

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 24.06.2026

PRONOUNCED ON : 01.10.2026

CORAM

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

**CrI.A(MD)Nos.930, 1286 of 2025;
384 to 392, 394 to 396, 474, 537, 663, 669, 673, 674 of 2026
and
CrI.MP(MD)Nos.11669 of 2025; 10931, 11080, 11082 of 2026**

CrI.A.(MD).No.930 of 2025:-

V.Thangavel

... Appellant

Vs

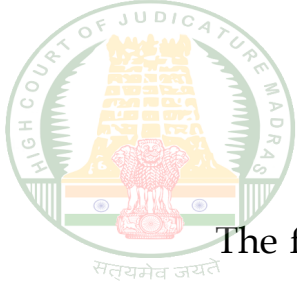
The Inspector of Police,
Vigilance and Anti Corruption, Trichy.
Crime No. 6 of 2001.

... Respondent

PRAYER:- To call for the records of the judgment dated 25.04.2024 in Special Case No.91 of 2011 on the file of the learned Special Judge for Trial of cases under Prevention of Corruption Act, Tiruchirappalli and quash the same.

For Appellant : Mr.S.Senthil

For Respondent : Mr.R.John Sathyan,
State Public Prosecutor
Assisted by
Mr.A.Robinson
Government Advocate (CrI.Side)



COMMON JUDGMENT

The first accused in SC.No.91 of 2011 was a Sub Registrar. The second accused in the said case is his wife. The case in SC.No.91 of 2011 was registered against them alleging that the first accused had amassed wealth in his name and in the name of his wife, disproportionate to their known sources of income, to the tune of Rs.31,30,504/-. The trial Court, by order dated 25.04.2024, found them guilty, convicted and sentenced them as follows:

S.No.	Accused Rank	Offences	Punishment
1.	A1	Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988	5 years rigorous imprisonment and fine of Rs.10,000/-
2.	A2	Section 109 IPC read with Sections 13(1)(e) r/w 13(2) of the Prevention of Corruption Act, 1988	5 years rigorous imprisonment and fine of Rs.10,000/-

2.As against the above conviction and sentence, accused Nos.1 and 2 in SC.No.91 of 2011 have filed criminal appeals before this Court in Crl.A. (MD)Nos.413 and 412 of 2024 and the same are pending. The trial Court, while convicting the accused, has also passed an order under Section 452 of the Code of Criminal Procedure (hereinafter referred to as “CrPC”), confiscating the properties of accused Nos.1 and 2 in SC.No.91 of 2011. As



against the said order of confiscation, the appellants have filed the instant appeals contending that they are bonafide purchasers of the properties confiscated by the trial Court and that the order of confiscation was passed without providing notice to them.

3.The check period was from 01.04.1989 to 31.12.1993. The accused Nos. 1 and 2 are said to have purchased properties in Vilpati, Kodaikanal Taluk and Pillaithirai Village, Tiruchirappalli District, to an extent of around 88 acres in total. These properties were sold by the accused Nos.1 and 2, pending enquiry by the Deputy Inspector General of Registration and also during the detailed enquiry conducted by the Vigilance Department. The purchasers thereafter converted the properties into plots and sold them to third parties, including the appellants herein.

4.Several such third party purchasers have filed similar appeals in CrI.A.(MD)Nos.869 of 2025; 1285 of 2026; 994 to 1019 and 1076 of 2025. Those appeals were allowed by this Court by judgments dated 14.08.2025, 30.10.2025 and 29.01.2026, respectively, by setting aside the portion of the confiscation order relating to the properties of the appellants therein and directing the trial Court to consider the matter afresh and pass appropriate

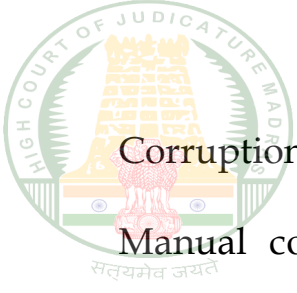


orders after providing an opportunity of hearing to the appellants. Those appeals were canvassed on the ground of violation of principles of natural justice, since the properties of the appellants therein had been confiscated without providing them an opportunity of hearing.

5.In the present appeals also, the appellants contend that they are bona fide purchasers and that they had purchased the properties before registration of the first information report. In the light of the earlier orders passed by this Court in the aforementioned appeals, they seek similar relief.

6.However, Mr.S.Senthil, learned Counsel appearing for the appellant in CrI.A.(MD)No.930 of 2025, has raised a further issue. According to him, the order of confiscation, without there being an order of attachment, is not sustainable in law. He therefore submitted that the order of confiscation passed by the learned Special Judge for Trial of cases under the Prevention of Corruption Act, Tiruchirappalli, dated 25.04.2024, is liable to be set aside.

7.By referring to Section 3 of the Criminal Law (Amendment) Ordinance, 1944 and the Prevention of Corruption Act, 1988, Mr.S.Senthil submitted that there is no specific provision under the Prevention of



Corruption Act, 1988 for attachment of properties. However, the Vigilance Manual contemplates the procedure for attachment of properties under paragraph 77 and that such attachment can be made only by invoking the provisions of the Criminal Law (Amendment) Ordinance, 1944. According to him, since the properties in the present case were admittedly not attached under Section 3 of the said Ordinance, the trial Court was not justified in passing an order of confiscation.

8.Considering the above submission, this Court suggested the appearance of the learned State Public Prosecutor to assist the Court on the issue. Accordingly, the then State Public Prosecutor Mr.Hasan Mohamed Jinnah and the incumbent State Public Prosecutor Mr.R.John Satyan appeared in the matter. This Court also directed the respondents to file a comprehensive report on the above issue by order dated 22.06.2026.

9.Pursuant to the said direction, the Inspector of Police, Vigilance and Anti-Corruption, Trichy Detachment, has filed a report stating that the provisions of the CrPC are also applicable to investigations, trials and enquiries carried out under other laws; that the Prevention of Corruption Act, 1988 does not specifically deal with attachment of properties; and that



therefore attachment can be made by the trial Court under Section 452 CrPC.

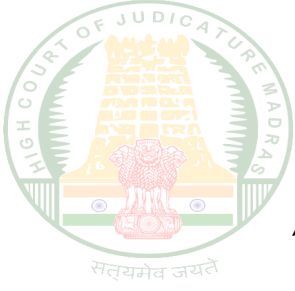
Reliance has been placed on the decision of the Hon'ble Supreme Court in

Mirza Iqbal Hussain v. State of Uttar Pradesh [(1982) 3 SCC 516].

10.It is further stated in the report that the accused persons were aware of the detailed enquiry being conducted against them and that they had alienated the properties in a mala fide manner. Insofar as the query regarding the number of attachments made under the Criminal Law (Amendment) Ordinance, 1944, it is stated in the report that, out of 144 cases pending trial, the provisions of the Criminal Law (Amendment) Ordinance, 1944 have been invoked only in 10 cases and that no attachment has been carried out in the remaining 134 cases.

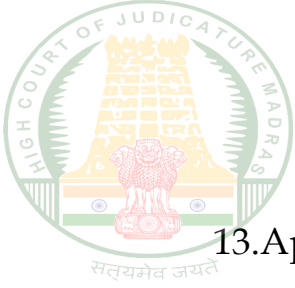
11.This Court has considered the rival submissions and perused the materials placed on record.

12.For attachment of properties, certain guidelines were introduced in the Vigilance Manual, vide DVAC Circular Memo No.7077/ VAC-4/89, dated 27.02.1989 and 04.05.1989 and Circular Memo No.447/VAC-4/90, dated 07.01.1991, under Paragraph No. 77, as under:-



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"Para 77(1)-In cases where Public Servants concerned are in possession of assets allegedly earned through illegal or corrupt means, and held in their own names or in the names of benamis, they should not be allowed to enjoy them as otherwise the law will be reduced to mockery. It is, therefore, necessary to initiate action under the Criminal Law (Amendment) Ordinance, 1944 to have such properties or money attached to prevent the Public Servant from transferring the properties. If such properties or money could not for any reasons be attached, other properties of the Accused Officer/ persons concerned, of value as nearly as may be equivalent to that of the properties or money illegally earned, could be got attached under the Criminal Law (Amendment) Ordinance 1944 at the stage of investigation of the case or during the trial of case in the Court. The attachment proceedings can be initiated only on the orders of Government. The provisions of the above Ordinance can also be invoked in respect of properties involving the commission of the offences under Sections 406, 408, 409, 411, 414, 417 and 420 I.P.C. where the properties in respect of which the offences are committed or properties entrusted by the Central or State Government or a department of any such Government or a local authority or any person acting on behalf of such authority, or a Corporation established by or under a central, Provincial or State Act, or an authority or body owned or controlled or aided by Government or a Government Company as defined in Section 617 of the Companies Act, 1956, or a Society aided by such Corporation, authority, body or Government Company."



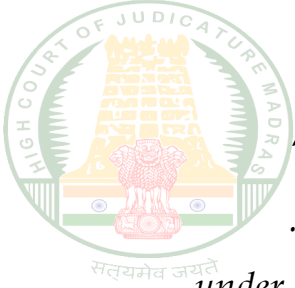
13. Apart from the above instruction, initially, there was no specific provision under the Prevention of Corruption Act, 1988 dealing with attachment of properties. However, the aspect of attachment and confiscation of properties is now specifically dealt with by insertion of Chapter IV-A and Section 18A in the Act, with effect from 26.07.2018. Section 18A reads as follows:-

“Section 18A:Provisions of Criminal Law Amendment Ordinance, 1944 to apply to attachment under this Act-

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

(2)For the purposes of this Act, the provisions of the Criminal Law Amendment Ordinance, 1944 (Ord.38 of 1944) shall have effect, subject to the modification that the references to “District Judge” shall be construed as references to “Special Judge”.”

14. Even prior to the insertion of Section 18A, the Special Judge exercising jurisdiction under the Prevention of Corruption Act was vested with powers under Section 5(6) of the Act, which reads as follows:-

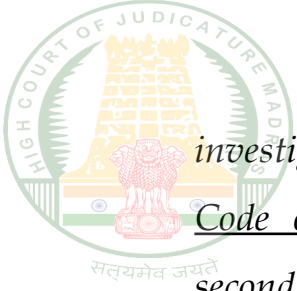


"5: Procedure and powers of Special Judge-

... ... (6) A Special Judge, while trying an offence punishable under this Act, shall exercise all the powers and functions exercisable by a District Judge under the Criminal law Amendment Ordinance, 1944 (Ordinance 38 of 1944)."

15.The above statutory provisions have to be considered in the light of the decision of the Hon'ble Supreme Court in *Mirza Iqbal Hussain v. State of Uttar Pradesh* [(1982) 3 SCC 516]. In the said case, the order of confiscation made by the trial Court under Section 452 CrPC was challenged before the Hon'ble Supreme Court, wherein, it was held as under:-

"2.In this appeal by special leave, the only point raised by Mr Bana on behalf of the appellant is that the learned Special Judge had no jurisdiction to pass an order of confiscation. We see no substance in this contention. Section 4(2) of the Code of Criminal Procedure provides that all offences under any law other than the Penal Code, 1860 shall be investigated, inquired into, tried and "otherwise dealt with according to the provisions contained in the Code of Criminal Procedure, but subject to any enactment for the time being in force regulating the manner or place of investigation, enquiring into, trying or otherwise dealing with such offences". It is clear from this provision that insofar as the offences under laws other than the Penal Code, 1860 are concerned, the provisions of the Code of Criminal Procedure apply in their full force subject to any specific or contrary provision made by the law under which the offence is



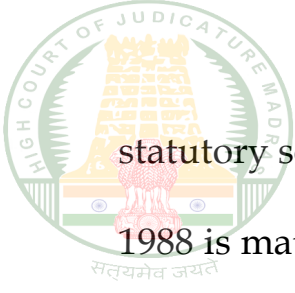
investigated or tried. Therefore, what we have to ascertain is whether the Code of Criminal Procedure confers the power of confiscation, and secondly, whether there is anything in the Prevention of Corruption Act which militates against the use of that power, either by reason of the fact that the latter Act contains a specific provision for confiscation or contains any provision inconsistent with the power of confiscation conferred by the Code of Criminal Procedure. On the first of these questions, Section 452 of the Code provides by sub-section (1), insofar as material, that if the trial in any criminal court is concluded, the court may make such order as it thinks fit for the disposal of property by confiscation. This power would, therefore, be available to a court trying an offence under the Prevention of Corruption Act unless that Act contains any specific or contrary provision on the subject-matter of confiscation. None of the provisions of the Prevention of Corruption Act provides for confiscation or prescribes the mode by which an order of confiscation may be passed. The Prevention of Corruption Act being totally silent on the question of confiscation, the Provisions of the Code of Criminal Procedure would apply in their full force, with the result that the court trying an offence under the Prevention of Corruption Act would have the power to pass an order of confiscation by reason of the provisions contained in Section 452 of the Code of Criminal Procedure. The order of confiscation cannot, therefore, be held to be without jurisdiction."

16.The above judgment has to be understood in the context in which it was rendered. The appellant therein was convicted under the Prevention of



Corruption Act, 1947, which did not contain any specific provision dealing with confiscation. Further, offences under the Prevention of Corruption Act, 1947, at that point of time, had not been included as scheduled offences under the Criminal Law (Amendment) Ordinance, 1944. Moreover, the Hon'ble Supreme Court, while holding that Section 452 CrPC could be invoked, had specifically observed that the applicability of the CrPC would be subject to any specific or contrary provision contained in the enactment under which the offence was being tried.

17.The statutory position has subsequently undergone a material change. After the enactment of the Prevention of Corruption Act, 1988, offences punishable under the said Act were included as scheduled offences under the Criminal Law (Amendment) Ordinance, 1944. Further, Section 5(6) of the Prevention of Corruption Act, 1988 specifically enables the Special Judge to exercise the powers and functions exercisable by a District Judge under the said Ordinance. Subsequently, with effect from 26.07.2018, Section 18A was introduced in the Prevention of Corruption Act, 1988, expressly providing for the application of the provisions of the Criminal Law (Amendment) Ordinance, 1944 to attachment, administration of attached property and execution of orders of attachment or confiscation. Therefore, the



statutory scheme governing offences under the Prevention of Corruption Act, 1988 is materially different from the position which existed when the Hon'ble Supreme Court decided *Mirza Iqbal Hussain's* case (supra).

18.In view of the above statutory scheme, where properties are sought to be dealt with in proceedings arising out of offences under the Prevention of Corruption Act, 1988, the procedure prescribed under the Criminal Law (Amendment) Ordinance, 1944 has to be followed. The power of confiscation under Section 452 CrPC cannot be invoked independently, overlooking the specific statutory mechanism provided under the Prevention of Corruption Act, 1988 read with the Criminal Law (Amendment) Ordinance, 1944.

19.Section 452 CrPC empowers the trial Court, upon the conclusion of an inquiry or trial, to pass appropriate orders for disposal, by destruction, confiscation or delivery to the person entitled to possession or otherwise, of property or a document produced before it or in its custody, or regarding which an offence appears to have been committed. However, where such property has neither been produced before the Court nor is in its custody, the power under Section 452 CrPC cannot be invoked merely on the ground that such property is connected with the offence.



20. Though the Criminal Law (Amendment) Ordinance, 1944 enables an order of attachment under Section 3 and Paragraph No. 77 of the Vigilance

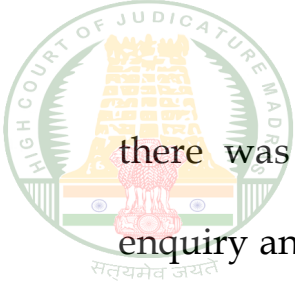
Manual also provides for the same, the Vigilance Department, in the present case, has admittedly not taken steps to attach the properties of accused Nos.1 and 2. The report filed before this Court itself shows that, out of 144 cases pending trial, the provisions of the said Ordinance have been invoked only in 10 cases and that no attachment has been carried out in the remaining 134 cases. In the absence of attachment under the Criminal Law (Amendment) Ordinance, 1944, this Court holds that the order of confiscation passed by the trial Court under Section 452 CrPC cannot be sustained. As such, the order of confiscation passed by the trial Court in SC.No.91 of 2011 under Section 452 CrPC is hereby set aside.

21. Considering the fact that the investigating agency failed to attach the properties alleged to have been acquired by the main accused out of the proceeds of corruption, during the course of investigation or trial, the investigating agency is at liberty to approach the appellate Court, which is dealing with the criminal appeals in CrI.A(MD)Nos.413 and 412 of 2024 as against the order of conviction and seek appropriate orders for the attachment of the properties in the manner known to law.



22. There is also a further aspect which requires consideration. In the present case, the accused officer was a Sub Registrar and the allegation was that he had amassed wealth disproportionate to his known sources of income and accumulated a vast extent of lands in Kodaikanal in his name and in the name of his wife during the check period from 1989 to 1993. The case emanated from a complaint lodged by one Dr.Devadoss before the Inspector General of Registration on 23.12.1992, alleging that the accused officer had accumulated several properties at Kodaikanal from ill-gotten money received by using his official position. The Inspector General of Registration ordered an internal enquiry by the Deputy Inspector General of Registration. The said enquiry was conducted for a period of seven months and the report dated 03.08.1993 stated that the allegations were true. The report and other materials were forwarded by the Inspector General of Registration to the Directorate of Vigilance and Anti-Corruption on 12.09.1994. Thereafter, a detailed enquiry was registered on 28.10.1994.

23. The detailed enquiry continued for nearly five years and was concluded only on 16.09.1999. Even thereafter, the Vigilance Department took another two years to register the first information report in Crime No.6 of 2001, which was registered only on 17.08.2001. It is not known as to why



there was a delay of two years between the conclusion of the detailed enquiry and the registration of the FIR. Thereafter, the Vigilance Department took further time for concluding the investigation and filed the final report in SC No.91 of 2011 only on 03.10.2007.

24.In the meantime, the accused officer and his wife had transferred substantial portions of the properties. The records indicate that properties in Survey Nos.1044/1, 2 and 3, measuring 16 acres and 50 cents, were transferred to Suja Investment and Estates on 23.02.1994, after the report of the Deputy Inspector General of Registration. Further, lands in Survey Nos. 1007/2, 4 and 1024/13, measuring 10 acres and 30 cents, were sold to one Thangavel on 16.08.1995, while the detailed enquiry was pending. It also appears that properties continued to be dealt with even during the pendency of the trial. Thus, the delay in completing the detailed enquiry, the further delay in registering the first information report and the failure to take steps for attachment of the properties resulted in the properties being dealt with by the accused and ultimately reaching the hands of various third parties.

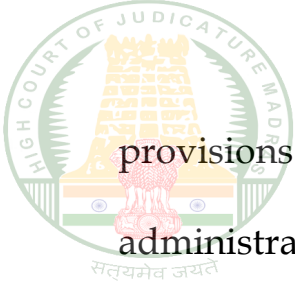
25.The purpose of the attachment mechanism is precisely to prevent properties suspected to have been acquired through corrupt means from



being dealt with during the pendency of the proceedings. The present case illustrates the consequences that may follow when such statutory mechanism is not invoked at the appropriate stage.

26.It is relevant to note that, pursuant to the issues raised by this Court in these criminal appeals, the Director, DVAC, has issued Circular Memorandum No.12/2026 dated 24.04.2026, directing that in every case registered under the Prevention of Corruption Act, 1988, it shall be the duty of the Investigating Officer to thoroughly explore the applicability of the provisions of the Criminal Law (Amendment) Ordinance, 1944 and Section 18A of the Prevention of Corruption Act. The Circular further directs that concerted efforts shall be made to identify, trace and locate movable and immovable properties suspected to be proceeds of criminal misconduct and that provisional attachment of such properties shall be initiated without delay.

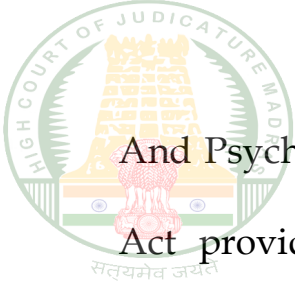
27.The issuance of the above Circular is a step in the right direction. However, the fact remains that the statutory framework does not presently make such attachment mandatory in every case. Though, Section 18A of the Prevention of Corruption Act, 1988 provides for the application of the



provisions of the Criminal Law (Amendment) Ordinance, 1944 to attachment, administration of attached properties and execution of orders of attachment or confiscation, it does not expressly mandate attachment in every case where properties are suspected to have been acquired through corrupt means.

28.The object of the Prevention of Corruption Act, 1988 is not merely to punish persons found guilty of corrupt practices, but also to ensure that the fruits of such corrupt conduct do not remain available for enjoyment or disposal by persons who have acquired them through illegal means. Attachment of properties acquired through corrupt means or through amassed wealth disproportionate to known sources of income is an important component of such mechanism.

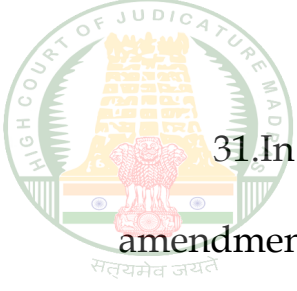
29.It is relevant to note that there are provisions under other legislations, which prohibit offenders from holding illegally acquired properties and also mandate the attachment of such properties. For instance, Section 68C(1) of the Narcotic Drugs And Psychotropic Substances Act, 1985, prohibits any person from holding illegally acquired properties (*i.e.*) the properties which were obtained out of or by means of any income, earnings or assets obtained from or attributable to contravention of the Narcotic Drugs



And Psychotropic Substances Act 1985. Further, Section 68C(2) of the NDPS Act provides that such properties shall be liable to be forfeited to the

Government. Similar provision providing for mandatory attachment and confiscation is also available under Sections 21(4) and 21(4A) of the Mines and Minerals (Development and Regulation) Act, 1957 and also under Sections 13 and 13A of the Tamil Nadu Prohibition Act 1937. The above provisions under the Special Acts provide for mandatory attachment and confiscation of properties, considering the seriousness of the offences involved. Certainly, corruption and corrupt practices have to be treated more seriously, than any other offence and as such, mandatory attachment and confiscation is essential to combat the vice of corruption, which has affected each and every part of our society.

30.The experience noticed in the present case and the figures furnished by the Vigilance Department, namely, invocation of the Criminal Law (Amendment) Ordinance, 1944 in only 10 out of 144 cases pending trial, demonstrate the need for a more effective statutory mechanism under the Prevention of Corruption Act, so that properties suspected to have been acquired through corrupt means are not dealt with during the pendency of the investigation or trial.

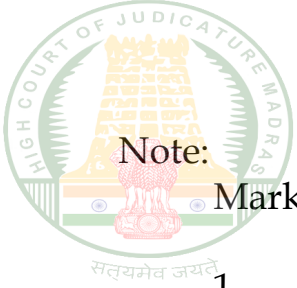


31. In these circumstances, this Court is of the view that necessary amendments have to be carried out under the Prevention of Corruption Act 1988 and the attachment of properties, believed to have been obtained through corrupt means and using amassed wealth disproportionate to known sources of income, has to be made mandatory. Only if such strong and deterrent measures are prescribed under the Act itself, the Government can effectively undertake the attachment of properties and put a fear in the minds of those officials, who are enjoying the properties obtained using corrupt means. Otherwise, the provisions would merely remain on paper and without any deterrent effect. This Court hopes that the Government takes the initiative in this regard and suitable amendments are introduced under the Prevention of Corruption Act 1988, as suggested above.

With the above observations and directions, all the appeals are allowed. The order of confiscation made by the trial Court in SC.No.91 of 2011 is set aside, however, with the aforesaid liberty. Consequently, the connected miscellaneous petitions are closed.

Internet : Yes
Index : Yes / No
NCC : Yes / No
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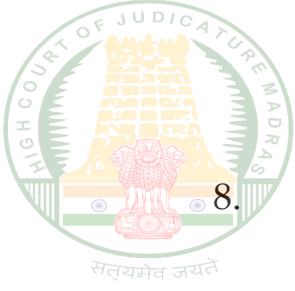


Note:

Mark a copy of this order to

1. The Chief Secretary,
State of Tamil Nadu,
Chennai.
2. The Secretary to Government,
Home, Excise and Prohibition Department,
State of Tamil Nadu,
Chennai.
3. The Secretary to Government,
Law Department,
State of Tamil Nadu,
Chennai.
4. The Secretary to Government,
Human Resources and Management Department,
State of Tamil Nadu,
Chennai.
5. The State Vigilance Commissioner,
State of Tamil Nadu,
Chennai.
6. The Director,
Directorate of Vigilance and Anti Corruption,
Chennai.
7. The Cabinet Secretary,
Union of India,
Cabinet Secretariat,
New Delhi.
8. The Secretary to Government,
Home Department,
Union of India,
New Delhi.

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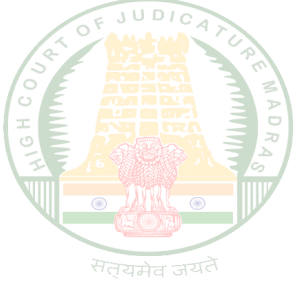
8. The Secretary to Government,
Law Department,
Union of India,
New Delhi.
9. The Secretary to Government,
Department of Personnel and Training,
Union of India,
New Delhi.
10. The Central Vigilance Commissioner,
New Delhi.

Note to Registry:-

Registry is to incorporate all the cause title along with prayer while issuing the order copy and mark a copy to all the respondents. The said copy shall also be uploaded in the official website.

To

The Inspector of Police,
Vigilance and Anti Corruption, Trichy.



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CrI.A(MD)Nos.930 of 2025, e

B.PUGALENDHI, J.

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**CrI.A(MD)Nos.930, 1286 of 2025;
384 to 392, 394 to 396, 474, 537, 663, 669, 673, 674 of 2026**

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