

(2024) 05 OHC CK 0110

Orissa High Court

Case No: Criminal Appeal No. 447 Of 2012

Fayaz Ali

APPELLANT

Vs

State Of Orissa (G. A.
Department)

RESPONDENT

Date of Decision: May 14, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 354
- Prevention of Corruption Act, 1988 - Section 13(1)(e), 13(2)

Hon'ble Judges: Chittaranjan Dash, J

Bench: Single Bench

Advocate: S. K. Mund, Sanjay Kumar Das

Final Decision: Allowed

Judgement

Chittaranjan Dash, J

1. The Appellant, namely Fayaz Ali faced the trial on the charges under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act,

1988 (in short, herein after referred to as "P.C. Act") before the learned Special Judge (Vigilance), Bhawanipatna, Kalahandi (Dist.) for having

criminally misconducted himself by possessing disproportionate assets beyond his known source of income wherein, the learned court found him guilty

in the offences charged as above, convicted and sentenced the Appellant to undergo rigorous imprisonment for 2 (two) years for the offence under

13(2) read with Section 13(1)(e) of the P.C. Act and to pay a fine of ₹25,000/-, in default, to undergo R.I. for 6 (six) months more.

2. The prosecution case in brief is that Ch. Hrudayananda served as the Inspector of Police (Vigilance) for the Bhawanipatna Unit in the year 2001,

while the Accused-Appellant, Fayaz Ali, held the position of Junior Engineer at R.W.S.S., Bhawanipatna, within the Kalahandi district. Upon receiving information from a reliable source regarding the present Appellant's possession of disproportionate assets, the complainant (Inspector, Vigilance) initiated an enquiry. It was revealed during the investigation that the Appellant originally hailed from Madhya Pradesh. His father, a retired mechanic from the P.H. Division in Bhawanipatna, owned only a dwelling house in the area. The Appellant's siblings were married and residing separately, and his parents were also living apart from him. The Appellant got engaged as a Junior Engineer in the P.H. Division, Bhawanipatna, on an ad-hoc basis in October 1985, his service was confirmed in 1988. He was later posted to the Lift Irrigation Division, Bhawanipatna. Subsequently, he joined the R.W.S.S. Department as a Junior Engineer in 1991. He married Anis Begum in 1987 and had two sons and a daughter, all attending English medium schools in Bhawanipatna during the period of scrutiny, from January 1, 1998, to June 27, 2001, as determined by the prosecution. Despite not receiving significant gifts from his father-in-law during the marriage, Fayaz Ali, during his position until relatively short tenure of service, acquired a solidly built house in Paradesipada, Bhawanipatna, and several house plots in Bhawanipatna Town. He also donated heavily to secure a shopping complex under his wife's name under the Bhawanipatna Municipality. Additionally, he possessed valuable household items and maintained substantial bank deposits. On June 27, 2001, the Vigilance Police, Bhawanipatna, conducted searches at the Appellant's office, government quarters, and his father's residence in P.H.E.D. Colony, Bhawanipatna, under warrants issued by the C.J.M., Berhampur, to ascertain details of his assets. The search revealed that the majority of his assets were acquired between January 1998 and June 27, 2001, prompting the prosecution to fix this period for scrutiny. During this period, the Appellant accumulated assets totaling to ₹2,45,627/-, whereas his legal income amounted to ₹2,29,880/-. The expenditure incurred by the Appellant and his family during this period exceeded his legal income resulting in a belief that the excess amount was unlawfully obtained income. In total, the Appellant possessed disproportionate assets amounting to ₹2,67,899/- during the check period.

The Appellant failed to justify the possession of assets disproportionate to his known income, thereby constituting criminal misconduct as a public servant, punishable under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988. Consequently, Ch. Hrudayananda, the then Inspector of Police (Vigilance) for the Bhawanipatna Unit, submitted a report against Fayaz Ali to the S.P., Vigilance, Berhampur, leading to the registration of Vigilance Case No. 35 of 2001. Upon registration, the S.P. directed the Inspector of Police (Vigilance), Bhawanipatna Unit, to investigate the case.

3. In the course of investigation, the investigating officer (I.O.) conducted a house search of the Appellant at Ramsagarpada, where he discovered various articles and prepared seizure list vide Ext. 1. He searched another house located at the backside of the D.I. of School, Bhawanipatna, and compiled a list of the articles found. The valuation of the articles listed in the inventory belonged to the Appellant, along with the year of acquisition. Moreover, he gathered information from the L.I.C. office regarding deposits, electricity expenses, telephone expenses, and educational expenses from educational institutions. In his capacity as the investigating officer, he also collected salary particulars of the Appellant. Upon obtaining the income and expenditure particulars from the Appellant during the final stages of the investigation, he determined the disproportionate asset to be ₹2,52,152/-.

Subsequently, he submitted the entire case record to the sanctioning authority for approval and engaged in a pre-sanction discussion with the sanctioning authority, who, after careful consideration, granted sanction for the prosecution of the Appellant. Furthermore, the I.O. conducted a statistical survey of the Appellant's usual expenses with the assistance of a statistician and submitted a report. After receiving the sanction order, he reviewed the case record and confirmed that the Appellant possessed disproportionate assets, and hence, submitted the charge sheet.

4. The case of the defense is one of complete denial and false implication. Further case of the defense is that the consideration money for the purchase of the house at Bhawanipatna by his wife was advanced by his father-in-law and the Appellant had informed the authorities about the same in prior.

5. To bring home the charge, the Prosecution examined 15 witnesses in all. P.W.1 (Nilachal Sahu) and P.W.4 (Mahesh Kumar

Dalai) are search witnesses to the search of the Appellant's residential quarters P.W.3 (Goura Chandra Pattnaik) and P.W.14 (Netrananda

Pradhan are search witnesses of the Appellant's parental house in Bhawanipatna. P.W.2 (Biswajit Thakur) and P.W.9 (Jharamani Kumar) are

tenants of the house owned by the Appellant's wife. P.W.5 (Deba Prasad Nayak) is the seizure witness of the Appellant's service book and

personal file. P.W.6 (Arjuna Prasad Panda) is the Executive Engineer in-charge, Bhawanipatna Municipality, who provided information to the

Vigilance regarding the allotment of the shop-room to the Appellant's wife. P.W.7 (Markanda Muna) proved the pay particulars of the appellant

from October 1988 to November 1991. P.W.8 (Bikram Kishore Singh) is the S.D.O., Electrical, Bhawanipatna, who confirmed payment of certain

electrical charges. P.W.10 (Rosily Antony) and P.W.11 (Ranjana Sazzu) is the Principal who verified the educational expenses incurred for the

Appellant's children. P.W.12 (Santosh Kumar Jagat) is the District Sub-Registrar, Bhawanipatna, who provided certified copies of R.S.D. No.

1339/1999 and 2297/1989. P.W.13 (Kirtan Dakua) is the tenant of the shop-room allocated to the Appellant's wife. P.W.15 (Ch. Hrudayananda)

is the Informant and I.O.

6. The defense on the other hand, produced two witnesses from their side. D.W.1 (Jakir Hussain) being the property dealer of the house and D.W.2

(Bapudev Palaka) being the head clerk in R.W.S.S. Division, Bhawanipatna.

7. The learned trial court having believed the evidence of the prosecution witnesses found the prosecution to have proved its case beyond all

reasonable doubt and held the Appellant guilty and convicted him awarding sentence as described above.

8. The learned counsel for the Appellant while assailing the impugned judgment submits that as per the requirement of law, the prosecution must

prove, beyond reasonable doubt, the known sources of income, expenditure, and assets acquired by the public servant during the check period. Once

the prosecution establishes these essential elements, the burden shifts to the accused to explain the possession of disproportionate assets. However,

the trial court failed to assess the Appellant's income, expenditure, and assets during the check period. The judgment lacks a detailed examination of the appellant's income sources, relying on only one witness, P.W. 7, who provided irrelevant salary particulars. Similarly, there is insufficient evidence regarding the appellant's expenditure and assets during the check period. The judgment also lacks adherence to Section 354 of Cr.P.C., which requires a reasoned judgment outlining points for determination, decisions, and reasons. Without proper evaluation of evidence and reasoning, the judgment lacks validity. Moreover, there is no finding on the disproportionate assets possessed by the appellant, further undermining the judgment's substantiation of guilt. The evidence presented fails to establish the appellant's income during the check period, as P.W.7's testimony pertains to an irrelevant timeframe. Additionally, the prosecution's evidence regarding expenditure is insufficient, with discrepancies in the payment of electrical dues. The evidence related to asset acquisition lacks specificity, causing prejudice to the Appellant during the trial. Overall, the absence of detailed mention of income, expenditure, and assets in the charge-sheet prejudiced the Appellant's defense in court. The learned counsel for the Appellant has relied on the following two judgments: V. K. Puri Vs. C.B.I. (2007) 6 SCC 1991 & Prem Kaur Vs. State of Punjab and Ors. (2013) 14 SCC 653.

9. The learned counsel for the State (Vigilance), on the other hand while supporting the impugned judgment to be akin to the evidence led by prosecution, submitted that the prosecution has well presented evidence establishing the possession of disproportionate assets by the Appellant, during the specified period from January 1, 1998, to June 27, 2001. The Appellant being a Junior Engineer within the R.W.S.S. Department, Bhawanipatna, displayed a significant disparity between his known income and the assets acquired during the said period, thereby raising legitimate suspicions of illicit enrichment. The prosecution's case rests on solid grounds, supported by thorough investigation and compelling evidence. Appellant's acquisition of substantial assets, including a house in Paradesipada, Bhawanipatna, and multiple house plots in Bhawanipatna Town, coupled with

generous donations for securing a shopping complex under his wife's name, underscores the magnitude of his unexplained financial standing.

Despite his relatively short tenure of service, Appellant failed to account for the vast disparity between his legal income and the amassed assets,

amounting to ₹2,67,899/- during the check period. The I.O. has meticulously scrutinized Appellant's financial transactions, including bank deposits,

expenditures, and salary particulars, to corroborate the accumulation of disproportionate assets. The investigation revealed that the investigative search

uncovered valuable articles at multiple locations associated with the Appellant, substantiating the guilt. The sanctioning authority's approval for

prosecution, following a pre-sanction discussion and thorough review of the case record, further validates the strength of the prosecution's case.

Hence, the impugned judgment suffers from no infirmity and requires no interference to establish the Appellant's culpability under Section 13(2)

read with Section 13(1)(e) of the Prevention of Corruption Act, 1988.

10. To appreciate the aforesaid submissions, the relevant provisions with respect to the charges are required to be referred to

Prevention of Corruption Act 1988

13. Criminal misconduct by a public servant.

(1) A public servant is said to commit the offence of criminal misconduct,

(a) ***

(b) ***

(c) ***

(d) ***

(e) if he, or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot

satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

Explanation 1. "A person shall be presumed to have intentionally enriched himself illicitly if he or any person on his behalf, is in possession of or has, at any time

during the period of his office, been in possession of pecuniary resources or property disproportionate to his known sources of income which the public servant

cannot satisfactorily account for.

Explanation 2.â€"The expression â€œknown sources of incomeâ€™ means income received from any lawful sources.]

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.

11. The ingredients of the offence of criminal misconduct State of Maharashtra Vs Wasudeo Ramchandra Kaidalwar 1981 AIR 1186 under section

13(2) read with section 13(1)(e) are the possession of pecuniary resources or property disproportionate to the known sources of income for which the

public servant cannot satisfactorily account. To substantiate the charge, the prosecution must prove the following facts before it can bring a case

under section 13(1)(e), namely,

(1) it must establish that the accused is a public servant,

(2) the nature and extent of the pecuniary resources or property which were found in his possession,

(3) it must be proved as to what were his known sources of income i.e. known to the prosecution, and

(4) it must prove quite objectively, that such resources or property found in possession of the accused were disproportionate to his known sources of income.

Once these four ingredients are established, the offence of criminal misconduct under section 13(1)(e) is complete, unless the accused is able to

account for such resources or property. In scrutinizing the impugned judgment in question, the pivotal concern emerges regarding the accuracy of the

assessment pertaining to the income and assets of the appellant. There arises a pertinent query as to whether the trial court erred in its evaluation of

the appellant's financial resources and possessions. Therefore, as prayed by the learned counsels for both the parties, it becomes imperative to

deliberate on the necessity of remanding the judgment for further scrutiny and rectification. The pivotal question at hand necessitates a comprehensive

re-evaluation to ensure equitable adjudication and uphold the principles of justice. There is no doubt that the Appellant here was a public servant at the

relevant time in question, however, the declared income and acquired assets is a critical factor in determining compliance with legal and ethical

standard.

12. In the instant case, it is essential to meticulously define and differentiate these terms to accurately assess whether the appellant's assets are indeed disproportionate to their known sources of income, as alleged by the prosecution. Understanding these definitions is crucial for the court in scrutinizing the evidence presented and determining the appellant's culpability under the applicable legal provisions. The pecuniary sources of income pertain to the official income and any other lawful earnings or financial gains derived from his position as a public servant, which includes his salary and allowances received during the check period, bonuses, incentives, or performance-related payments provided by the government or relevant authorities, any additional income earned through permissible activities, subject to legal and ethical constraints, as well as reimbursements or allowances for official expenses incurred in the course of duty, more so the travel allowances or accommodation reimbursements. The trial court's failure to adequately explain the definitions of key terms in the context of the present case undermines the clarity and understanding of the legal framework applied in assessing the appellant's alleged criminal misconduct.

13. It is acknowledged that there was a discrepancy regarding the check period mentioned in the F.I.R., initially stated as 1985 to 2001 but later amended to 1998 to 2001. While this change may suggest the possibility that the appellant's job confirmation occurred after 1998, thereby justifying the revised check period, it is imperative to approach this adjustment with caution. The trial court's acceptance of this change without further scrutiny or clarification raises questions about the consistency and reliability of the proceedings. While recognizing the potential rationale behind the modification, it remains essential to ensure that such adjustments are made transparently and with due consideration to all relevant factors. Therefore, while the possibility of the appellant's job confirmation post-1998 is duly noted, a comprehensive assessment of the implications of this change is warranted to ascertain its impact on the overall proceedings. Additionally, the FIR initially indicated total assets of Rs. 4,10,037, income of

Rs. 5,37,500, and expenditure of Rs. 7,20,391. However, the figures presented in the chargesheet differed, with total assets listed as Rs. 2,45,627, total income as Rs. 2,29,880, and expenditure as Rs. 2,67,899. The discrepancy between the figures mentioned in the FIR and those presented in the chargesheet raises questions about the consistency and reliability of the prosecution's case. Such inconsistencies undermine the credibility of the evidence and cast doubt on the prosecution's ability to establish the guilt of the appellant beyond a reasonable doubt. The difference in figures significantly affects the assessment of disproportionate assets and the appellant's ability to account for them. Furthermore, the trial court's failure to delve into the glaring disparity between the figures provided in the FIR and those presented in the chargesheet is a profound lapse in judicial scrutiny. Rather than meticulously examining this inconsistency and seeking clarification on the reasons behind it, the court inexplicably overlooked the issue, thereby neglecting its duty to conduct a thorough and impartial assessment of the evidence. This oversight is particularly egregious considering the potential implications for the appellant's defense and the overall integrity of the trial proceedings. By failing to address this critical discrepancy, the trial court missed a crucial opportunity to ensure transparency and fairness in the adjudication of the case, ultimately undermining the appellant's right to a rigorous and comprehensive legal scrutiny. This omission deprives the court of essential context necessary for accurately assessing the alleged disproportionate assets. Without a baseline for comparison, the court's ability to make a fair and informed judgment regarding the appellant's financial status is severely compromised. Thus, the trial court's failure to address these issues undermines the integrity of the trial process and jeopardizes the appellant's right to a fair trial.

14. Some financial information can be derived from the testimonies of the prosecution witnesses, consequently. P.W.2 served as a Forest Guard who has stated that he resided as a tenant in the residence of the Appellant in Paradesipada of Bhawanipatna town for seven months starting from August 2001. He paid a monthly rent of ₹800 to the Appellant. P.W.6, the Executive Officer of Bhawanipatna Municipality, reported that on December 31,

2001, upon request from the Vigilance Inspector, he provided information about shops numbered 24 and 25 allotted to Niaja Alii and Anis Begum. The tenants contributed ₹33,501 and ₹42,000 respectively as donations, and each paid rent of ₹40,500 from July 1, 1995, to March 31, 2001. Additionally, a sum of ₹1322 was deposited as holding tax for holding No. 91/96 from 1999 to 2001. P.W.7, a Senior Clerk of Lift Irrigation Division, Bhawanipatna, during 2002, provided pay particulars of the Appellant from October 1988 to November 1991. He mentioned that ₹12,880 was refunded to the Appellant for G.I.S. and C.P.F. P.W.8, the S.D.O. of Electricals, Bhawanipatna, on July 31, 2002, supplied information on electrical charges amounting to ₹1267 for Anis Begum. He clarified that the amount was shown as arrears against the consumer. P.W.9, a tenant under the Appellant, stated that he paid ₹800 per month for house rent, which was increased to ₹900 presently. He also mentioned that the landlord paid for electricity. P.W.10, the Principal of Vimala Convent School, Bhawanipatna provided information on the educational expenses of the Appellant's children. P.W.11, the Principal of Nabajyoti Bidyalaya, Nuapada, provided information on the educational expenses of the Appellant's children on July 11, 2002. P.W.12, the District Sub-Registrar of Bhawanipatna on February 2, 2002, supplied information on stamp duty and registration fees for two registered sale deeds as per the Vigilance Inspector's request. He detailed the amounts paid for stamp duty and registration fees for both deeds and provided certified copies of the sale deeds. P.W.13, another tenant under the Appellant, operated a salon from 1994 to 2001 in the rented house of Fayaz Ali's wife, which was a Municipality stall. He paid a monthly rent of ₹1000, although there was no written agreement regarding the rent.

15. In the impugned judgment, it was noted that there was a property in dispute owned by the wife of the appellant, which played a pivotal role in the proceedings. However, crucial details regarding the acquisition of this property emerged during the trial. D.W.1, the broker involved in the transaction, provided testimony confirming that the payment for the disputed property was indeed made by the father-in-law of the appellant. This revelation adds

significant context to the case, as it directly addresses the source of funds for the acquisition of the property and corroborates the defense's

assertion regarding the legitimate ownership of the asset. The learned trial court's conclusion that the contribution from the father-in-law towards

the purchase of the house after 12 years of marriage is absurd lacks justification and fails to consider cultural or familial practices regarding such

contributions. Additionally, the court's failure to carefully evaluate the financial information presented by both parties, assess the credibility of

witnesses, and determine whether the prosecution established guilt beyond a reasonable doubt indicates shortcomings in the trial process.

16. In light of the prosecution's failure to thoroughly dissect the figures provided in the chargesheet, the following calculation is made to ascertain

the disproportion in assets with respect to income and expenditure of the appellant. Moreover, the failure to provide information about the

appellant's assets before the check period is a critical omission which is essential for accurately calculating disproportionate assets using the

accepted formula, as it provides a baseline for comparison with assets acquired during the check period. Be that as it may, the following observation

can be made from the evidence in hand.

17. Basing upon the financial information provided as

Known Income: ₹2,29,880.

Total expenditure: ₹2,52,000.

The value of assets acquired: ₹2,45,627.

Disproportionate amount = Total value of assets - Known income

= ₹2,45,627 - ₹2,29,880

= ₹15,747

So, the disproportionate amount is ₹15,747.

Now, let's calculate the percentage of the disproportionate amount compared to the known income:

Percentage of disproportionate amount = (Disproportionate amount / Known income) × 100

= (15,747 / 2,29,880) × 100

= 6.85%

To determine how much the assets should be in relation to the known sources of income, we need to establish a proportionate relationship between the income and assets.

Given the information provided:

- Total Income: ₹2,29,880/-

- Total Assets: ₹2,45,627/-

The court has found that the assets possessed by the appellant and their family members exceed their known sources of income, indicating a disproportionate accumulation of assets.

To calculate how much the assets should be in proportion to the income, you can use the following steps:

Proportionate Asset Value = Total Income / Total Assets

Proportionate Asset Value = ₹2,29,880 / ₹2,45,627 = 0.935

Proportionate Assets = Proportionate Asset Value × Total Income

Proportionate Assets = 0.935 × ₹2,29,880 = ₹2,14,897

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Based on this calculation, the assets should be approximately ₹2,14,897/- in proportion to the known sources of income. However, the actual assets possessed by the appellant and their family members are ₹2,45,627/-, indicating an excess of ₹30,730/- over the expected proportionate assets.

Therefore, the assets should ideally be around ₹2,14,897/- based on the income, and any excess beyond this amount may be considered disproportionate.

To calculate the percentage of disproportionate assets, we compare the excess assets over the proportionate amount to the total income.

Given:

- Total Income: ₹2,29,880/-

- Excess Assets: ₹30,730/- (calculated as Total Assets - Proportionate Assets)

To find the percentage of disproportionate assets:

Excess Assets Percentage = (Excess Assets / Total Income) × 100

Excess Assets Percentage = $(\text{₹}30,730 / \text{₹}2,29,880) \times 100$

Excess Assets Percentage = 13.38%

Therefore, the percentage of disproportionate assets in this case is approximately 13.38%. This indicates that the value of assets possessed by the

appellant and their family members exceeds what would be expected based on their known sources of income by approximately

13.38%. Furthermore, the disposable amount is the amount of income remaining after deducting total expenditure from legal income. It represents

the amount available for saving or acquiring assets. The calculation would be

Disposable Income = Legal Income - Total Expenditure
Disposable Income = $\text{₹}2,29,880 - \text{₹}2,52,000 = \text{₹}-22,120$

A positive disposable income indicates that the appellant's income exceeds their expenditure, leaving room for saving or

acquiring assets, whereas a negative disposable income indicates that the appellant's expenditure exceeds their income, suggesting that they may

have incurred debt or utilized savings to cover expenses. In the instant case, since the disposable income is negative (₹-22,120), suggesting that the

total expenditure exceeds the legal income.

18. The Apex Court, in the matter of Krishnanand Vs. State of Madhya Pradesh AIR 1977 SC 796, has held that

33. It will, therefore, be seen that as against an aggregate surplus income of Rupees 44,383.59 which was available to the appellant during the period in question, the

appellant possessed total assets worth Rupees 55,732.25. The assets possessed by the appellant were thus in excess of the surplus income available to him. but since

the excess is comparatively small - it is less than ten per cent of the total income of ₹1,27,715.43 - we do not think it would be right to hold that the assets

found in the possession of the appellant were disproportionate to his known sources of income so as to justify the raising of the presumption under Sub-

section (3) of Section 5. We are of the view that, on the facts of the present case the High Court as well as the Special Judge were in error in raising the presumption

contained in Sub-section (3) of Section 5 and convicting the appellant on the basis of such presumption.

19. It is incumbent to note that in the matter of B.C. Chaturvedi Vs. Union of India 1996 AIR 484, the Apex Court has well explained the manner in

which the exceeded assets are taken into consideration. It is held that â€

It is true that a three-judge Bench of this Court in Krishnanand's case (supra) held in para 33, that if the excess was comparatively small (it was less than 10% of the

total income in that case), it would be right to hold that the assets found in the possession of the accused were not disproportionate to his known source of income

raising the presumption under sub-section (3) of Section 5. It is to be remembered that the said principle was evolved by this Court to give benefit of doubt, due to

inflationary trend in the appreciation of the value of the assets. The benefit thereof appears to be the maximum. The reason being that if the percentage begins to rise

in each case, it gets extended till it reaches the level of incredulity to give the benefit of doubt. It would, therefore, be inappropriate, indeed undesirable, to extend the

principle of deduction beyond 10% in calculating disproportionate assets of a delinquent officer. The salary of his wife was not included in the assets of the

appellant. The alleged stridhana of his wife and fixed deposits or gifts of his daughter, in appreciation of evidence, were held to be the property of the appellant. It is

in the domain of appreciation of evidence. The Court/Tribunal has no power to appreciate the evidence and reach its own contra conclusions.

20. Upon examination of the case record, the evidence tendered by both the prosecution and defense, and the testimonies of witnesses, the trial court

concluded that the appellant had amassed assets disproportionate to his known sources of income. Notably, the courtâ€™s analysis has relied on the

calculation of proportionate assets, as the prosecution did not establish the total assets at the beginning of the check period. While the value of assets

exceeded the known sources of income, itâ€™s imperative to recognize that the percentage of disproportionate assets, approximately 13.38%, is an

approximation and slightly exceeds the threshold for marginal relief as laid down in Krishnanand Agnihotri (supra), which typically falls within a 10%

range. Additionally, the defenseâ€™s argument regarding the property gifted by the appellantâ€™s father-in-law to his wife was acknowledged and

accepted by this court, further complicating the assessment of disproportionate assets. Given these factors and the lack of detailed financial dissection

by the prosecution and trial court, the alleged disproportionate assets may warrant allowance.

21. As said, it is trite to reiterate that the handling of disproportionate assets proceedings underscores the critical importance of greater diligence,

attention to detail, and adherence to procedural fairness in the judicial process as it carries significant implications on individuals and their lives.

Disproportionate assets cases involve complex financial analyses and intricate legal principles, making it imperative for courts to conduct thorough and

meticulous examinations of the evidence presented. By ensuring diligent scrutiny of financial records, testimonies, and relevant documentation, courts

can uphold the principles of justice and fairness. Attention to detail is essential to uncovering inconsistencies, discrepancies, and mitigating factors that

may influence the outcome of the case.

22. Moreover, adherence to procedural fairness guarantees that all parties have a fair opportunity to present their arguments and evidence, thereby

safeguarding the integrity and credibility of the judicial process. In cases involving allegations of disproportionate assets, these principles are paramount

to achieving just outcomes and maintaining public trust in the legal system.

23. After careful consideration of the entire gamut of evidence and thorough review of the case record, this Court finds that the disproportionate

amount determined by the trial court falls within the margin where benefit of doubt can be extended, as calculated and the appellant's conviction

for criminal misconduct cannot be sustained solely on the basis of the disproportionate assets.

24. In essence, the essential elements required to establish the offense outlined in Section 13(1)(e) of the Prevention of Corruption Act have not been

substantiated. As a result, the corresponding offense under Section 13(2) does not apply. Therefore, it is unequivocal that the prosecution has failed to

demonstrate the appellant's guilt beyond a reasonable doubt, and the Appellant as such is entitled to an acquittal.

25. In view of the discussions made above, since the material available in the evidence is sufficient to answer the question in this Appeal, it does not

warrant a remand of the case.

26. In this result, the Appeal is allowed. The Appellant is acquitted of the charge. As a necessary corollary, the judgment of conviction and order of sentence convicting the Appellant for commission of offence punishable under Section 13(1)(e) read with Section 13(2) of the P.C. Act of the P.C. Act are hereby set aside.

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