[1957] 0 Supreme(MP) 217

[1958] 0 SCR 1001 / [1958] 0 SCJ 581 / [1958] 0 AIR(SC) 148 / [1958] 0 CrLJ 279

INDU BHUSAN CHATTERJEE Vs. STATE OF WEST BENGAL(1) JAFER IMAM, J.: The High Court of Calcutta certified under Art.134 (1) (c) of the Constitution that the case before us was a fit one for appeal to this Court.The ground for the granting of the certificate, as stated by the High

High Court Of Madhya Pradesh
B. P. SINHA, S. J. IMAM AND J. L. KAPUR, JJ.
INDU BHUSAN CHATTERJEE - Appellant
Versus
STATE OF WEST BENGAL(1) JAFER IMAM, J.: The High Court of Calcutta certified under Art.134 (1) (c) of the Constitution that the case before us was a fit one for appeal to this Court.The ground for the granting of the certificate, as stated by the High Court, will be considered in due course. - Respondents
Criminal 18 Of 1955
Decided On : 11/26/1957

PREVENTION OF CORRUPTION ACT : S.6

Cases Referred:
1. .

(2) THE appellant was convicted under S. 5 (2) of the Prevention of Corruption Act, 1947 (Central Act II of 1947), hereinafter referred to as the Act, and under S. 161 of the Indian Penal Code by a Special Judge who sentenced him under S. 161 to undergo rigorous imprisonment for three months and to pay a fine of Rs. 500 in default to suffer further rigorous imprisonment for one month. No separate sentence was passed under S. 5 (2) of the Act. He unsuccessfully appealed to the High Court against his conviction and sentence.

(3) THE charges framed against the appellant under S. 161 of the Indian Penal Code, in sub-stance, stated that on or about 12-5-1952, he had accepted Rs. 100 as illegal gratification from V. S. Doraiswamy as a motive or reward for doing an official act and showing in the exercise of his official functions favour to Doraiswamy in seeing that a speedy and favourable settlement of the claim cases preferred by him against the Bengal Nagpur Railway, subsequently the Eastern Railway. The charge under S. 5 (2) of the Act which related to the same transaction stated that the appellant had accepted the aforesaid sum of Rs. 100 by corrupt or illegal means or by otherwise abusing his position as a public servant.

(4) IT is unnecessary to set out in any great details the story of the prosecution as to how Doraiswamy and the appellant came into contact and how the process of giving bribe to the appellant began. They met in 1950. Rs. 10 was paid to the appellant in October, 1951 and Rs. 1 5/01/1952 as the result of the appellant asking Doraiswamy for some grantification for speedy and favourable disposal of his claim cases. The appellant was at that time Assistant Supervisor of Claim Cases of the Bengal Nagpur Railway of the Vizianagram Section. On some secret information the Deputy Superintendent of Police, Special Police Establishment at Puri directed Inspector G. N. Brahma to contact Doraiswamy in connection with a report of alleged dishonesty by railway officials. Brahma met Doraiswamy and asked him to meet him again at Calcutta on 10-5-1952, after the latter had filed a complaint along with some letters said to have been written by the appellant. Permission was obtained from the Chief Presidency Magistrate, Calcutta to investigate the case. Thereafter Doraiswamy met the appellant in Calcutta and it was settled that the former would pay the latter Rs. 100 on 12-5-1952, at 6 p. m. at the India Coffee House. Doraiswamy informed the police of the arrangement. Marked ten-rupee currency notes were given to Doraiswamy. The appellant and Doraiswamy met at the

India Coffee House as arranged. There was a talk between them about expediting the claim cases which were being dealt with by the appellant and a list of them was given to him. This list and the bundle of marked currency notes which Doraiswamy gave him were put in the left upper pocket of his shirt by the appellant. The Inspectors H. K. Mukherjee and S. B. Mitra along with G. N. Ghosh, an Assistant Director of Postal Services and Brahma came up to the appellant. He was accused by the police of having received 10 ten-rupee currency notes as bribe from Doraiswamy and was asked to produce them. After some hesitation the appellant produced the currency notes as well as the list given to him by Doraiswamy. The number of the currency notes were checked and found to tally with the previously noted numbers of the currency notes given to Doraiswamy for handing them over to the appellant. The case of the prosecution was found to have been proved by both the courts below and the appellant was convicted and sentenced as stated above. (5) IT may be stated at the outset that the current findings of fact arrived at by the courts below were not questioned before us. The only question canvassed before us was whether there had been a valid sanction given under S. 6 of the Act without which no court could take cognizance of the offences alleged to have been committed by the appellant.

(6) IN order to appreciate the submission made by Mr. Chatterjee in this connection, a few facts have to be stated and some reference to the evidence of Mr. Bokil, P. W. 5, Chief Commercial Superintendent of the Eastern Railway at Calcutta will be necessary.

(7) THE appellant as Assistant Supervisor of Claim Cases of the then Bengal Nagpur Railway (later the Eastern Railway) had the power to deal finally with claims up to Rs. 75 and for claims in excess of that sum to make a recommendation to his superior officer, the Assistant Commercial Superintendent. Doraiswamy was working on behalf of several persons who had made claims against the Railway. These cases were numerous. All these cases had to be dealt with by the appellant either by passing final orders himself, if the value in each case was Rs. 75 or less or by recommending to his superior officer the cases where the value of the claim, in each case, was more than Rs. 75. The appellant, therefore, being incharge of all claim cases played an important part in their disposal either by passing final orders himself or by making recommendations. When the appellant was paid Rs. 100 at the India Coffee House on 12-5-1952, he was found in possession of the marked currency notes and the list of cases, in which claims had been made, which had been given to him by Doraiswamy. Sanction for the prosecution of the appellant was sought from the Chief Commercial Superintendent Mr. Bokil, P. W. 5. There is no dispute that Mr. Bokil was competent to grant the sanction. He had stated in his evidence that before according the sanction he went through all the relevant papers and was satisfied that in the interests of justice the appellant should be prosecuted. He, accordingly, gave the sanction in writing and this documents was marked as Ex. 6. Ex. 6 clearly states that the appellant had demanded on 12-5-1952 as bribe the sum of Rs. 100 from Doraiswamy and had accepted the sum as a motive or reward for speedy and favourable settlement of the claim cases, that Mr. Bokil had applied his mind to the facts and the circumstances of the case and was satisfied that in the interests of justice, the appellant should be put on his trial in a Court of competent jurisdiction for offences under S. 161 of the Indian Penal Code and S. 5 (2) of the Act alleged to have been committed by him. He, accordingly, under the provisions of S. 6 of the Act, accorded his sanction that the appellant be prosecuted in a competent court of law for the offence of having accepted illegal gratification as a motive or reward for showing favour to Doraiswamy in respect of the claim cases filed against the Vizianagram S. of the Railway.

(8) EX. 6 on the face of its and the evidence of Mr. Bokil in examination-in-chief clearly establish that a valid sanction had been accorded by Mr. Bokil. It was, however, urged before the Special Judge, as it was urged in the High Court, that certain statements made by Mr. Bokil in cross-examination clearly showed that he had not applied his mind to the facts and circumstances of the case and the sanction accorded by him was not a valid one. The Special Judge rejected this contention and was satisfied that Ex. 6 on the face of it disclosed a valid sanction for the prosecution of the appellant. The learned Judges of the High Court who heard the appeal were also satisfied that Mr. Bokil had, in fact, applied his mind to the facts and circumstances of the case. Regarding the statements made by Mr. Bokil in cross-examination they were of the opinion that they did not show that he did not apply his mind to the facts of the case. These statements merely showed that he did not investigate the truth of the case presented against the appellant. An application was filed in the High Court under Art. 134 of the Constitution for the granting of a certificate that the case was a fit one for appeal to this Court. The order granting the certificate shows that the learned Judges who heard the application were of the opinion that the sanction accorded in this case was not a valid sanction. The learned Judges were of the opinion that the question whether or not there was a proper sanction in the case was a question serious enough to justify the granting of a certificate.

(9) IT is necessary therefore to decide whether the sanction accorded in this case was a valid sanction. The

substance of the sanction has already been stated but in order that there may be no misunderstanding we quote that very words of the sanction itself :"whereas a complaint was made against Shri Indu Bhusan Chatterjee. Assistant Supervisor, Claims of the B. N. Railway (now Eastern Railway) Garden Reach, Calcutta, who looked after the claims cases against the railway of the Vizianagram Section, that the said Indu Bhusan Chatterjee had demanded and on 12/05/1952, accepted a bribe of Rs. 100 (Rupees one hundred only) from Shri V. S. Doraiswamy of the Commercial Claims Bureau, Vizinagram as a motive or reward for speedy and favourable settlement of the claims cases of the Commercial Claims Bureau and thereby having committed an offence punishable under S. 161 I. P. C. and also the offence of criminal misconduct by the illegal and corrupt use of his official position as a public servant to obtain a pecuniary advantage for himself punishable under S. 5 (2) read with S. 5 (1), clause (c) of the Prevention of Corruption Act II of 1947, I. R. K. Bokil, Chief Commercial Superintendent, Eastern Railway, Calcutta having applied my mind to the facts and circumstances of the case, am satisfied, and am of the opinion that in the interests of justice, Shri Indu Bhusan Chatterjee, Assistant Supervisor, Claims, Eastern Railway, Garden Reach, Calcutta be put on his trial in a Court of competent jurisdiction for the offences alleged against him. That as Shri Indu Bhusan Chatterjee, Assistant Supervisor, Claims, Eastern Railway, Garden Reach, Calcutta is removable from his office by me : I therefore by virtue of the powers vested in me by S. 6 (c) of the Prevention of Corruption Act II of 1947, do hereby accord sanction that Shri Indu Bhusan Chatterjee be prosecuted in a competent Court of law for the offence of having accepted an illegal gratification as a motive or reward for showing favour to Shri V. S. Doraiswamy, in his official functions viz. , the settlement of the cases of the Vizianagram S. of Eastern Railway, punishable under S. 161 I. P. C. and for the offence of criminal mis-conduct for the corrupt and illegal use of his official position to obtain a pecuniary advantage for himself punishable under S. 5 (2) of the Prevention of Corruption Act (Act II of 1947). "in our opinion, this sanction clearly states all the facts which concern the prosecution case alleged against the appellant with reference to his acceptance of Rs. 100 from Doraiswamy on 12/05/1952, in circumstances which, if established, would constitute offences under S. 161, Indian Penal Code and S. 5 (2) of the Act. The sanction also clearly states that Mr. Bokil had applied his mind and was of the opinion that in the interests of justice the appellant should be prosecuted. The charge framed against the appellant at his trial was with reference to this very incident and none other. Whatmore facts were required to be stated in the sanction itself we are unable to understand. Mr. Bokil in his examination-in-chief stated "on the prayer of the police I accorded sanction to the prosecution of one Shri. I. B. Chatterjee who was the Assistant Supervisor of Claims. Before according sanction I went through all relevant papers and was satisfied that in the interest of justice, Sri I. B. Chatterjee should be prosecuted. This is the sanction marked Ex. 6". In cross-examination, however, he made the following statement : "this sanction Ex. 6 was prepared by the police and it was put before me by the personnel branch of my office. I did not call for any record in connection with this matter from my office. I did not call for the connected claim cases nor did I enquire about the position of those claim cases. " The learned Judges in granting the certificate, apparently, were impressed by the statement of Mr. Bokil that Ex. 6 was prepared by the police and put before him by the personnel branch of his office, because the learned Chief Justice observed, "i can hardly imagine the duty of granting the proper sanction being properly discharged by merely putting one's signature on a ready-made sanction presented by the police. " It seems to us that. Mr. Bokil's statements does not prove that he merely put his signature on a ready-made sanction presented by the police. It is true that he did not himself dictate or draft the sanction, but Mr. Bokil has stated in the clearest terms, in his examination-in-chief, that before he accorded sanction he went through all the relevant papers. There is no reason to distrust this statement of Mr. Bokil, nor has the High Court, while granting the certificate of fitness, done so. He was an officer of his rank in the Railway and must have been fully aware that the responsibility of according to sanction against an official of the Railway subordinate to him lay upon him. It is inconceivable that an officer of the rank of Mr. Bokil would blindly sign a ready-made sanction prepared by the police. Apparently, the sanction already drafted contained all the material facts upon which the prosecution was to be launched, if at all, concerning the acceptance of the bribe by the appellant on 12/05/1952. When Ex. 6 was placed before Mr. Bokil other relevant papers were also placed before him. It is significant that Mr. Bokil was not cross-examined as to what the other relevant papers were and in the absence of any question being put to Mr. Bokil we must accept his statement that the papers placed before him were relevant to the only question before him whether he should or should not accord his sanction to the prosecution of the appellant. Mr. Bokil said, and we see no reason to distrust his statement, that before he accorded his sanction he went through all these papers and after being satisfied that sanction should be given he accorded his sanction. It is true that he did not call for any record in connection with matter from his office nor did he call for the connected claim cases or find out as to how they stood. It was not for Mr. Bokil to judge the truth of the allegations made against the appellant, by calling for the records of the connected claim cases or other records in connection with the matter from his office. The papers which were placed before him apparently gave him the necessary material upon which he decided that it was necessary in the ends of justice of accord his sanction.

(10) RELIANCE was placed on the case of Gokulchand Dwarkadas v. The King, 75 Ind App 30 : (AIR 1948 PC

82) (A), and other cases, to which it is unnecessary to refer, in support of the submission on behalf of the appellant that the sanction accorded was not a valid sanction. A careful reading, however, of Morarka's case satisfies us that the sanction accorded in this case in no way conflicts with the observations of their Lordships of the Judicial Committee. On the contrary in our opinion, it is in keeping with them None of the other cases cited by the learned Counsel for the appellant assist us in the matter. When the sanction itself and the evidence of Mr. Bokil are carefully scrutinized and read together there can be little doubt that the sanction accorded was a valid sanction. The only point which had been argued before us and which was the expressed reason for the granting of the certificate having failed, the appeal must be dismissed and the decision of the High Court in upholding the conviction and sentence of the appellant must be upheld. Appeal dismissed.

[2005] 0 Supreme(SC) 514

[2005] 2 JCR(SC) 249 / [2005] 2 RCR(Cri) 409 / [2005] 3 Scale 408 / [2005] 0 AIR(SC) 2790 / [2005] 4 SCC 81 / [2005] 0 SCC(Cri) 923 / [2005] 11 JT 114 / [2005] 2 Crimes(SC) 50 / [2005] 2 JCC 851 / [2005] 0 AIR(SCW) 1684 / [2005] 0 CrLJ 2145 / [2005] 3 Supreme 161 / [2005] 3 BBCJ(SC) 106

C.S.Krishnamurthy Vs. State of Karnataka

2005(3) Supreme 161
Supreme Court of India
(From Karnataka High Court)
P. Venkatarama Reddi & A.K. Mathur, JJ.
C.S. Krishnamurthy ---Appellant
versus
State of Karnataka —Respondent
Criminal Appeal No. 462 of 2005
(Arising out of SLP (Crl.) No. 4330/2004)
Decided on 29-3-2005
Counsel for the Parties :
For the Appellant : N.D.B. Raju, Ms. Bharathi R., Guntur Prabhakar, Advocates.
For the Respondent : A. Sharan, Additional Solicitor General, V. Krishnamurthy and P. Parmeswaran, Advocates.

Prevention of Corruption Act, 1947—Section 5(2) r/w 5(1)(e) and 6(1)(c)—Prosecution of appellant-accused for having acquired assets disproportionate to his known source of income—Special Judge acquitted accused holding that there was no proper sanction—High Court set aside acquittal holding that sanction was valid and matter was remanded—Appeal—When sanction order itself was very expressive, argument that particular material was not properly placed before authority and authority had not applied its mind became unsustainable—Sanction order in the case spoke for itself that incumbent had to account of assets disproportionate to his known source of income—View taken by trial Court was not correct and was rightly set aside.

Held : It is no doubt true that the sanction is necessary for every prosecution of public servant, this safeguard is against the frivolous prosecution against public servant from harassment. But, the sanction should not be taken as a shield to protect corrupt and dishonest public servant. In the present case, a perusal of the sanction order itself shows that Shri C.S. Krishnamurthy's income from all known sources between the period from May 25, 1964 to June 27, 1986 was Rs. 7,91,534.93 that income was from salary, GPF advances, rental income, interest amount from bank accounts and loan amount received from LIC towards house constructions, the dividend income, interest amount and gain in respect of chits received from Navyodaya Sahakra Bank, Vyyalikaval House Building Co-operative Society, Vishalam Chit Funds and Reliance industries loan received from friends and family members, gain towards sale of scooter/car, sale proceeds of jewellery and income received by family members and the total expenditure incurred by the accused during these period is Rs.2,41,382.85 and the total assets acquired by the accused both movable and immovable from May 25, 1964 to June 27, 1986 is Rs. 9,51,606.66 ps. Therefore, the accused has to account for difference between the two. The sanction itself shows that there is something to be accounted by the accused. When the sanction itself is very expressive, then in that case, the argument that particular material was not properly placed before the sanctioning authority for according sanction and sanctioning authority has not applied its mind becomes unsustainable. When sanction order itself is eloquent enough, then in that case only formal evidence has to be produced by the sanctioning authority or by any other evidence that the sanction was accorded by a competent person with due application of mind. In the present case the learned additional sessions Judge took a very narrow view that all the papers were not placed before the Court to show that there was proper application of mind by the sanctioning authority. The view taken by learned Special Judge was not correct and the learned Single Judge correctly set aside the order. (Para 7)

Therefore, the ratio is sanction order should speak for itself and in case the facts do not so appear, it should be proved by leading evidence that all the particulars were placed before the sanctioning authority for due application of mind. In case the sanction speaks for itself then the satisfaction of the sanctioning authority is apparent by reading the order. In the present case, the sanction order speaks for itself that the incumbent has to account for the assets disproportionate to his known source of income. That is contained in the sanction order itself. More so, as pointed out, the sanctioning authority has come in the witness box as witness No.40 and has deposed about his application of mind and after going through the report of the Superintendent of Police, CBI and after discussing the matter with his legal department, he accorded sanction. It is not a case that the sanction is lacking in the present case. The view taken by the Additional Sessions Judge is not correct and the view taken by learned Single Judge of the High Court is justified. (Para 9)

PREVENTION OF CORRUPTION ACT : S.5(1)(e)
PREVENTION OF CORRUPTION ACT : S.5(2)
PREVENTION OF CORRUPTION ACT : S.6(1)(e)

Important point
Sanction order under Prevention of Corruption Act should speak for itself and in case the facts do not so appear it should be proved by leading evidence that all particulars were placed before sanctioning authority for due application of mind.

Cases Referred:
1. **Indu Bhusan Chatterjee v. The State of West Bengal, (1958) SCR 999. (Para 7)**
2. **Gokulchand Dwarkadas Morarka v. The King, AIR 1948 PC 83. (Para 8)**
3. **Mansukhlal Vithaldas Chauhan v. State of Gujarat, (1997) 7 SCC 622. (Para 11)**
4. **Balaram Swain v. State of Orissa, 1991 Supp. (1) SCC 510. (Para 10)**
5. **R.S. Pandit v. State of Bihar, (1963) Supp. 2 SCR 652. (Para 8)**
6. **State of T.N. v. M.M. Rajendran, (1998) 9 SCC 268. (Para 12)**

Judgment

A.K. Mathur, J.—Leave granted.

2. This appeal is directed against an order passed by learned Single Judge of the High Court of Karnataka at Bangalore in Criminal Appeal No. 608 of 1998 whereby learned Single Judge by his order dated June 10, 2004 has allowed the appeal of State and set aside the order of the XXI Additional Sessions Judge and Special Judge for CBI at Bangalore City, whereby he acquitted the appellant accused under Section 5(2) read with Section 5(1)(e) of the Prevention of Corruption Act 1947 on the ground of sanction being invalid in CC No. 131/1990 dated 20th March 1998.

3. Brief facts necessary for disposal of this appeal are that the accused Sri C.S. Krishnamurthy, Technical Supervisor, Bangalore Telephones, Bangalore was charge-sheeted for the offence under Section 5(2) read with Section 5(1)(e) of the Prevention of Corruption Act 1947 (hereinafter referred to as the "Act") alleging that during the period from May 25, 1964 to June 27, 1986 he acquired assets disproportionate to his known source of income. On 27th June, 1986 he was in possession of movables and immovable assets worth R. 4,01,454.58 disproportionate to his known source of income and did not give any satisfactory account The CBI, Bangalore City, after completion of the investigation filed charge sheet against the accused. The charges were framed against the accused and prosecution examined 56 witnesses and marked exhibits P-1 to P.124. The statement of the accused was recorded under Section 313 Cr.P.C. The accused filed the written explanation. However, he did not choose to lead any defence evidence. The learned Special Judge after hearing the parties framed following questions which read as under :-

"1. Whether the sanction order is valid?

2. Whether the prosecution proves beyond all reasonable doubt that the accused being Technician and then Technical Supervisor in Bangalore Telephones, being a public servant during the period from 25.5.1964 to 27.6.1986 acquired assets which were disproportionate to his known sources of income as on 27.6.1986 as the accused was in possession of movables and immovable assets worth Rs. 4,01,454.58 Ps. Which were disproportionate to his known source of income for which he could not give satisfactory account?

3. Whether the prosecution has proved beyond all reasonable doubt that the accused has committed the offence under Section 5(1)(e) of the Prevention of Corruption Act, 1947, punishable under Section 5(2) of the said Act?

4. What order?"

4. Learned Special Judge acquitted the accused and held that there was no proper sanction. Learned Special Judge held that the prosecution has failed to prove the valid Sanction under Exhibit P-83 and therefore, prosecution is without jurisdiction and he acquitted the accused of all charges. Aggrieved against the order, an appeal was presented by the CBI to the High Court.

5. Learned Single Judge of the High Court of Karnataka, after examining the evidence came to the conclusion that the sanction accorded by the prosecution is valid and set aside the order of the learned Sessions Judge and remitted the matter back to the Special Judge, CBI, Bangalore to register the case and to decide the matter afresh after hearing both the parties. Aggrieved against this order of the learned Single Judge, the present appeal has been preferred by the accused.

6. We heard both the learned counsel for the parties and perused the record. Whole case depends upon the sanction. Whether the sanction granted by the authority is a valid sanction or not? In order to appreciate this controversy, we reproduce the sanction order which reads as under :-

"SANCTION ORDER

Whereas it is alleged that Shri C.S. Krishnamurthy while functioning as Technician and then as Technical Supervisor, Bangalore Telephones, Bangalore, during the period between 25.5.1964 to 25.6.1986, and, as on 27.6.1986 he was found in possession of assets/properties/pecuniary resources to the tune of Rs. 4,01,454.58 Ps. Which are disproportionate to his known source of income suggesting that the said Sri C.S. Krishnamurthy acquired the said assets by questionable means and/or from dubious sources and for which he cannot render any satisfactory account/explanation.

Whereas the above said allegation is based on the following facts and circumstances:-

Shri C.S. Krishnamurthy joined the Telephone Department as Telephone Mechanic on 25.5.1964. He was promoted as Technical Supervisor and was working with Bangalore Telephone.

Whereas it has been made to appear that the total income earned by the said Shri C.S. Krishnamurthy from all known sources between the period 25.5.1964 to 27.6.1986 is Rs. 7,91,534.93Ps. The income was from salary, GPF advances, the Rental income, the interest amount received from Bank accounts, the loan amount received from LIC towards house constructions, the dividend income, interest amount and gain in respect of chits received from Navyodaya Sahakara Bank, Vyyalikaval House Building, Co-operative Society, Vishalam Chit Funds and Reliance Industries, loan received from friends and family members, gain towards sale of scooter/car, sale proceeds of jewellery and income received by family members.

Whereas it has been made to appear that the total expenditure incurred by the said Shri C.S. Krishnamurthy in the above said period from 25.5.1964 to 25.6.1986 was Rs. 2,41,382.85Ps.

Whereas it has been, made to appear that the total assets both movable and immovable acquired by the said Shri C.S. Krishnamurthy during the check period from 25.5.1964 to 27.6.1986 amounted to Rs. 9,51,606,66Ps.

Whereas it has been made to appear that the said Shri C.S. Krishnamurthy during the entire period of his service as a public servant have likely savings to the tune of Rs. 5,50,152.08ps. only against which has had been found in possession of total assets both movable and immovable to the tune of Rs. 9,51,606.66 ps. The extent of disproportionate assets possessed by Shri C.S. Krishnamurthy as on 27.6.1986 comes to Rs. 4,01,454.58 Ps.

Whereas the said acts constitute offences punishable under Section 5(2) r/2 5(1)(e) of the Prevention of Corruption Act, 1947, (Act II of 1947).

And whereas, I, V. Partha Sarthy being the authority competent to remove Shri C.S. Krishnamurthy from office

after fully and carefully examining the materials placed before me in regard to the said allegations and circumstances of this case, consider that the said Shri C.S. Krishnamurthy should be prosecuted in a Court of Law for the said offences.

Now, therefore, I V. Partha Sarthy do hereby accord sanction under Section 6(1)(c) of the Prevention of Corruption Act 1947 (Act II of 1947) for the Prosecution of the said Shri C.S. Krishnamurthy for the said offences and any other offences punishable under other provisions of Law in respect of the said offences by a Court of competent jurisdiction."

7. This sanction order was proved by Mr. V. Parthasarthy, Deputy General Manager of Bangalore Telecom as PW-40, he was competent authority to accord sanction and he accorded the sanction for prosecution of accused for the alleged offence on 28th February, 1990 as per Ex.P. 83. He deposed that S.P. CBI sent a report against the accused and he perused the report and accorded the sanction as per Ex.P.83. He deposed that he was satisfied that there was a case for prosecuting the accused for the alleged offence. He admitted that he received a draft sanction order and a draft sanction order was also examined by vigilance cell and then it was put up before him. He also deposed that before according sanction he discussed the matter with the vigilance cell. He also admitted that he was not a law man, therefore, he discussed the legal implication with a legally qualified officer in the vigilance cell. He has denied the suggestion that he did not apply his mind in according sanction. It is no doubt true that the sanction is necessary for every prosecution of public servant, this safeguard is against the frivolous prosecution against public servant from harassment. But, the sanction should not be taken as a shield to protect corrupt and dishonest public servant. In the present case, a perusal of the sanction order itself shows that Shri C.S. Krishnamurthy's income from all known sources between the period from May 25, 1964 to June 27, 1986 was Rs. 7,91,534.93 that income was from salary, GPF advances, rental income, interest amount from bank accounts and loan amount received from LIC towards house constructions, the dividend income, interest amount and gain in respect of chits received from Navyodaya Sahakra Bank, Vyyalikaval House Building Co-operative Society, Vishalam Chit Funds and Reliance industries loan received from friends and family members, gain towards sale of scooter/car, sale proceeds of jewellery and income received by family members and the total expenditure incurred by the accused during these period is Rs. 2,41,382.85 and the total assets acquired by the accused both movable and immovable from May 25, 1964 to June 27, 1986 is Rs. 9,51,606.66 ps. Therefore, the accused has to account for difference between the two. The sanction itself shows that there is something to be accounted by the accused. When the sanction itself is very expressive, then in that case, the argument that particular material was not properly placed before the sanctioning authority for according sanction and sanctioning authority has not applied its mind becomes unsustainable. When sanction order itself is eloquent enough, then in that case only formal evidence has to be produced by the sanctioning authority or by any other evidence that the sanction was accorded by a competent person with due application of mind. In the present case the learned additional sessions Judge took a very narrow view that all the papers were not placed before the Court to show that there was proper application of mind by the sanctioning authority. The view taken by learned Special Judge was not correct and the learned Single Judge correctly set aside the order. In this connection we may refer to a three Judge Bench decision of this Court reported in [1958) SCR 999 Indu Bhusan Chatterjee Vs. The State of West Bengal in which a similar argument was raised that a sanctioning authority did not apply his mind to the facts of the case but merely perused the draft prepared by the Police and did not investigate the truth of the offence. The learned Judges after perusing the sanction order read with the evidence of Mr. Bokil held that there was a valid sanction accorded by a competent person. In this case, the accused was charged under Section 161 of the Indian Penal Code and Section 5(2) of the Prevention of Corruption Act. The accused was paid a sum of Rs. 100/- in marked currency as illegal gratification at Coffee House for clearing some claims entrusted to him and same was found in his possession. Sanction for prosecution of the appellant was sought from PW-5. Mr. Bokil as a competent authority to grant sanction. he came in witness box and he deposed that he accorded sanction for prosecution after proper application of mind. On these facts the learned Judges observed that Ext.6 on face of it disclosed a valid sanction for prosecution. In the sanction order it was disclosed that accused had accepted a bribe of Rs.100/- for clearing claim cases and he was trapped. Though sanctioning authority who came the witness box could not answer some questions in cross examination, yet this Court held that sanction itself is eloquent read with evidence of sanctioning authority and same is valid. In the present case, the facts contained in the sanction order read with evidence of sanctioning authority makes it clear that sanction was properly accorded and is valid.

8. In this connection, a reference was made to a decision of the Constitution Bench in the case of R.S. Pandit vs. State of Bihar reported in [1963] Supp. 2 SCR 652 wherein their Lordships after referring to a decision of the Privy Council in the case of Gokulchand Dwarkadas Morarka v. The King [AIR 1948 PC 83] observed as under:

"Section 6 of the Act also does not require the sanction to be given in a particular form. The principle expressed

by the Privy Council, namely that the sanction should be given in respect of the facts constituting the offence charged equally applies to the sanction under S.6 of the Act. In the present case all the facts constituting the offence of misconduct with which the appellant was charged were placed before the Government. The second principle, namely, that the facts should be referred to on the face of the sanction and if they do not so appear, the prosecution must prove them by extraneous evidence, is certainly sound having regard to the purpose of the requirements of a sanction."

9. Therefore, the ratio is sanction order should speak for itself and in case the facts do not so appear, it should be proved by leading evidence that all the particulars were placed before the sanctioning authority for due application of mind. In case the sanction speaks for itself then the satisfaction of the sanctioning authority is apparent by reading the order. In the present case, the sanction order speaks for itself that the incumbent has to account for the assets disproportionate to his known source of income. That is contained in the sanction order itself. More so, as pointed out, the sanctioning authority has come in the witness box as witness No.40 and has deposed about his application of mind and after going through the report of the Superintendent of Police, CBI and after discussing the matter with his legal department, he accorded sanction. It is not a case that the sanction is lacking in the present case. The view taken by the Additional Sessions Judge is not correct and the view taken by learned Single Judge of the High Court is justified.

10. In the case of Balaram Swain v. State of Orissa reported in 1991 Supp. (1) SCC 510 the High Court reversed the finding of the that court that the sanctioning authority has not applied its mind on the materials placed before him. It was observed in para 9 that the sanctioning authority, namely, PW 4 has stated on oath that he perused the consolidated report of the vigilance and fully applied his mind and thereafter issued the sanction. The admission of PW-7 in that case that the entire record was not looked into, was held to be not fatal to the sanction. The finding of the High Court was affirmed by Apex Court. Likewise, P.W.40, i.e. the sanctioning authority in the present case, has gone through the report of the Superintendent of Police and after discussing the matter with the legal department has accorded sanction. That is enough to show that there is due application of mind in the present case.

11. Our attention was invited to another decision of this Court in the case of Mansukhlal Vithaldas Chauhan vs. State of Gujarat reported in (1997) 7 SCC 622, wherein sanction was quashed because sanction for prosecution was given under the direction of the High Court, therefore, it was held that it was not independent application of mind by sanctioning authority as such sanction was invalid. In this case, sanctioning authority who was supposed to apply its mind for granting sanction was denuded of its power because of the direction given by the High Court. Therefore, this case does not help the appellant.

12. Similarly, our attention was invited to a decision of this Court in the case of State of T.N. vs. M.M. Rajendran reported in (1998) 9 SCC 268. In this case, sanction was accorded by the City Commissioner of Police, Madras. On that basis the trial commenced. The High Court found that all the relevant materials including the statements recorded by the Investigating Officer was not placed for consideration before the City Commissioner of Police, Madras because only a report of the Vigilance Department was placed before him. The High Court came to the finding that although the Personal Assistant to the City Commissioner of Police, Madras has deposed that proper sanction was accorded by the City Commissioner of Police after going though the detailed report of vigilance, but the statements recorded during the investigation was not placed before sanctioning authority and therefore, there was no proper application of mind by sanctioning authority, as such sanction was invalid. But in the present case, the sanction order itself discloses the facts that the incumbent is being prosecuted under the provisions of the Prevention of Corruption Act for accumulating moveable and immovable assets worth Rs. 4,01,454.58 paise which is disproportionate to his known scores of income and he has failed to give satisfactory account for the same. In the present case, facts mentioned in sanction order are eloquent for constituting prima facie offence under Section 5(2) read with Section 5(1)(e) of the Act. Therefore, there is due application of mind by sanctioning authority and the sanction is valid.

13. Learned counsel for appellant submitted that offence was alleged to have been committed in 1986, now after lapse of almost 19 years would it be advisable to proceed with the matter. It is a matter of corruption and we cannot give any latitude in such matters.

14. Therefore, under these circumstances, we are of opinion that the view taken by learned Single Judge of the High Court appears to be justified and there is no ground to interfere in the present appeal. Accordingly, the appeal is dismissed. However, nothing said herein or the High Court excepting on the point of sanction should influence the trial court's decision on merits.

The adverse observations made against the trial Judge are deleted.

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Appeal allowed.

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