IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.07.2026

PRONOUNCED ON : 31.07.2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

Crl.R.C.No.2120 of 2024
and
Crl.M.P.No.16844 of 2024

1.P.Murugesa Boopathi

2.Jansirani

3.Dinesh Kumar

4.Krithika … Petitioners/Accused Nos.1 to 4

vs.

State of Tamil Nadu
Rep. by the Deputy Superintendent of Police
Vigilance and Anti Corruption,
Special Investigation Cell,
Chennai – 600 016.
(V&AC Hqrs Crime No.1/AC/2018/HQ) … Respondents

PRAYER: Criminal Revision Petition is filed under Section 397 read with Section 401 of the Code of Criminal Procedure Code, 1973/Section 438 of B.N.S.S, 2023, to call for the Records in Crl.M.P.No.479 of 2023 on the file of the learned Special Judge, Special Court for cases under the Prevention of Corruption Act, Chennai and set aside the Order dated 15.11.2024 passed by the learned Special Judge, Special Court for cases under the Prevention of Corruption Act, Chennai in Crl.M.P.No.479 of 2023 in C.C.No.1 of 2023 and consequently discharge the Petitioners from the case in C.C.No.1 of 2023.

For Petitioners	: Mr.R.Shanmugasundaram Senior Counsel for M/s.A.G.Shakeena
For Respondent	: Mr.R.Ganesh Kumar Counsel for Government of Tamil Nadu (Criminal Side)

O R D E R

This Criminal Revision Case has been filed as against the order dated 15.11.2024 passed in Crl.M.P.No.479 of 2023 in C.C.No.1 of 2023 on the file of the learned Special Judge, Special Court for cases under the Prevention of Corruption Act, Chennai, thereby dismissing the petition to discharge the petitioners.

2. The petitioners are arrayed as Accused Nos.1 to 4. The petitioners are charged for the offences punishable under Section 13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988 read with Section 109 of Indian Penal Code, in Crime No.V&AC Hqrs Cr.No.1/AC/2018/HQ.

3.(i) The case of the prosecution is that the 1st accused entered into Government Service as Deputy Agricultural Officer on 26.07.1972 and subsequently, he was appointed as Assistant Professor on 01.02.1989 in the Tamil Nadu Agricultural University, Coimbatore. Thereafter, he was promoted to the post of Professor. While being so, he was appointed as Special Personal Assistant to the Hon'ble Minister for Agriculture by Government of Tamil Nadu for a period from 01.02.1990 to 31.01.1991, from 15.05.1996 to 14.05.2001 and from 01.06.2006 to 03.06.2009. On the date of attaining his age of superannuation (i.e., on 04.06.2009), he was appointed as Vice Chancellor of Tamil Nadu Agricultural University by the Governor of Tamil Nadu and he served in the said post till 31.08.2010. Therefore, he is coming under the cadre of Public Servant under the definition as contemplated under Section 2 (c) of the Prevention of Corruption Act, 1988. Based on the enquiry report, the respondent registered FIR in Crime No.V&AC Hqrs Cr.No.1/AC/2018/HQ for the offences punishable under Section 13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988 read with Section 109 of IPC on 01.03.2018 as against the petitioners/accused herein alleging that the 1st accused, who served as Special Personal Assistant to Hon'ble Minister for Agriculture for the period from 01.06.2006 to 03.06.2009 had possessed assets and possession of pecuniary resources and property in his name and in the name of his family members, which are disproportionate to the known source of his income during the Check Period from 01.06.2006 to 31.05.2009. After registration of FIR, the respondent completed the investigation and filed final report since there was sufficient materials available to prove the offences against the accused persons.

3.(ii) The 1st accused has acquired assets in his name and in the name of his family members namely Accused Nos.2 to 4 to the tune of Rs.68,20,065/- during the check period from 01.06.2006 to 31.05.2009, which is 145.84% disproportionate to his known source of income and that of his family members. Therefore, the 1st accused is charged for the offences punishable under Section 13(2) read with 13(1)(e) of Prevention of Corruption Act and the accused 2 to 4 are charged for the offences punishable under Section 13(2) read with 13(1)(e) of Prevention of Corruption Act read with Section 109 of IPC. While pending the same for framing charges, the petitioners/accused filed a petition to discharge on several grounds. It was dismissed and aggrieved by the same, the petitioners have filed the present criminal revision case.

4.(i) The learned Senior Counsel appearing for the petitioners submits that while the 1st petitioner was working as a Professor, he was appointed as Special Personal Assistant to the Hon'ble Minister for Agriculture by Government of Tamil Nadu for a period from 01.06.2006 to 31.05.2009. Thereafter, on 04.06.2009, he was appointed as Vice Chancellor of Tamil Nadu Agricultural University by the Governor of Tamil Nadu. In order to prosecute the 1st accused, the respondent obtained sanction from the Board of Management of the Tamil Nadu Agricultural University, as if it is the Authority Competent to remove the 1st accused. But, it is contrary to the provisions of the Tamil Nadu Agricultural University Act, 1971. He further submits that under Section 11 (1) of Tamil Nadu Agricultural University Act, 1971, every appointment of Vice Chancellor is made by the Chancellor and under Section 11(3)(b) of the said Act, the Vice Chancellor may be removed only by the Chancellor upon a resolution of the Board of Management by a majority of the total members of that Board and by a majority of not less than two-thirds of the members of that Board present and voting. Therefore, the role played by the Board of Management is completely different from the role played by the Chancellor.

4.(ii) While the Board may pass a resolution, the statutory power of removal vests exclusively in the domain of the Chancellor. The Board of Management is not the Competent Authority to remove the Vice Chancellor. Hence, the person, who accorded sanction is not competent to accord sanction for prosecuting the 1st accused. Admittedly, during the Check Period from 01.06.2006 to 31.05.2009, the 1st accused was working as Special Personal Assistant to the Hon'ble Minister for Agriculture, Government of Tamil Nadu. He was appointed by the Government of Tamil Nadu and as such, the sanction has to be accorded by the Government of Tamil Nadu, who is the appointing and removing authority of the Special Personal Assistant to the Minister.

4. (iii) Even assuming that the Department of Agriculture is the Competent Authority to accord sanction, the person who accorded sanction, i.e., the Vice Chancellor of Tamil Nadu Agriculture University is not Competent to accord sanction, since the 1st accused was retired as Vice Chancellor. Therefore, the statutory power of removal vests within the domain of Chancellor and as such, another Vice Chancellor cannot exercise or authenticate any person to accord sanction to prosecute the 1st accused,

who had hold the post of Vice Chancellor. Therefore, if the 1st accused is treated as the Vice Chancellor, the Competent Authority to accord sanction is the Chancellor as contemplated under Section 11(3)(b) of the Tamil Nadu Agricultural University Act, 1971. Even, if the 1st accused is treated as the Special Personal Assistant to the Hon'ble Minister, the Competent Authority to accord sanction is only the Government. Either the case, the Board of Management does not possess the statutory competence to accord sanction. Therefore, the entire proceedings itself is vitiated and cannot be sustained for further course of proceedings.

4. (iv) He further submits that though the accused were charged for the offences punishable under Section 109 of IPC, there is no sanction under Section 197 of the Criminal Procedure Code. Therefore, the entire proceedings cannot be proceeded without the sanction under Section 197 of the Criminal Procedure Code. He further submits that the 2nd accused is the wife of the 1st accused, the 3rd accused is the son of the 1st accused and the 4th accused is the daughter-in-law of the 1st accused. The Accused Nos.3 and 4 are qualified Medical Practitioners and having independent source of income. They are also residing independently at Chennai. However, the prosecution clubbed the assets acquired by the Accused Nos.3 and 4 along

with the assets acquired by the Accused Nos.1 and 2 and initiated prosecution for the charge of disproportionate assets. Further, the 1st accused only was given opportunity to submit his explanation and other accused persons were not served with any notice to call upon them to file their explanation. For purchase of the property in Chennai for the sale consideration of Rs.46,28,000/-, the 1st accused categorically explained that the 2nd accused had received a sum of Rs.40,00,000/- as advance towards the sale of her property situated at Vadavalli, Coimbatore. It is also accounted with her Income Tax Return for the Assessment Year 2009-2010, which was filed on 09.03.2010. Therefore, there are absolutely no oral or material evidence available to frame charge against the petitioners for the offences punishable under Section13(2) read with 13(1)(e) of the Prevention of Corruption Act read with Section 109 of Indian Penal Code and the same is liable to be quashed.

5. The respondent herein filed counter affidavit and the learned Counsel for Government of Tamil Nadu (Criminal Side) appearing for the respondent submits that the 1st petitioner was appointed as Special Personal Assistant to the Hon’ble Minister for Agriculture by an order dated 15.11.2006. Before his appointment, he was working as a Professor in the

Tamil Nadu Agricultural University. Therefore, part of his employment was under the Agricultural University and as such, the Board of Management is the Competent Authority to accord sanction to prosecute the 1st accused. Further, the 1st petitioner was appointed under General Rules of the Tamil Nadu State and Subordinate Services Rules. The General Rule 11 of the Tamil Nadu State and Subordinate Services Rules, says about appointment by agreements. The General Rule 11 (2) of the said Rules, says that a person appointed under Sub Rule (1) of Rule 11, shall not be regarded as a member of the service in which the post to which he is appointed is included and shall not be entitled by reason only of such appointment to any preferential claim to any other appointment in that or any other service. Therefore, the 1st accused cannot be treated as member of service, in which he was appointed as Special Personal Assistant to the Hon'ble Minister for Agriculture. His parent Department is only the Agricultural University. Therefore, the Board of Management is the competent authority to accord sanction. Accordingly, the Board of Management headed by its Chairman namely the Vice Chancellor accorded sanction to prosecute the 1st accused. In support of his contention, he relied upon the following judgments of the Hon'ble Supreme Court of India:-

5.(i) In ***State of Punjab vs. Labh Singh*** reported in ***(2014) 16 SCC 807***, in which the Hon'ble Supreme Court of India held as follows:-

"9. In the present case the public servants in question had retired on 13-12-1999 and 30-04-2000. The sanction to prosecute them was rejected subsequent to their retirement i.e. first on 13-9-2000 and later on 24-9-2003. The public servants having retired from service there was no occasion to consider grant of sanction under Section 19 of the PC Act. The law on the point is quite clear that sanction to prosecute the public servant for the offences under the PC Act is not required if the public servant had already retired on the date of cognizance by the court. In S.A. Venkataraman v. State while construing Section 6(1) of the Prevention of Corruption Act, 1947 which provision is in pari materia with Section 19(1) of the PC Act, this Court held that no sanction was necessary in the case of a person who had ceased to be the public servant at the time the court was asked to take cognizance. The view taken in S.A.Venkataraman was adopted by this Court in C.R. Bansi v. State of Maharashtra and in Kalicharan Mahapatra v. State of Orissa and by the Constitution Bench of this Court in K. Veeraswamy v. Union of India. The High Court was not therefore justified in setting aside the order passed by the Special Judge insofar as charge under the PC Act was concerned.

10. However as regards charges for the offences punishable under the Penal Code, the High Court was *absolutely right in setting aside the order of the Special Judge. Unlike Section 19 of the PC Act, the protection under section 197 of CrPC is available to the concerned public servant even after retirement. Therefore, if the matter was considered by the sanctioning authority and the sanction to prosecute was rejected first on 13-9-2000 and secondly on 24-9-2003, the Court could not have taken cognizance insofar as the offences punishable under the Penal Code are concerned. As laid down by this Court in State of H.P. v. Nishant Sareen, the recourse in such cases is either to challenge the order of the sanctioning authority or to approach it again if there is any fresh material.*

11. In the circumstances, in our view the order under appeal passed by the High Court is correct insofar as charges under IPC are concerned but must be set aside as regards charge under PC Act is concerned.

12. Before we part, we must record that we do not approve the stand taken by the appellant in the petition. The prosecution cannot keep waiting till a public servant retires and then choose to file charge-sheet against him after his retirement, thereby setting at naught the protection available to him under Section 19 of the PC Act. The appeal thus stands allowed partly. No order as to costs."

Therefore, it is clear that sanction to prosecute the public servant for the offences under the Prevention of Corruption Act, 1988 is not required if the public servant had already retired on the date of cognizance by the Court.

5.(ii) He also relied upon the judgment in ***State of Telangana vs. Managipet Alias Mangipet Sarveshwar Reddy*** reported in ***(2019) 19 SCC 87***, in which the Hon'ble Supreme Court of India held as follows:-

> *"34. Therefore, we hold that the preliminary inquiry warranted in Lalita Kumari is not required to be mandatorily conducted in all corruption cases. It has been reiterated by this Court in multiple instances that the type of preliminary inquiry to be conducted will depend on the facts and circumstances of each case. There are no fixed parameters on which such inquiry can be said to be conducted. Therefore, any formal and informal collection of information disclosing a cognizable offence to the satisfaction of the person recording the FIR is sufficient.*
>
> *35. We also do not find any merit in the argument that there has been no sanction before the filing of the report. The sanction can be produced by the prosecution during the course of trial, so the same may not be necessary after retirement of the accused officer. This Court in K. Kalimuthu v. State held as under: (SCC p. 521, para 15)*
>
> *"15. The question relating to the need of sanction under Section 197 of the Code is not necessarily to be considered as soon as the complaint is lodged and on the allegations contained therein. This question may arise at any stage of the proceeding. The question whether sanction is necessary or not*

may have to be determined from stage to stage."

36. The High Court has rightly held that no ground is made out for quashing of the proceedings for the reason that the investigating agency intentionally waited till the retirement of the Accused Officer. The question as to whether a sanction is necessary to prosecute the Accused Officer, a retired public servant, is a question which can be examined during the course of the trial as held by this Court in K. Kalimuthu. In fact, in a recent judgment in Vinod Kumar Garg v. State (NCT of Delhi), this Court has held that if an investigation was not conducted by a police officer of the requisite rank and status required under Section 17 of the Act, such lapse would be an irregularity, however unless such irregularity results in causing prejudice, conviction will not be vitiated or be bad in law. Therefore, the lack of sanction was rightly found not to be a ground for quashing of the proceedings.

37. Mr. Guru Krishna Kumar further refers to a Single Bench judgment of the Madras High Court in M. Soundararajan v. State to contend that amended provisions of the Act as amended by Act 16 of 2018 would be applicable as the amending Act came into force before filing of the charge-sheet. We do not find any merit in the said argument. In the aforesaid case, the learned trial court applied amended provisions in the Act which came into force on 26-7-2018 and acquitted both the accused from charge under Section 13(1)(d) read with Section 13(2) of the Act. The High Court found that *the order of the trial court to apply the amended provisions of the Act was not justified and remanded the matter back observing that the offences were committed prior to the amendments being carried out. In the present case, the FIR was registered on 9-11-2011 much before the Act was amended in the year 2018. Whether any offence has been committed or not has to be examined in the light of the provisions of the statute as it existed prior to the amendment carried out on 26-7-2018."*

Therefore, the sanction may not be necessary to prosecute the 1st accused herein, who is a retired public servant. The amended provisions in the Prevention of Corruption Act, 1988 came into force on 26.07.2018. During the Check Period from 01.06.2006 to 31.05.2009, only the 1st accused amassed wealth and as such, the amended provisions are not applicable to the case on hand. As per the old provisions, there is no need to obtain any sanction for prosecuting the retired public servant.

5.(iii) He also relied upon the judgment in ***Central Bureau of Investigation vs. Ramesh Chander Diwan*** reported in ***2025 SCC OnLine SC 871***, in which the Hon'ble Supreme Court of India held as follows:-

"18. The concept of deputation was explained by this Court in State of Punjab v. Inder Singh as follows:

18. The concept of "deputation" is well understood in service law and has a recognised meaning. "Deputation" has a *different connotation in service law and the dictionary meaning of the word "deputation" is of no help. In simple words "deputation" means service outside the cadre or outside the parent department. Deputation is deputing or transferring an employee to a post outside his cadre, that is to say, to another department on a temporary basis. After the expiry period of deputation the employee has to come back to his parent department to occupy the same position unless in the meanwhile he has earned promotion in his parent department as per the Recruitment Rules. Whether the transfer is outside the normal field of deployment or not is decided by the authority who controls the service or post from which the employee is transferred. There can be no deputation without the consent of the person so deputed and he would, therefore, know his rights and privileges in the deputation post. ...*

(emphasis ours)

... ...

21. Insofar as disciplinary control over a deputationist is concerned, such control generally vests with the appropriate authority in the parent department in which the substantive appointment is held. However, it cannot be gainsaid that by statutory rules or by conditions contained in the order of deputation, it can be provided that the deputationist, for the period he is serving on deputation, will be subject to the disciplinary control of the department to which he is deputed. Should there be a provision in this behalf, the deputationist may *be proceeded against, if the occasion therefore arises, by the appropriate authority in the receiving department. Although generally an employee is supposed to have one master, in the context of deputation there could be a plurality of masters. Nonetheless, it is the statutory rules which would be the deciding factor. If the rules indicate that disciplinary control is retained by the parent department, the receiving department would have no jurisdiction to exercise such control.*

… … … …

24. Although the respondent's initial appointment letter is not on record, it has not been disputed before us (in view of the additional documents placed on record by the respondent in terms of an order dated 18th March, 2025) that the respondent was initially appointed by the Government of Punjab. If not a member of the State's civil service, the respondent was most certainly the holder of a civil post. It is further undisputed that the respondent was sent on deputation to the Union Territory, Chandigarh from the State of Punjab (P.W.D P.H Branch). Also, it is not in dispute that vide an order of the Administrator, Union Territory, Chandigarh dated 25th February, 2005, the respondent was relieved to join a new assignment in the Municipal Corporation, Chandigarh. From time to time, the Governor of Punjab extended the deputation period of the respondent with the Municipal Corporation, Chandigarh. Orders dated 13th October, 2006 and 12th July, 2007 placed on record by the respondent evince extension of the deputation *period of the respondent with the Municipal Corporation, Chandigarh by none other than the Governor of Punjab for specified periods. Effectively, what these orders did was to temporarily place the respondent's service at the disposal of the Municipal Corporation, Chandigarh. It has not been demonstrated before us by CBI that upon assignment of the respondent on deputation with the Municipal Corporation, Chandigarh, he was either absorbed in its services Administrator resulting in severance of relationship with the Government of Punjab or that, by any order validly made, the respondent ceased to remain a Government servant once he left the post under the Government he was serving prior to his deputation."*

Therefore, the petitioner was appointed on contract basis as a Special Personal Assistant to the Hon'ble Minister for Agriculture. Further, the 1st accused ceased to be a Government Servant, once he had retired from service.

5 (iv). He further submits that an accused facing prosecution for the offences under the Prevention of Corruption Act, 1988 cannot claim any immunity on the ground of want of sanction, if he ceased to be a public servant on the date when the Court took cognizance of the offences under the provisions of Prevention of Corruption Act, 1988. He further submits

that the other grounds raised by the petitioners can be looked into before the Trial Court during the trial by let in evidence. Hence, the Trial Court rightly dismissed the petition to discharge the petitioners and it does not warrant any interference by this Court.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. There are totally four accused in the present revision, in which the petitioners were arrayed as Accused Nos.1 to 4. The crux of the allegation is that the 1st accused amassed wealth in his name and also in the name of his family members namely the Accused Nos.2 to 4 herein, which are disproportionate during the Check Period from 01.06.2006 to 31.05.2009 to his known source of income. The 2nd accused is the wife of the 1st accused, the 3rd accused is the son of the 1st accused and the 4th accused is the wife of 3rd accused namely the daughter-in-law of the 1st accused. The 1st accused was originally appointed as Deputy Agricultural Officer in the Horticulture Department, Coimbatore and he was promoted to the post of Professor. While he was serving as Professor in the Tamil Nadu Agricultural University, he was appointed as Special Personal Assistant to the Hon'ble

Minister for Agricultural Department by the Government of Tamil Nadu by an order dated 15.11.2006.

8. Though the appointment order was issued on 15.11.2006, his appointment as Special Personal Assistant to the Hon'ble Minister for Agriculture was made on 01.06.2006 forenoon itself. Accordingly, he was relieved from the University on 31.05.2006 afternoon and joined duty as Special Personal Assistant to the Hon'ble Minister for Agriculture on 01.06.2006 forenoon. On the complaint, the respondent registered the FIR alleging that during the period from 01.06.2006 to 31.05.2009, the 1st accused along with his family members amassed wealth, which is disproportionate to their known source of income. The disproportionate assets worth about Rs.68,20,065/-, which comes to 145.84% disproportionate to their known source of income.

9. The point for consideration in this revision is that whether the prosecution had obtained valid sanction to prosecute the 1st accused. The prosecution obtained sanction to prosecute the 1st accused from the Tamil Nadu Agricultural University, dated 07.10.2022, thereby the Vice Chancellor of University accorded sanction to prosecute the 1st accused. Admittedly,

during the Check Period from 01.06.2006 to 31.05.2009, the 1st accused was serving as Special Personal Assistant to the Hon'ble Minister for Agriculture. He was appointed by the Government of Tamil Nadu to the post of Special Personal Assistant.

10. The learned Counsel for Government of Tamil Nadu (Criminal Side) appearing for the respondent vehemently contended that though the 1st accused was appointed as Special Personal Assistant to the Hon'ble Minister for Agriculture, by the Government of Tamil Nadu, his parent Department is the Agricultural University and as such, the Vice Chancellor who is the Chairman of Board of Management accorded sanction to prosecute the 1st accused. Hence, the Vice Chancellor being the Chairman of Board of Management is competent to accord sanction.

11. This contention cannot be countenanced for the simple reason that during the Check Period, the 1st accused was served as Special Personal Assistant to the Hon'ble Minister for Agriculture. He was appointed by Government of Tamil Nadu. The 1st accused was appointed under General Rule 11 of the Tamil Nadu State and Subordinate Services Rules and it stipulates that a person appointed under an agreement shall not be regarded

as a member of the service to which his appointment is included and shall not be entitled by reason only of such appointment to any preferential claim to any other appointment in any other service. It is relevant to extract the General Rule 11 (1) and (2) of the Tamil Nadu State and Subordinate Services Rules:-

> *"11. **Appointment by agreements.** -(1) When in the opinion of State Government Special provisions inconsistent with any of these rules or of any other rules made under the proviso to article 309 of the Constitution of India or continuing by Article 313 of that Constitution (hereinafter referred to in this rule as the said rules) are required in respect of conditions of service, pay and allowances, pension, discipline and conduct with reference to any particular post, or any of them, it shall be open to the State Government to make an appointment to such post otherwise than in accordance with these rules or the said rules and to provide by agreement with the person so appointed for any of the matters in respect of which in the opinion of the State Government special provisions are required to be made and to the extent to which such provisions are made in the agreement, nothing in these rules or the said rules shall apply to any person so appointed in respect of any matter for which provision is made in the agreement:*
>
> *Provided that in every agreement, made in exercise of the powers conferred by this rule it shall further be provided that in respect of any matter in respect of which no provision has been made in the agreement the provisions of these rules or of the said*

rules shall apply.

(2) A person appointed under sub-rule (1) shall not be regarded as a member of the service in which the post to which he is appointed is included and shall not be entitled by reason only of such appointment to any preferential claim to any other appointment in that or any other service."

12. Therefore, the person, who is appointed under General Rule 11 of the Tamil Nadu State and Subordinate Services Rules is not entitled to claim any benefits only. That apart, even the specific case of the prosecution is that the 1st accused amassed wealth while he was holding the post of Special Personal Assistant to the Hon'ble Minister for Agriculture. Therefore, the Competent Authority to accord sanction is the Government of Tamil Nadu since the Government of Tamil Nadu only appointed the 1st accused as Special Personal Assistant to the Hon'ble Minister for Agriculture.

13. Further, the learned Counsel for Government of Tamil Nadu (Criminal Side) appearing for the respondent specifically contended that on the date of taking cognizance, the 1st accused is ceased to be a public servant and as such, there is no need to obtain any sanction to prosecute the 1st accused. In support of his contention he also relied upon the above cited judgments of the Hon'ble Supreme Court of India.

14. The order of sanction was accorded by the Vice Chancellor of the Tamil Nadu Agricultural University as directed by Agricultural Production Commissioner and Secretary to Government of Tamil Nadu by the communication, dated 05.07.2022. In fact, the Board of Management of Tamil Nadu Agricultural University has no absolute power or authority to issue direction to accord sanction.

15. The 1st accused was appointed as Special Personal Assistant to Hon'ble Minister for Agriculture, Government of Tamil Nadu from 01.06.2006 to 03.06.2009. On 04.06.2009, he was appointed as Vice Chancellor of the Tamil Nadu Agricultural University by the Governor of Tamil Nadu. Thereafter, he attained the age of superannuation and retired from service on 31.08.2010 as Vice Chancellor. While being so, on receipt of unanimous complaint, the respondent herein registered FIR in Crime No.V&AC Hqrs Cr.No.1/AC/2018/HQ. Therefore, after a period of 12 years from the beginning of Check Period, the FIR got registered against the accused persons. Hence, there was a huge delay in registering FIR by the respondent.

16. The specific case of the prosecution is that the first accused is a public servant within the meaning of Section 2(c) of the Prevention of Corruption Act, 1988, and is charged with offences punishable under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act. Upon completion of the investigation, the respondent filed the final report in the year 2022, which was taken on file by the Trial Court in C.C. No. 1 of 2023. It is true that, prior to the amendment to the Prevention of Corruption Act, 1988, there was no requirement to obtain previous sanction for prosecuting a retired Government servant. In the present case, the FIR was registered on 01.03.2018, the final report was filed on 21.02.2022, and cognizance was taken by the Trial Court only in the year 2023, i.e., very much the amendment to the Prevention of Corruption Act, 1988 came into force on 26.07.2018.

17. Therefore, the amended provisions of the Prevention of Corruption Act, 1988 are squarely applicable to the present case. In terms of Section 19 of the Prevention of Corruption Act, 1988, no Court shall take cognizance of an offence punishable under Sections 7, 11, 13 or 15 alleged to have been committed by a public servant except with the previous sanction of the competent authority. Section 19(1)(b) of the Prevention of

Corruption Act, 1988 provides that, in the case of a person who is employed, or who was, at the time of the commission of the alleged offence, employed in connection with the affairs of a State and is not removable from office save by or with the sanction of the State Government, previous sanction of the State Government is mandatory.

18. The learned Senior Counsel appearing for the petitioners/accused contended that the Courts are prohibited from taking cognizance of any offence punishable under Sections 7, 10, 11, 13 and 15 of the Prevention of Corruption Act, 1988 against a public servant except with the previous sanction of the competent authority. In support of the said contention, he placed reliance upon the judgment of the Hon'ble Supreme Court in ***Nanjappa v. State of Karnataka [(2015) 14 SCC 186].*** The relevant paragraphs of the judgment are extracted hereunder:

> *"10. A plain reading of Section 19(1) (supra) leaves no manner of doubt that the same is couched in mandatory terms and forbids courts from taking cognizance of any offence punishable under Sections 7, 10, 11, 13 and 15 against public servants except with the previous sanction of the competent authority enumerated in clauses (a), (b) and (c) to subsection (1) of Section 19. The provision contained in subsection (1) would operate in absolute terms but for the presence of sub-*

section (3) to Section 19 to which we shall presently turn. But before we do so, we wish to emphasise that the language employed in sub-section (1) of Section 19 admits of no equivocation and operates as a complete and absolute bar to any court taking cognizance of any offence punishable under Sections 7, 10, 11, 13 and 15 of the Act against a public servant except with the previous sanction of the competent authority.

………

18. The above line of reasoning was followed by this Court in State of Goa vs. Babu Thomas (2005) 8 SCC 130, where this Court while dealing with a case under Section 19 of the Prevention of Corruption Act, 1988 held that absence of a valid sanction under Section 19(1) went to the very root of the prosecution case having regard to the fact that the said provision prohibits any Court from taking cognizance of any offence punishable under Sections 7, 10, 13 and 15 against the public servant, except with the previous sanction granted by the competent authority in terms of clauses (a), (b) and (c) to Section 19(1). This Court was in that case dealing with a sanction order issued by an authority who was not competent to do so as is also the position in the case at hand.

……..

20. What is important is that, not only was the grant of a valid sanction held to be essential for taking cognizance by the Court, but the question about the validity of any such order, according to this Court, could be raised at the stage of final *arguments after the trial or even at the appellate stage."*

19. In view of the above, this Court accepts the contention of the learned Senior Counsel that a sanction order accorded by an incompetent authority would render the trial or the proceedings against the accused a nullity. This Court also accepts the proposition that the validity of a sanction order can be questioned at the very inception of the proceedings or even at the appellate stage. There is no dispute with regard to the said legal proposition.

20. That apart, the final report was taken cognizance of by the Trial Court only in the year 2023, i.e., very much the amendment to the Prevention of Corruption Act, 1988 came into force on 26.07.2018. Even assuming that the Vice-Chancellor, who accorded sanction in the present case, was competent to grant sanction for prosecuting the first accused, the Vice-Chancellor acted without following the procedure contemplated under the provisions of the Tamil Nadu Agricultural University Act, 1971.

21. Section 9(1) of the Tamil Nadu Agricultural University Act, 1971 provides that the Governor of Tamil Nadu shall be the Chancellor of the University. Section 11(1) of the Tamil Nadu Agricultural University Act, provides that every appointment of the Vice-Chancellor shall be made by the Chancellor. Further, Section 11(3)(b) of the Tamil Nadu Agricultural University Act, stipulates that the Vice-Chancellor may be removed from office by the Chancellor upon a resolution of the Board passed by a majority of the total members of the Board and by a majority of not less than two-thirds of the members present and voting.

22. In the present case, the first accused retired from service as the Vice-Chancellor of the Tamil Nadu Agricultural University. During the check period, he did not hold the post of Professor in the University. A perusal of the sanction order dated 07.10.2022 reveals that there is no reference to any resolution having been passed by the Board of Management by the requisite majority before according sanction for prosecution. Therefore, the sanction order dated 07.10.2022 has been issued by an incompetent authority without due application of mind. If the first accused is treated as the Vice-Chancellor, the competent authority to accord sanction would be the Chancellor, in terms of Section 11(3)(b) of the Tamil Nadu

Agricultural University Act, 1971. On the other hand, if the first accused is treated as the Special Personal Assistant to the Hon'ble Minister for Agriculture, the competent authority to accord sanction would be the Government of Tamil Nadu. Since the sanction order dated 07.10.2022 is non est in the eye of law, the prosecution cannot be sustained and is liable to be quashed.

23. Further, the prosecution has also failed to obtain sanction under Section 197 of the Code of Criminal Procedure for prosecuting the first accused for the offence punishable under Section 109 of the Indian Penal Code. The absence of such sanction constitutes a jurisdictional defect affecting the very maintainability of the prosecution in respect of the offence under the Indian Penal Code. Apart from this, accused Nos. 3 and 4 are qualified medical practitioners having independent sources of income and separate financial affairs. They are also residing independently at Chennai. However, the prosecution has erroneously clubbed their assets with those of the first accused.

24. Merely because the third accused is the son of the first accused and the fourth accused is his daughter-in-law, the properties independently acquired by the fourth accused during the check period cannot automatically be included in the list of disproportionate assets of the first accused. In fact, the prosecution did not call for any explanation from accused Nos. 2 to 4. Solely on the basis of the explanation submitted by the first accused, the investigation was completed and the prosecution concluded that the accused had amassed assets disproportionate to their known sources of income.

25. A perusal of the prosecution records reveals that the second accused had entered into an agreement for the sale of a property situated at Vadavalli, Coimbatore, and received an advance amount of Rs.40,00,000/-. The said amount was duly reflected in her Income Tax Return for the Assessment Year 2009-2010. However, the prosecution failed to take the said amount into account while assessing the assets of the accused. If the said advance amount and the properties independently acquired by the fourth accused are excluded from the computation, the remaining assets would not constitute disproportionate assets in relation to the known sources of income of the accused.

26. According to the prosecution, the accused were found to be in possession of assets worth Rs.46,28,000/- during the check period from 01.06.2006 to 31.05.2009, as reflected in Statement No. VII, which were allegedly disproportionate to their known sources of income. After excluding the advance amount received by the second accused and the properties acquired independently by the fourth accused, the value of the alleged disproportionate assets would not amount to Rs.68,20,065/-. Further, the Income Tax Returns of accused Nos. 2 and 3 disclose that, through their Hindu Undivided Family (HUF) account, amounts of Rs.5,21,533/-, Rs.17,17,448/- and Rs.14,50,000/-, aggregating to Rs.36,88,981/-, had been advanced to sundry creditors. These amounts were subsequently recovered and utilised for the purchase of properties during the check period. However, the prosecution failed to treat the recovered amounts as a legitimate source of income during the relevant period. The Income Tax Returns further disclose that accused Nos. 3 and 4 had independent sources of income. They are medical practitioners by profession and the fourth accused also belongs to a financially well-established family. Thus, the prosecution has failed to consider the explanations and supporting materials furnished by the accused with due application of mind. Consequently, the prosecution suffers from fundamental legal infirmities, both with regard to the validity of the sanction

for prosecution and the computation of the alleged disproportionate assets. Accordingly, there are no sufficient materials to frame charges against the accused for the offences punishable under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 read with Section 109 of the Indian Penal Code.

27. In view of the foregoing discussions, the order passed by the learned Special Judge for Cases under the Prevention of Corruption Act, Chennai, in Crl.M.P. No.479 of 2023 in C.C. No.1 of 2023, dated 15.11.2024, cannot be sustained and is accordingly set aside.

28. In the result, the Criminal Revision Case is allowed. The petitioners are discharged from all the charges framed against them. No costs. Consequently, the connected Criminal Miscellaneous Petition is closed.

31.07.2026

Index :Yes / No
Speaking order :Yes / No
Neutral Citation :Yes / No
dm

To

1.The Special Judge, Special Court for cases
under the Prevention of Corruption Act, Chennai.

2.The Deputy Superintendent of Police
Vigilance and Anti Corruption,
Special Investigation Cell,
Chennai – 600 016.

3.The Public Prosecutor,
High Court of Madras,
Chennai.

G.K. ILANTHIRAIYAN, J.

dm

Pre-delivery order made in
Crl.R.C.No.2120 of 2024

31.07.2026