49	Receipt amount 1,00,000/-
94	P83(b)/PW49	Receipt amount 50,000/-
95	P84/PW51	161 Statement of PW51/CW75
96	P85/PW53	Certificate of encumbrance property
97	P86/PW53	Deed certified copy
98	P87/PW54	Tenancy agreement
99	P88/PW56	Certified copy of 1116/07, SRO Chalai
100	P89/PW57	Account statement of A/c No. 0007011000040421(5448)
101	P90/PW57	Ledger extract of A/c No. 5448
102	P91/PW58	Proceeding C3-51382/2001 dated 24/10/2001
103	P92/PW58	Letter No. A3-753/2001 dtd 17.08.2002

104	P93/PW58	BVR Abstract
105	P94/PW58	Mahazar dtd. 14/08/2002
106	P95/PW58	Proceeding C3-51382/2001 dated 26/11/2002
107	P96 to P133/PW58	LAC 01/2003 to LAC 38/2003
108	P134/PW58	Attested copy of Property sketch
109	P135 Series/PW58	Objections/complaints seeking enhancement of compensation
110	P136/PW58	Sub Court common judgment enhancing compensation
111	P137 Series/PW58	Attested copies of Treasury bills
112	P138/PW59	Common Judgment dated 28/05/2007 of LA cases
113	P139/PW60	Certified copy of Deed 1316/2005
114	P140/PW61	Tenancy agreement dated 21/10/2006 b/w PW61 & Accused
115	P141/PW62	Rent Agreement B/w PW62 and accused
116	P142/PW63	Covering letter of APR dated 16/7/2012
117	P142(a) to (f)/PW63	Statement of Movable and immovable
118	P143/PW64	Statement I as on 05/07/2007
119	P144/PW64	Statement II between 1-3-2003 and 5-7-2007
120	P145/PW64	Statement III as on 05/07/2007

121	P146/PW64	Statement IV as on 05/07/2007
121	P147/PW64	Statement V as on 05/07/2007
123	P148/PW64	Statement VI between 1/1/2003 and 5/7/2007
124	P149/PW64	Letter of Tomin Thachankary to Chief secretary
125	P150 and (a)/PW66	A/c statement of Tomin, Canara Changanassery & 65B
126	P151 & (a)/PW66	A/c Tankkamma, Canara & 65B.
127	P152/PW66	A/c Statement from 2/1/2003 to 5/7/2007
128	P153/PW66	A/c Statement from 1/6/2002 to 18/5/2004
129	P154/PW67	Authorization letter from Secretary, Municipal Corporation ,TVM
130	P155 Series/PW67	Tax details of TC 17/2348/25 from 2005 to 2023
131	P156 Series/PW67	Tax details of TC 15/194/11 from 2007 to 2023
132	P157/PW68	A/c Statement of VYTILA MIS ACCOUNT No. 132855
133	P158/PW68	Letter issued from Vytilla Post Office dated 7/5/2008
134	P159 & (a)/PW69	A/c Statement of a/c no. 396701010035021 & 65B
135	P160 Series/PW70	Pay Arrear details from 9/2/2004 to 31/3/2005
136	P161/PW70	Travelling expense allowance details of accused

137	P162/PW71	Annual income report of land Survey No. 141/6
138	P163 & (a)/PW72	A/c Statement of a/c no. 385402010041410 & 65B
139	P164/PW72	Letter No. RBD:CCD:1899 dated 21/5/2008
140	P165/PW72	Credit card statement of 4391 5500 0145 0082
141	P166/PW73	Certified copy of deed No. 224/1/2004
142	P166(a)/PW73	Certified copy of deed No. 241/1/2004
143	P166(b)/PW73	Certified copy of deed No. 2817/1/2004
144	P167 and (a)/PW74	Certified copy of P89 and certification
145	P168/PW79 series	Income tax returns from 2002 to 2008 (6 Nos)
146	P169/PW79	Letter no. ABHPT 5844 P/Wd-4/08-09 U/s 138 of IT Act
147	P170/PW79	Form 16 of accused
148	P171 Series/PW79	Particulars of Income
149	P172/PW81	Prosecution sanction dated 7/6/2013
150	P172(a)/PW81	Corrigendum dated 21/6/2015
151	P173/PW81	Prosecution sanction dated 25/6/2012
152	P174/PW81	Notification from MHA dtd 16/2/2002
153	P175/PW83	Letter 24/TGC/Members correspondence/2012
154	P176/PW67	Affidavit of Deputy Corporation Secretary
155	P177/PW67	Tax details R14/33824/08 dated 30/5/2008

156	P178/PW86	Under-valuation records relating to Deeds No. 364/2005 and 849/2005
157	P179/PW86	Certified copy of Sale Deed No. 3740/2004, Maradu SRO
158	P180/PW86	Certified copy of Sale Deed No. 4193/2004, Maradu SRO
159	P181/PW86	Certified copy of Sale Deed No. 4652/2004, Maradu SRO
160	P182/PW86	Certified copy of Sale Deed No. 4826/2004, Maradu SRO
161	P183/PW86	Certified copy of Sale Deed No. 5950/2004, Maradu SRO
162	P184/PW86	Certified copy of Sale Deed No. 3739/2004, Maradu SRO
163	P185/PW86	Certified copy of Sale Deed No. 3604/2004, Maradu SRO
164	P186/PW86	Letter from Maradu SRO to Vigilance containing details of the deeds sent for under-valuation
165	P187/PW87	Photocopy of salary register of accused
166	P188/PW87	Statement of salary particulars of the accused 1-1-2003 to 31-1-2004
167	P189/PW88	FIR in VC 03/2007/SCE dated 4/7/2007
168	P189(a)/PW88	Letter to register FIR
169	P190/PW88	Application for search dated 4/7/2007
170	P191	Order dated 4/7/2007 of ECSJ Thrissur

	series/PW88	
171	P192 and (a)/PW89	BSNL Bill Payment details & 63A certification
172	P193/PW89	Letter to manager of ECSJ .dated 16/3/2026
173	P193(a)/PW89	File No. 800-21/2015-AS-II-Part(2) dated 11/10/2021
174	P194/PW91	Affidavit filed by Assistant General Manager BSNL, Kerala Circle
175	P195/PW92	Search List relating to search conducted at Riyan Studio Complex, Thammanam on 05/07/2007
176	P196/PW92	Search Warrant authorizing the search
177	P197/PW92	Inventory relating to LA Case Claim Statements/documents seized on 21/02/2008
178	P198/PW92	Inventory relating to Reference Application/Section 18 LA Act documents and receipt for return of originals
179	P199/PW92	Seizure Mahazar dated 03/05/2008 relating to Catholic Syrian Bank account statements
180	P200/PW92	Account Statement of Shashikumar
181	P201/PW92	Account Statement of Rajmohan
182	P202/PW92	Seizure Mahazar dated 08/05/2008 relating to Cheque Issue Register and Form-D cheque counterfoils
183	P203 Series/PW92	Form-D cheques
184	P204/PW92	Seizure Mahazar dated 08/05/2008 relating to Monthly Income Statement/Ledger obtained

		from Vyttila Sub Post Office
185	P205/PW92	Seizure Mahazar dated 08/05/2008 relating to Thammanam Service Co-operative Bank records
186	P206/PW92	Seizure Mahazar dated 15/05/2008 relating to HDFC Bank Statement
187	P207/PW92	HDFC Bank Account Statement of a/c No. 311068015
188	P208/PW92	Seizure Mahazar dated 16/05/2008 relating to Federal Bank Account Statement and certification
189	P209/PW92	Federal Bank of Athykayam Statement of Account
190	P210/PW92	Seizure Mahazar dated 28/05/2008 relating to Union Bank letter, account statement and connected documents
191	P211/PW92	Seizure Mahazar dated 28/05/2008 relating to Special Property Statements and letters from Special Cell
192	P212/PW92	Seizure Mahazar dated 30/05/2008 relating to Sasthamangalam Sub Registrar Office documents
193	P213/PW92	Seizure Mahazar dated 7/06/2008 relating to Building Tax Details
194	P214/PW92	Seizure Mahazar dated 7/06/2008 relating to Changanassery Village Office letter and Thandaper Extract
195	P215 Series/PW92	Thandaper Register Extract and related documents

196	P216/PW92	Seizure Mahazar dated 11/06/2008 relating to Encumbrance Certificate from Changanassery Sub Registrar Office
197	P217/PW92	Encumbrance Certificate. Dated 4/06/2008
198	P218/PW92	Seizure Mahazar dated 17/06/2008 relating to RC particulars of vehicle No. 01 AC 6196
199	P219/PW92	RC particulars of vehicle No.KL 01 AC 6196
200	P220/PW92	Seizure Mahazar dated 26/06/2008 relating to Federal Bank letter, Pay Order and connected documents
201	P221/PW92	Seizure Mahazar dated 26/06/2008 relating to Catholic Syrian Bank Account Statement
202	P222/PW92	Catholic Syrian Bank Account Statement. Letter dated 17/6/2000
203	P223/PW92	Seizure Mahazar dated 11/07/2008 relating to BSNL Engineer/Vigilance letters and connected documents
204	P224/PW92	Documents seized under P223 Mahazar. Letter from BSNL Principal General Manager dated : 5-7-2008
205	P225/PW92	Seizure Mahazar dated 4-8-2008 relating to Kottayam Income Tax Officer's letter and connected documents
206	P226/PW92	Seizure Mahazar dated 19/08/2008 relating to Poojappura State Co-operative Bank letter and connected documents
207	P227/PW92	Seizure Mahazar dated 19/08/2008 relating to District Government Pleader's letter and certified

		LAR details
207	P228/PW92	Seizure Mahazar dated 25/08/2008 relating to Canara Bank, Changanassery letter and connected documents
208	P229/PW92	Seizure Mahazar dated 27/08/2008 relating to Federal Bank, Vyttila letter, account statements and connected documents
209	P230/PW92	Seizure Mahazar dated 28/08/2008 relating to Special Cell letter and service details
210	P231/PW92	Service Details of the accused, including Leave Surrender Details
212	P232/PW92	Seizure Mahazar dated 18/09/2008 relating to accused's mobile-number account details received from BSNL
213	P233/PW92	Account/payment details of mobile No. 9447065800 / A/c No. 501799777
214	P234/PW92	Seizure Mahazar dated 22/09/2008 relating to Union Bank, Panampilly Nagar account details
215	P235/PW92	Union Bank Account Statement
216	P236/PW92	Seizure Mahazar dated 24/09/2008 relating to Accountant General's letter and Pay & Allowance details
217	P237/PW92	Pay and Allowance Details of the accused from 01-1-2003 to 05-07-2007
218	P238/PW92	Seizure Mahazar dated 5-11-2008 relating to Southern Investments letter and connected document

219	P239/PW92	Seizure Mahazar dated 2/04/2009relating to P.J.Thankamma's Income Tax details
220	P240/PW92	Income Tax record relating to P.J.Thankamma dated: 30/3/2009
221	P241/PW92	Seizure Mahazar dated 25/06/2009relating to Under-Valuation Report/Details.
222	P242/PW92	Seizure Mahazar dated 26/06/2009relating to accused's salary particulars from KBPS
223	P243/PW92	Seizure Mahazar dated 9/07/2009relating to Under-Valuation Details/documents from.Maradu Sub Registrar Office
224	P244/PW92	Seizure Mahazar dated 3/11/2009 relating to Riya Travels letter and connected documents
225	P245/PW93	Account Payment Details of mobile No. 9447065800
226	P245(a)/PW93	Section 65B Certificate of P245
227	P245(b)/PW93	E-mail reply regarding non-availability of Customer Application Form
228	P246/PW94	Seizure Mahazar dated 06/07/2010 relating to Ext.P73
229	P247/PW94	Details of Kavya Thachankary's UTI Mutual Fund
230	P248/PW94	Seizure Mahazar dated 28/09/2010 relating to P81, P82 and P83
231	P249/PW94	Seizure Mahazar dated 11/10/2010 relating to accused's foreign-travel details
232	P250/PW94	Details of foreign trip

233	P251/PW94	Seizure Mahazar dated 01/11/2010 relating to P86, D5 and D7
234	P252/PW94	Seizure Mahazar dated 1/11/2010 relating to Millennium Apartments, Jagathy building details
235	P253/PW94	Document relating to allotment of building to the accused
236	P254/PW94	Seizure Mahazar dated 09/11/2010 relating to P58 and P59
237	P255/PW94	Laptop hard-disk examination report
238	P256/PW95	Seizure Mahazar dated 20/07/2012 relating to P142
239	P257/PW95	Seizure Mahazar dated 19/07/2012 relating to P85
240	P258/PW95	Seizure Mahazar dated 19/07/2012 relating to P188
241	P259/PW95	Seizure Mahazar dated 27/07/2012 relating to P22
242	P260/PW95	Seizure Mahazar dated 27/07/2012 relating to D21, P57, P56, P141, P87, P140 and D8
243	P261/PW95	Honda Activa Price Invoice from EVM Motors – ₹40,246/-
244	P262/PW95	Seizure Mahazar dated 3/08/2012 relating to P261
245	P263/PW95	Seizure Mahazar dated 03/08/2012 relating to P175
246	P264/PW95	Another Seizure Mahazar dated 03/08/2012 relating to P175, as stated in the deposition

247	P265/PW95	Seizure Mahazar dated 07/08/2012 relating to P187 Series
248	P266/PW95	Seizure Mahazar dated 28/07/2012 relating to Income Tax Statement obtained from Income Tax Office, Kottayam
249	P267/PW95	Income Tax Statement of the accused
250	P268/PW95	Home Ministry Prosecution Sanction File No. 26011/13/2011 IPS2 – Volume I
251	P268(a)/PW95	Home Ministry Prosecution Sanction File No. 26011/13/2011 IPS2 – Volume II
252	P269/PW95	Order of SP
253	P270/PW96	Report submitted to Court deleting Section 13(1)(d) and proceeding under Section 13(1)(e) r/w 13(2)
254	P271/DW16	Certified copy of Thandapper Register
255	P272	Agreement for sale of the two wheeler, marked as per S.348 BNSS

Defence witness

Rank	Name
DW1	Smt. Pournamy Anirudhan
DW2	Sri. Shivendra Singh
DW3	Sri. Abhijith M
DW4	Smt. Lekshmi S
DW5	Smt. Veena Vasudevan
DW6	Sri. Pradeep Kumar P S

DW7	Smt. Sheeja K G
DW8	Sri. M V Rudran
DW9	Sri. A G Venugopal
DW10	Smt. Tiji George
DW11	Sri. Mohammed Sharif
DW12	Sri. Anandha Krishnan
DW13	Sri. Manoj Chacko
DW14	Sri. Krishnan
DW15	Sri. Ambikesh
DW16	Smt. Swapna Varghese
DW17	Sri. George Joseph
DW18	Smt. Sajeena P.R
DW19	Sri. Vibin Kumar R
DW20	Smt. Lekshmi G Nair
DW21	Sri. Charles D Dcosta
DW22	Sri. K KManoj
DW23	Sri. T K Jose

Defence exhibits

Sl.No.	Exhibit number	Description
1	D1 series/PW6	Sale deed 740/2006 to 743/2006
2	D2/PW33	Photocopy of claim statement
3	D3/PW38	161 of PW38

4	D4/PW41	161 of PW41
5	D5/PW52	Certified copy of sale deed 3234/1/2003
6	D6/PW52	Submitted doc of defense in CMP
7	D7/PW52	Certified copy of sale deed 3307/1/2008
8	D8/PW52	Releasing Agreement Copy dtd. 30/10/2006
9	D9/PW52	Certified copy of sale deed in the year 1969
10	D10/PW57	161 of PW57
11	D11/PW57	Covering letter of a P89 and P90
12	D12/PW75	Income Tax Statement of accused and his wife
13	D13/PW79	Revised return for AY 2007-2008 of Accused
14	D14/PW79	Revised return for AY 2008-2009 of Accused
15	D15/PW92	Certificate 300/2008 dated 7/06/2008
16	D16/PW92	Certificate 301/2008 dated 7/06/2008
17	D17/PW92	Documents 95 of Prosecution Letter of S.I. (Ltd) Dated 31-10-2008
18	D17(a)/DW13	Copy of the formal allotment letter of the flat (produced before Vigilance Police; marked subject to proof)
19	D17(b)/DW13	Copy of the undivided share allotment letter (marked subject to proof)
20	D17(c)/DW13	Copy of the payment schedule showing land and construction payments (marked

		subject to proof)
21	D18/PW94	Information U/s 138(1)(b) dtd 30/09/2010
22	D19/PW94	Lr.No AGM/1/EKM dtd. 15/10/2010
23	D20/PW94	Screen shot of mail sented to DySP (Gift Details)
24	D21/PW94	Screen shot of mail sented by Tiji George
25	D22 & (a)/DW1	A/c Statement of 01190005236& 65B
26	D23 and (a)/DW2	A/c Statement of 396702010014932& 65B
27	D24 and (a)/DW3	A/c Statement of SB3661 & 65B
28	D25 and (a)/DW4	A/c Statement of 060737& 65B
29	D26 series/DW5	Certified copy of Sale deed 740/2006 to 743/2006
30	D27/DW6	Certified copy of Sale deed 2092/2003
31	D28/DW6	Certified copy of Sale deed 1923/2018
32	D29/DW7	Certified copy of Sale deed 320/2000
33	D30/DW7	Certified copy of Sale deed 4712/2003
34	D31/DW7	Certified copy of Sale deed 1016/2004
35	D32/DW7	Certified copy of Sale deed 1017/2004
36	D33/DW7	Certified copy of Sale deed 1653/2006
37	D34 series/DW8	Saral Forms of Ann Mary Thachankary from AY 2003 -2004 to AY 2008-09
38	D35/DW13	Letter dated 19.10.2004 issued by the witness to Varghese Cheriyan

39	D36/DW13	Covering letter dated 18.12.2001 issued by the Accounts Officer, Sanoj G., to Varghese Cheriyan
40	D36(a)/DW13	Receipt dated 18/12/2001
41	Ext. D37/DW13	Covering letter dated: 22.02.2001
42	D37(a)/DW13	Receipt for ₹ 2,94,000
43	D38/DW13	Receipt dated 16.02.2001 for ₹6,000
44	D39/DW13	Receipt dated 16.02.2001 for ₹1,00,000
45	D40/DW13	Receipt dated 15.02.2001 for ₹4,00,000
46	D40(a)/DW13	Covering letter issued by the Accounts Officer enclosing Ext. D40 receipt
47	D41/DW13	Receipt dated 12.08.2000 for ₹3,00,000 received from Varghese Cheriyan
48	D41(a)/DW13	Covering letter enclosing Ext. D41 receipt
49	D42/DW13	Letter dated 18.01.1999 issued to Varghese Cheriyan
50	D43/DW13	Interim statement dated 18.01.1999 issued to Varghese Cheriyan
51	D44/DW13	Receipt dated 29.03.2005 for ₹14,300
52	D44(a)/DW13	Covering letter enclosing Ext. D44 receipt
53	D45/DW13	Covering letter dated 18.04.2005
54	D46/DW15	Rent Agreement of 4500/
55	D47/DW15	Rent Agreement of 6000/-
56	D48/DW16	Certified copy of BTR
57	D49 & (a)/DW19	A/c Statement of UBI Kadavanthara and 65B

58	D50 & (a)/DW20	A/c Statement of UBI Ponnurunni and 65B
59	D51 & (a)/DW21	Certified copy and Photostat of Sale deed 32/2005
60	D52/DW22	Certified copy of Sale deed 3987/2003
61	D53/DW7	Certified copy of Sale deed 48/2007
62	D54 Series/DW23	Letter and intimation of property
63	D55/DW23	Further Investigation Order dated 28/1/2021

Court witness: NIL

Material Objects: NIL

FOOT NOTE

Crime No. & Name of Police Station : VC 03/2007/SCE

Description of accused

Sl. No.	Name	Father's name	Occupation	Residence	Age
A1	Tomin J. Thachankary	Joseph	IPS Officer, Kerala (Rtd.)	House No.32/2899, Thachankary house, Thammanam P.O., Poonithura Village, Ernakulam, Cochin-682032	63

THE DATE OF:

Occurrence	:	01.01.2003- 04.07.2007
Complaint	:	N.A.
Apprehension	:	N.A.
Release on bail	:	08.11.2013
Commitment	:	N.A.
Commencement of trial	:	19.09.2025
Commencement of evidence	:	01.11.2025
Close of trial	:	16.09.2026
Sentence or order	:	17.09.2026
Service of copy of judgment on accused	:	17.09.2026
Explanation of delay	:	No delay
Period of detention undergone during investigation, inquiry or trial for the purpose of Section 428 Cr.P.C.	:	N.A.

Sd/-

K V Rejanish.

The Enquiry Commissioner and
Special Judge (Vigilance), Kottayam.

//True Copy//

By Order

Manager