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Crl.RC.Nos.584 to 587, 1462 to 1465 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 06.08.2026

Pronounced on : 28.08.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.RC. Nos.584 to 587 of 2025, 1462 to 1465 of 2025

and

Crl.MP. Nos.9358, 9360, 9374, 9375, 9385, 9387, 9404 & 9405 of 2025

Crl.RC. No.584 of 2025

Dr.M.Ramanathan

... Petitioner

Vs.

State Rep. By
The Deputy Superintendent of Police,
Special Investigation Cell-I,
Vigilance and Anti-Corruption,
Chennai

... Respondent

Prayer: Criminal Revision Case filed under Sections 438 & 442 of BNSS, praying to call for records and set aside the order passed by the learned Chief Judicial Magistrate, Cuddalore in Crl.MP.No.59 of 2020 dated 23.01.2025 in Special CC.No.5 of 2019.

Crl.RC. No.585 of 2025

Dr.M.Ramanathan

... Petitioner

Vs.



Crl.RC.Nos.584 to 587, 1462 to 1465 of 2025

State Rep. By
The Deputy Superintendent of Police,
Special Investigation Cell-I,
Vigilance and Anti-Corruption,
Chennai

... Respondent

Prayer: Criminal Revision Case filed under Sections 438 & 442 of BNSS, praying to call for records and set aside the order passed by the learned Chief Judicial Magistrate, Cuddalore in Crl.MP.No.56 of 2020 dated 23.01.2025 in Special CC.No.4 of 2019.

Crl.RC. No.586 of 2025

Dr.M.Ramanathan

... Petitioner

Vs.

State Rep. By
The Deputy Superintendent of Police,
Special Investigation Cell-I,
Vigilance and Anti-Corruption,
Chennai

... Respondent

Prayer: Criminal Revision Case filed under Sections 438 & 442 of BNSS, praying to call for records and set aside the order passed by the learned Chief Judicial Magistrate, Cuddalore in Crl.MP.No.53 of 2020 dated 23.01.2025 in Special CC.No.3 of 2019.

Crl.RC. No.587 of 2025

Dr.M.Ramanathan

... Petitioner

Vs.

State Rep. By
The Deputy Superintendent of Police,
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Crl.RC.Nos.584 to 587, 1462 to 1465 of 2025

Special Investigation Cell-I,
Vigilance and Anti-Corruption,
Chennai

... Respondent

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Prayer: Criminal Revision Case filed under Sections 438 & 442 of BNSS, praying to call for records and set aside the order passed by the learned Chief Judicial Magistrate, Cuddalore in Crl.MP.No.62 of 2020 dated 23.01.2025 in Special CC.No.6 of 2019.

Crl.RC. No.1462 of 2025

Dr.M.Rathinasabapathi

... Petitioner

Vs.

State Rep. By
The Deputy Superintendent of Police,
Special Investigation Cell-I,
Vigilance and Anti-Corruption,
Chennai 600 016

... Respondent

Prayer: Criminal Revision Case filed under Sections 438 & 442 of BNSS r/w Sections 27 and 22 of Prevention of Corruption Act, praying to call for records and set aside the order passed by the learned Chief Judicial Magistrate, Cuddalore in Crl.MP.No.450 of 2019 dated 23.01.2025 in Special C.C.No.5 of 2019.

Crl.RC. No.1463 of 2025

Dr.M.Rathinasabapathi

... Petitioner

Vs.



Crl.RC.Nos.584 to 587, 1462 to 1465 of 2025

State Rep. By
The Deputy Superintendent of Police,
Special Investigation Cell-I,
Vigilance and Anti-Corruption,
Chennai 600 016

... Respondent

Prayer: Criminal Revision Case filed under Sections 438 & 442 of BNSS r/w Sections 27 and 22 of Prevention of Corruption Act, praying to call for records and set aside the order passed by the learned Chief Judicial Magistrate, Cuddalore in Crl.MP.No.451 of 2019 dated 23.01.2025 in Special C.C.No.6 of 2019.

Crl.RC. No.1464 of 2025

Dr.M.Rathinasabapathi

... Petitioner

Vs.

State Rep. By
The Deputy Superintendent of Police,
Special Investigation Cell-I,
Vigilance and Anti-Corruption,
Chennai 600 016

... Respondent

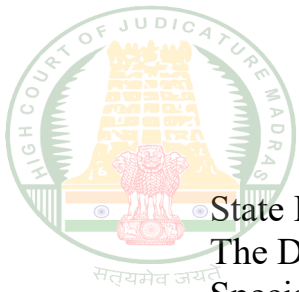
Prayer: Criminal Revision Case filed under Sections 438 & 442 of BNSS r/w Sections 27 and 22 of Prevention of Corruption Act, praying to call for records and set aside the order passed by the learned Chief Judicial Magistrate, Cuddalore in Crl.MP.No.449 of 2019 dated 23.01.2025 in Special C.C.No.4 of 2019.

Crl.RC. No.1465 of 2025

Dr.M.Rathinasabapathi

... Petitioner

Vs.



Crl.RC.Nos.584 to 587, 1462 to 1465 of 2025

State Rep. By
The Deputy Superintendent of Police,
Special Investigation Cell-I,
Vigilance and Anti-Corruption,
Chennai 600 016

... Respondent

Prayer: Criminal Revision Case filed under Sections 438 & 442 of BNSS r/w Sections 27 and 22 of Prevention of Corruption Act, praying to call for records and set aside the order passed by the learned Chief Judicial Magistrate, Cuddalore in Crl.MP.No.448 of 2019 dated 23.01.2025 in Special C.C.No.3 of 2019.

Crl.RC. Nos.584 to 587 of 2025

For Petitioner : Mr.A.Nagarajan

For Respondent : Mr.R.Ganesh Kumar,
Counsel for Government
of Tamil Nadu (Criminal Side)

Crl.RC. Nos.1462 to 1465 of 2025

For Petitioner : Mr.A.Navaneetha Krishnan,
Senior Counsel
for Mr.R.Naveen

For Respondent : Mr.R.Ganesh Kumar,
Counsel for Government
of Tamil Nadu (Criminal Side)

COMMON ORDER

These Criminal Revision Cases have been filed challenging the dismissal of the discharge petitions filed by the petitioners in Special



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C.C.Nos.3, 4, 5 and 6 of 2019, pending on the file of the Chief Judicial

Magistrate, Cuddalore.

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2. The accused are common in all the cases, and the charges framed therein are also similar and interconnected. Therefore, this Court passes common order in all the Criminal Revision cases.

3. A1/Dr.M.Ramanathan was the Vice-Chancellor of Annamalai University (hereinafter referred to as “the University”), and A2/Dr.M. Rathinasabapathy was the Registrar of the University during the relevant period of occurrence. Therefore, both of them were public servants within the meaning of Section 2(c) of the Prevention of Corruption Act, 1988. The University was established in the year 1929 with a financial contribution of Rs.20 lakhs from its founder and Rs.77 lakhs from the Government of Tamil Nadu. The Governor of Tamil Nadu is the Chancellor of the University. The University has been continuously receiving financial assistance from the Government of Tamil Nadu as well as the University Grants Commission. Further, under Section 2(e) read with the Schedule to the Tamil Nadu Transparency in Tenders Act, 1998, the University is also classified as a “procuring entity”. As per G.O.Ms.No.140, Public Works Department, dated 23.03.2000, where the

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value of the work is Rs.30 lakhs, works may be awarded to contractors up to 10% in excess of the estimated value, and where the value of the work is Rs.1 crore, works may be awarded up to 5% in excess of the estimated value. The decision regarding the award of such works is required to be taken by the Tender Awarding Committee constituted by the Government of Tamil Nadu.

Case of the prosecution in Crl.RC. Nos.586 & 1465 of 2025

4. During the period from 18.07.2008 to 04.11.2008 based on the requirements, both the accused who were working as Vice Chancellor and the Registrar of the University respectively, have decided to construct:

i) New men's Hostel at Mullai Illam, Phase-II at Annamalai University at an estimated value of Rs.2,33,00,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender, in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department, then the decision is to be taken in accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular



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tenderer and in publishing the final decision, both accused violated the

G.O. and provisions of sections 3, 4, 8, 9, 10 and 12 of the Tamil Nadu

Transparency in Tenders Act, 1998 and Rules 8, 9, 11(3), 14(4), 16, 22,

27 and 30 of the Tamil Nadu Transparency in Tender Rules 2000 and

awarded the contract to the M/s. Chettinad Builders Pvt. Ltd., and got the

work completed at a cost of Rs.2,64,76,000/- which exceeds by

Rs.31,76,000/- than the estimated value, resulting in a loss of

Rs.20,11,000/- (i.e. the cost that exceeds the 5% of the estimated value of

Rs.2,33,00,000/-);

ii) 2nd Floor over old DDE Administrative Building at Annamalai University at an estimated value of Rs.46,75,796/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department, then the decision is to be taken in accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of Sections 3, 4, 8, 9, 10 and 12 of the Tamil Nadu Transparency in Tenders Act 1998 and Rules 8, 9, 11(3), 14(4), 16, 22, 27

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and 30 of the Tamil Nadu Transparency in Tender Rules, 2000 and

awarded the contract to the M/s. Chettinad Builders Pvt. Ltd., and got the

work completed at a cost of Rs.67,07,000/- which exceeds by Rs.20,31,204/- than the estimated value, resulting in a loss of Rs.17,97,415/- (i.e. the cost that exceeds the 10% of the estimated value of Rs. 46,75,796/-);

iii) Canteen Block for causality block at RMMCH at Annamalai University at an estimated value of Rs.38,85,000/- which is in conformity with the schedule rates of PWD. Finally, when a decision is to be taken in awarding tender, in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department, then the decision is to be taken in accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of Sections 3, 4, 8, 9, 10 and 12 of the Tamil Nadu Transparency in Tenders, Act, 1998 and Rules 8, 9, 11(3), 14(4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules, 2000 and awarded the contract to the M/s. Chettinad Builders Pvt. Ltd., and got the work completed at a cost of Rs.52,26,000/- which exceeds by Rs.13,41,000/- than the estimated value

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resulting in a loss of Rs.11,46,750/- (i.e. the cost that exceeds the 10% of the estimated value of Rs.38,85,000/-); and

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iv) Additional toilets at KRM Hostel Phase-III at the University at an estimated value of Rs.29,04,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department, then the decision is to be taken in accordance with the G.O. Further in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of sections 3, 4, 8, 9, 10 and 12 of the Tamil Nadu Transparency in Tenders Act 1998 and Rules 8, 9, 11(3), 14(4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules 2000 and awarded the contract to the M/s. Chettinad Builders Pvt. Ltd., and got the work completed at a cost of Rs.55,16,900/- which exceeds by Rs.26,12,900/- than the estimated value resulting in a loss of Rs.23,22,500/-(i.e. the cost that exceeds the 10% of the estimated value of Rs.29,04,000/-), thereby at the aforesaid place and time, both A1 and A2, when entrusted with the property or dominion over the property for construction of the said buildings, committed the breach

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of trust by violating the direction of law prescribing the mode, in which

such trust is to be discharged and dishonestly and fraudulently allowed

the other persons to their own use of the said excess amount of

Rs.72,77,665/- and thereby both of them appears to have committed the

offence of criminal breach of trust by public servant and both the accused

committed the offences of criminal misconduct by public servant and

hence both of them appears to have committed the offences punishable

u/s. 409 of IPC and 13 (2) r/w. 13 (1) (C) of PC Act. 1988.

Case of the prosecution in Crl.RC. Nos.585 & 1464 of 2025

4.1 During the period from 18.02.2009 to 29.09.2009 based on the requirements when both the accused were working as Vice Chancellor and the Registrar of the University respectively, they decided to construct:

i) Laboratories in Mechanical Engineering Department at Engg. Campus at Annamalai University at an estimated value of Rs.38,00,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be



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taken in accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of Sections 3, 4, 8, 9, 10 and 12 of the Tamil Nadu Transparency in Tenders Act, 1998 and Rules 8, 9, 11 (3), 14 (4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules, 2000 and awarded the contract to the M/s. Chettinad Builders Pvt. Ltd., and got the work, completed at a cost of Rs.43,97,000/- which exceeds by Rs.5,97,000/- than the estimated value resulting in a loss of Rs.4,07,000/- (i.e. the cost that exceeds the 5% of the estimated value of Rs.38,00,000/-);

ii) 2nd Floor over Diamond Jubilee Block at Engineering College Block at Annamalai University at an estimated value of Rs.67,00,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be taken in accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused

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violated the G.O. and provisions of Sections 3, 4, 8, 9, 10 and 12 of the

Tamil Nadu Transparency in Tenders Act 1998 and Rules 8, 9, 11 (3), 14

(4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules

2000 and awarded the contract to the M/s. Chettinad Builders Pvt. Ltd.,

and got the work, completed at a cost of Rs. 75,11,000/- which exceeds

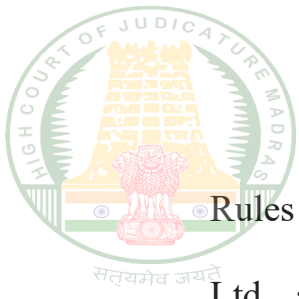
by Rs.8,11,000/- than the estimated value resulting in a loss of

Rs.4,76,000/- (i.e. the cost that exceeds the 5% of the estimated value of

Rs.67,00,000/-);

iii) Transgenic facility and molecular biology lab for Department of Botany at Annamalai University at an estimated value of Rs.1,48,00,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be taken in accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of Sections 3, 4, 8, 9, 10 and 12 of the Tamil Nadu Transparency in Tenders Act, 1998 and Rules 8, 9, 11 (3), 14 (4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender

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Rules 2000 and awarded the contract to the M/s. Chettinad Builders Pvt.

Ltd., and got the work, completed at a cost of Rs.2,07,52,000/- which exceeds by Rs.59,52,000/- than the estimated value resulting in a loss of Rs.52,12,000/- (i.e. the cost that exceeds the 5% of the estimated value of Rs.1,48,00,000/-);

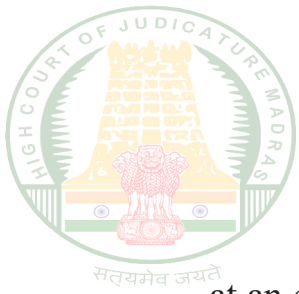
iv) Construction of Hydraulic lab at Engineering campus at Annamalai University at an estimated value of Rs.94,20,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be taken in accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of Sections 3, 4, 8, 9, 10 and 12 of the Tamil Nadu Transparency in Tenders act 1998 and Rules 8, 9, 11 (3), 14 (4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules 2000 and awarded the contract to the M/s. Chettinad Builders Pvt. Ltd., and got the work completed at a cost of Rs.1,22,04,000/- which exceeds by Rs.27,87,000/- than the estimated value resulting in a loss of

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Rs.23,13,000/- (i.e. the cost that exceeds the 5% of the estimated value of Rs.94,20,000/-);

v) 3rd Floor for Department of Bio-Chemistry and Bio-Technology, providing clean air solution to the internal laboratories at Annamalai University at an estimated value of Rs.32,00,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be taken in accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of Sections 3, 4, 8, 9,10 and 12 of the Tamil Nadu Transparency in Tenders Act, 1998 and Rules 8, 9, 11 (3), 14 (4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules, 2000 and awarded the contract to the M/s. Chettinad Builders Pvt. Ltd., and got the work completed at a cost of Rs.50,06,000/- which exceeds by Rs.18,06,000/- than the estimated value resulting in a loss of Rs.16,46,000/- (i.e. the cost that exceeds the 5% of the estimated value of Rs.32,00,000/-);



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vi) Hostel for Engineering for PG students at Annamalai University

at an estimated value of Rs.3,28,00,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be taken in accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of Sections 3, 4, 8, 9, 10 and 12 of the Tamil Nadu Transparency in Tenders Act, 1998 and Rules 8, 9, 11 (3), 14 (4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules, 2000 and awarded the contract to the M/s. Chettinad Builders Pvt. Ltd., and got the work completed at a cost of Rs.3,85,71,581/- which exceeds by Rs.57,71,581/- than the estimated value resulting in a loss of Rs.41,31,581 (i.e. the cost that exceeds the 5% of the estimated value of Rs.3,28,00,000/-);

vii) New Class room and Lab for Chemistry wing at Engineering campus at Annamalai University at an estimated value of Rs.1,24,00,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing

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the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be taken in accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of Sections 3, 4, 8, 9,10 and 12 of the Tamil Nadu Transparency in Tenders Act, 1998 and Rules 8, 9, 11(3), 14(4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules, 2000 and awarded the contract to the M/s. Chettinad Builders Pvt. Ltd., and got the work completed at a cost of Rs.1,52,04,000/- which exceeds by Rs.28,04,000/- than the estimated value resulting in a loss of Rs.21,84,000/- (i.e. the cost that exceeds the 5% of the estimated value of Rs.1,24,00,000/-);

viii) Kitchen and Dining Block for Women health Professional Hostel at Engineering campus at Annamalai University at an estimated value of Rs.87,00,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be taken in accordance with the G.O. Further, in

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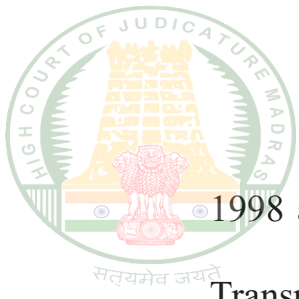


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inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of Sections 3, 4, 8, 9, 10 and 12 of the Tamil Nadu Transparency in Tenders Act, 1998 and Rules 8, 9, 11 (3), 14 (4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules 2000 and awarded the contract to the M/s. Chettinad Builders Pvt. Ltd., and got the work completed at a cost of Rs.1,12,23,000/- which exceeds by Rs.25,23,000/- than the estimated value resulting in a loss of Rs.20,88,000/- (i.e. the cost that exceeds the 5% of the estimated value of Rs.87,00,000/-);

ix) Press Building at DDE campus at Annamalai University at an estimated value of Rs.95,00,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be taken in accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of sections 3, 4, 8, 9, 10 and 12 of the Tamil Nadu Transparency in Tenders Act,

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1998 and Rules 8, 9, 11(3), 14(4), 16, 22, 27 and 30 of the Tamil Nadu

Transparency in Tender Rules, 2000 and awarded the contract to the M/s.

Chettinad Builders Pvt. Ltd., and got the work, completed at a cost of Rs.1,12,27,000/- which exceeds by Rs.17,27,000/- than the estimated value resulting in a loss of Rs.12,52,000/- (i.e. the cost that exceeds the 5% of the estimated value of Rs.95,00,000/-);

x) New Women's waiting hall (G+2) for staff and students and Engineering campus at Annamaiai University at an estimated value of Rs.42,00,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be taken in accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of Sections 3, 4, 8, 9, 10 and 12 of the Tamil Nadu Transparency in Tenders Act, 1998 and Rules 8, 9, 11(3), 14(4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules, 2000 and awarded the contract to the M/s. Chettinad Builders Pvt. Ltd., and got the work, completed at a cost of Rs.49,42,000/- which

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exceeds by Rs.7,42,000/- than the estimated value resulting in a loss of

Rs.5,32,000/- (i.e. the cost that exceeds the 5% of the estimated value of

Rs.42,00,000/-;

xi) New Hostel building for girl students at Thamarai Illam campus at Annamalai University at an estimated value of Rs.37,65,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be taken in accordance with the G.O. Further in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of sections 3, 4, 8, 9, 10 and 12 of the Tamil Nadu Transparency in Tenders Act, 1998 and Rules 8, 9, 11(3), 14(4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules, 2000 and awarded the contract to the M/s Chettinad Builders Pvt. Ltd., and got the

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work, completed at a cost of Rs.43,26,000/- which exceeds by

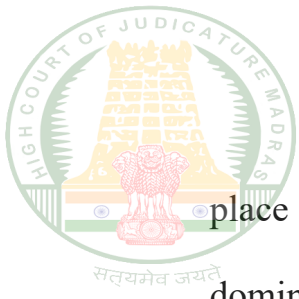
Rs.5,61,000/- than the estimated value resulting in a loss of Rs.3,72,750/-

(i.e. the cost that exceeds the 5% of the estimated value of

Rs.37,65,000/-); and

xii) Building for Class rooms (Phase-II) near Diamond Jubilee block at Engineering campus at Annamalai University at an estimated value of Rs.1,38,00,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be taken in accordance with the G.O. Further in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of Sections 3, 4, 8, 9, 10 and 12 of the Tamil Nadu Transparency in Tenders Act 1998 and Rules 8, 9, 11(3), 14(4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules, 2000 and awarded the contract to the M/s. Chettinad Builders Pvt. Ltd., and got the work completed at a cost of Rs.1,75,92,000/- which exceeds by Rs.37,92,000/- than the estimated value resulting in a loss of Rs.31,02,000/- (i.e. the cost that exceeds the 5% of the estimated value of Rs.1,38,00,000/-), thereby at the aforesaid

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place and time both A1 and A2, when entrusted with the property or dominion over the property for construction of the said buildings, committed the breach of trust by violating the direction of law prescribing the mode in which such trust is to be discharged and dishonestly and fraudulently allowed the other persons to their own use of the said excess amount of Rs.2,37,16,331/- and thereby both of them appears to have committed the offence of criminal breach of trust by public servant and both the accused committed the offences of criminal misconduct by public servant and hence both of them appears to have committed the offences punishable u/s. 409 of IPC and 13 (2) r/w. 13 (1) (C) of PC Act 1988.

Case of the prosecution in Crl.RC. Nos.584 & 1462 of 2025

4.2 During the period from 19.01.2010 to 01.02.2010 based on the requirements, both the accused who were working as Vice Chancellor and the Registrar of the University respectively, have decided to construct:

i) Animal House at Casin Marine Biology at Parangipet at Annamalai University at an estimated value of Rs. 44,75,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision



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is to be taken in awarding tender, in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be taken in accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision; both accused violated the G.O. and provisions of Sections 3,4,8,9,10 and 12 of the Tamil Nadu Transparency in Tenders Act, 1998 and Rules 8, 9, 11(4), 14(4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules, 2000 and awarded the contract to the M/s. Chettinad Builders Pvt. Ltd., and got the work completed at a cost of Rs.57,40,000/- which exceeds by Rs.12,65,000/- than the estimated value resulting in a loss of Rs. 10,41,250/- (i.e, the cost that exceeds the 5% of the estimated value of Rs.44,75,000/-);

ii) Research Lab in CAS in Marine Biology at Parangipettai at Annamalai University at an estimated value of Rs.40,85,000/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage as fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be taken in

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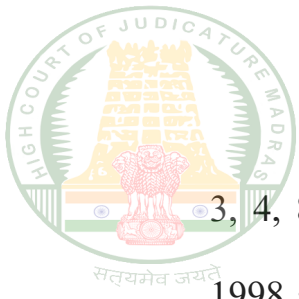


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accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of Sections 3, 4, 8, 9, 10 and 12 of the Tamil Nadu Transparency in Tenders Act, 1998 and Rules 8,9, 11(4), 14(4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules 2000 and awarded the contract to the M/s. Chettinad Builders Pvt. Ltd., and got the work, completed at a cost of Rs.69,97,900/- which exceeds by Rs.29,12,900/- than the estimated value resulting in a loss of Rs.27,08,650/- (i.e. the cost that exceeds the 5% of the estimated value of Rs.40,85,000/-); and

iii) Construction of Yoga Centre at Annamalai University at an estimated value of Rs.76,93,576/- which is in conformity with the scheduled rates of PWD. Finally, when a decision is to be taken in awarding tender in fixing the excess percentage than the estimated value, exceeding the percentage fixed in the G.O.Ms.No.140 of Public Works Department then the decision is to be taken in accordance with the G.O. Further, in inviting tender by means of a notice of tender, in taking final decision for allotting tender to a particular tenderer and in publishing the final decision, both accused violated the G.O. and provisions of Sections

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3, 4, 8, 9, 10 and 12 of the Tamil Nadu Transparency in Tenders Act,

1998 and Rules 8, 9, 11(3), 14(4), 16, 22, 27 and 30 of the Tamil Nadu

Transparency in Tender Rules, 2000 and awarded the contract to the M/s.

Chettinad Builders Pvt. Ltd., and got the work completed at a cost of

Rs.84,88,000/- which exceeds by Rs.7,94,474/- than the estimated value

resulting in a loss of Rs.4,09,797/- (i.e. the cost that exceeds the 5% of

the estimated value of Rs.76,93,526/-), thereby at the aforesaid place and

time both A1 and A2, when entrusted with the property or dominion over

the property for construction of the said buildings, committed the breach

of trust by violating the direction of law prescribing the mode in which

such trust is to be discharged and dishonestly and fraudulently allowed

the other persons to their own use of the said excess amount of

Rs.41,59,697/- and thereby both of them appears to have committed the

offence of criminal breach of trust by public servant and both the accused

committed the offences of criminal misconduct by public servant and

hence both of them appear to have committed the offences punishable u/s.

409 IPC and 13 (2) r/w. 13 (1) (C) of PC Act 1988.

Case of the prosecution in Crl.RC. Nos.587 & 1463 of 2025

4.3 During the period from 03.04.2012 to 30.09.2012 based on



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the requirements when both the accused were working as Vice Chancellor

and the Registrar of the University respectively, they decided to provide

pavements and parking sheds at the rear side of Kumara Raja Muthiah

Chettiar building at the University at an estimated value of Rs.20,20,000/-

which is in conformity with the scheduled rates of PWD. Finally, when a

decision is to be taken in awarding tender in fixing the excess percentage

than the estimated value, exceeding the percentage as fixed in the

G.O.Ms.No.140 of Public Works Department then the decision is to be

taken in accordance with the G.O. Further, in inviting tender by means of

a notice of tender, in taking final decision for allotting tender to a

particular tenderer and in publishing the final decision, both accused

violated the G.O. and provisions of Sections 3, 4, 8, 9, 10 and 12 of the

Tamil Nadu Transparency in Tenders Act, 1998 and Rules 8, 9, 11 (3), 14

(4), 16, 22, 27 and 30 of the Tamil Nadu Transparency in Tender Rules,

2000 and awarded the contract to the M/s. Chettinad Builders Pvt. Ltd.,

and got the work, completed at a cost of Rs.31,94,000/- which exceeds by

Rs.11,74,000/- than the estimated value resulting in a loss of

Rs.10,73,000/- (i.e. the cost that exceeds the 5% of the estimated value of

Rs.20,20,000/-), thereby at the aforesaid place and time both A1/

Dr.M.Ramanathan, formerly Vice Chancellor of the Annamalai

University and A2/ Dr.M.Rathinasabapathy, formerly Registrar of the

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Annamalai University, when entrusted with the property or dominion

over the property for construction of the said buildings, committed the breach of trust by violating the direction of law prescribing the mode in which such trust is to be discharged and dishonestly and fraudulently allowed the other persons to their own use of the said excess amount of Rs.10,73,000/- and thereby both of them appears to have committed the offence of criminal breach of trust by public servant and both the accused committed the offences of criminal misconduct by public servant and hence both of them appears to have committed the offences punishable u/s. 409 of IPC and 13 (2) r/w. 13 (1) (C) of PC Act 1988.

5. Hence, the Trial Court took cognizance of the offences in Special C.C.Nos.3, 4, 5 and 6 of 2019, in which two accused have been arrayed in each case. While pending for framing charges, both the accused filed separate petitions to discharge them from all the charges in the respective cases. However, it was dismissed by the Trial Court. Aggrieved by the same these Criminal Revisions have been filed by the accused.

6. The learned counsel appearing for the first accused submitted that the accused had not derived any monetary benefit from the



contractor. In fact, during the course of investigation, the first accused had furnished all the relevant documents, but the same were not properly considered by the prosecution. It was further submitted that the prosecution had not obtained the requisite sanction under Section 197 of the Cr.P.C. for prosecuting the accused. Admittedly, the first accused was serving as the Vice-Chancellor of the University during the relevant period. Therefore, the prosecution itself is not maintainable in the absence of the requisite sanction. Though the prosecution has alleged that wrongful loss was caused, the contractor, who allegedly derived the corresponding wrongful gain, was not ultimately arrayed as an accused in the charge sheet. It was submitted that the contractor was initially shown as an accused in the FIR, but was subsequently deleted from the charge sheet without assigning any valid reason. The said omission, according to the learned counsel, is fatal to the prosecution case.

6.1. It was further submitted that the first accused had not violated any law, rule or guideline while awarding the contract to the contractor. The accused had duly followed the Government Orders issued by the Public Works Department and the provisions of the Tamil Nadu Transparency in Tenders Act and the Rules framed thereunder. Even assuming that there was any lapse or negligence on the part of the



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accused, the same would amount only to dereliction of duty and would

not constitute a criminal offence warranting prosecution. Finally, it was submitted that there was no loss caused to the State exchequer and, correspondingly, no wrongful gain was derived by the contractor.

6.2. It is further submitted that, though the FIR was registered in the year 2013, when the old provisions of the Prevention of Corruption Act, 1988 were in force, the respondent completed the investigation and filed the final report only after the amendment to Section 19 of the Prevention of Corruption Act, 1988, which came into force with effect from 26.07.2018. Therefore, under the amended provision, no Court shall take cognizance of the offences punishable under the said Act against a public servant without the requisite sanction for prosecution. Hence, the very cognizance taken by the learned Trial Court is vitiated, as the requirement of sanction goes to the root of the matter. It is further submitted that Section 17-A of the Prevention of Corruption Act, 1988, as amended, mandates prior approval of the competent authority even for conducting any enquiry or investigation into an offence alleged to have been committed by a public servant under the said Act. In the present case, while the investigation in Crime No.3 of 2013 was pending, the amendment came into force with effect from 26.07.2018, and only

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thereafter did the respondent complete the investigation and file the final report.

6.3. It is further submitted that there was no criminal breach of trust on the part of the first accused by dishonestly or fraudulently allowing any person to appropriate or use the alleged excess amount. To establish an offence under Section 409 of the IPC, the prosecution is required to prove the essential ingredients of criminal breach of trust, including entrustment and dishonest misappropriation or conversion. However, none of the witnesses cited by the respondent has spoken to any overt act attributable to the accused, nor is there any documentary evidence establishing the commission of the alleged offence or attracting any of the charges framed against the accused. Therefore, without properly considering the aforesaid facts and circumstances, the Trial Court mechanically dismissed the discharge petitions. Hence, the impugned orders are liable to be set aside and the accused are entitled to be discharged from the charges.

7. The learned Senior Counsel appearing for the second accused submitted that the second accused was serving as the Registrar of the University and was not a “public servant” within the meaning of the



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Indian Penal Code or the Prevention of Corruption Act, 1988. Therefore,

the provisions of the Prevention of Corruption Act are not attracted to the second accused. It was further submitted that, even assuming that the second accused was a public servant during the relevant period, the respondent had not obtained the requisite sanction for his prosecution. In the absence of a valid sanction from the competent authority, the Trial Court was barred from taking cognizance of the offences punishable under the Prevention of Corruption Act. It was also submitted that, for prosecuting the second accused for the offences under the Indian Penal Code in respect of acts allegedly committed in the discharge of his official duties, the respondent was required to obtain sanction under Section 197 of the Cr.P.C. However, no such sanction was obtained from the competent authority. Therefore, he contended that the prosecution of the second accused is legally unsustainable.

7.1. He further submitted that the specific allegation against the accused, according to the prosecution, is that the accused awarded the contract to the contractor at an amount approximately 30% in excess of the estimated value. However, the difference between the estimated cost and the actual completion cost, by itself, cannot be construed as causing loss to the University or resulting in wrongful gain to the contractor. It

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was submitted that the contractor had raised bills towards certain works which, though not specifically provided for in the original estimate, were necessary for the completion of the project. Such additional works cannot, by themselves, be brought within the ambit of the offences punishable under Section 409 of the IPC and Section 13(2) read with Section 13(1)(c) of the Prevention of Corruption Act, 1988. The contractor had submitted details of the works actually executed under the supervision of the University Engineers, who had duly recorded the same in the relevant records.

7.2. It was further submitted that, while preparing the original estimate, certain requirements could not have been anticipated and, during the course of execution, additional works became necessary to complete the project and make the construction fit for its intended use. Accordingly, such additional works were undertaken with the knowledge, consent and approval of the competent authorities of the University. For each construction work, a document styled **“Estimate Form (-) Operative Statement of Differences”** was maintained and the same is available in the charge sheet. The said document contains a specific column titled **“Explanation of Differences”**, wherein the reasons for the variation in the final cost, whether higher or lower than the original or

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revised estimate, have been recorded for each item of work. The said statements were duly signed by the concerned University officials upon completion of the respective works. It is further submitted that these documents were not created subsequently to justify the expenditure or in anticipation of the criminal proceedings. Such documents came into existence immediately upon completion of each respective item of work and, in any event, even prior to the registration of the FIR.

7.3. It is therefore submitted that the entire amount awarded to the contractor was duly utilised for completion of the construction works. Hence, no criminal charge is made out against the accused. The second accused, being the Registrar of the University, had no role in the award of the contracts and had no independent authority or power to take any decision in that regard. Further, no property was entrusted to the second accused in his capacity as Registrar of the University. Therefore, the ingredients of the offence under Section 409 of the IPC are not attracted against him. It was further submitted that the provisions of the Tamil Nadu Transparency in Tenders Act, 1998, and the Government Orders referred to in the charge sheet are not attracted to the facts and circumstances of the present case. While awarding the contracts, the University had followed the prescribed procedures and duly complied



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with the checks and balances applicable to the award of such contracts.

The Building Committee of the University comprised senior officials of the University, including the Superintending Engineer of the Public Works Department, who examined the building contracts which are the subject matter of the present case and approved the same. The minutes of the Building Committee were thereafter placed before and approved by the Syndicate, which is the apex body of the University. The Directorate of Collegiate Education was represented both in the Building Committee and in the Syndicate. Thus, an Engineer nominated by the State Government participated in the meetings of the Building Committee and considered the details of the construction contracts before their approval.

7.4. It was further submitted that all contracts awarded by the University were placed before the Government of Tamil Nadu and were also approved by the Government. Therefore, the award and execution of the contracts were subject to scrutiny and approval at various levels, and the second accused had no unilateral authority to award the contracts. In fact, upon completion of the investigation, the prosecution itself dropped all the charges as against the contractor. The FIR proceeded on the allegation that the University, which received financial assistance from the Government of Tamil Nadu, had suffered financial loss and that the

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contractor, namely, M/s. Chettinad Builders Pvt. Ltd., had derived illegal pecuniary gain pursuant to the alleged conspiracy between A1 and A2.

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However, while filing the final report, the prosecution did not array the contractor as an accused, apparently on the ground there was no clinching evidence for his participation in the alleged conspiracy with A1 and A2.

7.5. He further submitted that, even according to the case of the prosecution, there is no specific allegation that the contractor derived any illegal pecuniary gain. In the absence of any material establishing wrongful or illegal pecuniary gain to the contractor, the corresponding allegation of wrongful loss to the University cannot be sustained. It was submitted that the funds sanctioned by the University were duly utilised for the construction of the buildings and that the amounts paid to the contractor were towards the works actually executed. The original estimates could not have anticipated every eventuality that might arise during the course of construction, including the nature of the soil, increase in the scope of work, sudden escalation in the prices of construction materials and the requirement of additional works depending upon the nature and site-specific requirements of the project. In fact, the measurements of the works executed were taken by the concerned construction engineers of the University, and payments were made to the

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contractor only on the basis of such measurements and the works actually completed. Therefore, there was no financial loss caused to the University.

7.6. It was further submitted that, in the absence of any wrongful loss to the University or wrongful gain to the contractor, the essential element of dishonesty is wholly absent. There is also no material to establish any *mens rea* or dishonest intention on the part of the accused so as to attract the alleged offences. However, without properly appreciating the aforesaid materials and the absence of the essential ingredients of the offences, the learned Trial Court dismissed the discharge petitions. Hence, the accused are entitled to be discharged from all the charges.

8. The respondent filed a counter and the learned Counsel for the Government of Tamil Nadu (Criminal Side), appearing for the respondent, submitted that, though the old provisions of the Prevention of Corruption Act, 1988 were in force at the time of registration of the FIR, the amendment came into force with effect from 26.07.2018. Therefore, he contended that the amended provisions cannot be invoked retrospectively for requiring sanction to initiate prosecution against the accused. It was further submitted that the offence of criminal breach of

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trust and criminal misconduct, as contemplated under Section 13(1)(c) of the Prevention of Corruption Act, involves an element of dishonesty. The expression “dishonestly” is defined under Section 24 of the IPC as an act done with the intention of causing wrongful gain to one person or wrongful loss to another person. Therefore, it was contended that proof of either wrongful gain or wrongful loss would be sufficient to establish the element of dishonesty necessary to attract the offence under Section 13(1)(c) of the Prevention of Corruption Act. In the present case, there was wrongful loss caused to the public exchequer. Hence, it is not necessary for the prosecution to independently establish that any particular person derived wrongful gain, so long as the wrongful loss caused to the public exchequer is proved.

8.1. He further submitted that, insofar as the requirement of sanction is concerned, it is a settled principle of criminal jurisprudence that an offence of criminal breach of trust cannot ordinarily be said to have been committed by a public servant while acting or purporting to act in the discharge of his official duties. The requirement of sanction under Section 197 of the Cr.P.C. arises only when the alleged offence is committed by a public servant while acting or purporting to act in the discharge of his official duty. Therefore, he contended that, since the

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alleged offence under Section 409 of the IPC does not have a reasonable

nexus with the discharge of the official duties of the accused, the

protection under Section 197 of the Cr.P.C. is not attracted and no prior

sanction is required for taking cognizance of the said offence. In support

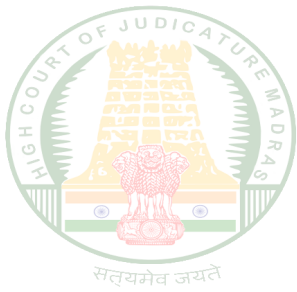
of this contention, he relied upon the judgment of the Hon'ble Supreme

Court of India in the case of ***Harihar Prasad, etc. Vs. State of Bihar***

reported in **(1972) 3 SCC 89**, wherein it is held as follows:

66. *The next point was with regard to consent or sanction. There is no doubt that in respect of B.P. Sinha consent was properly given by the Deputy Commissioner. So consent was also given in respect of N.K. Banerjee and Harihar Prasad by the Chief Secretary.,: This is not a case of sanction or consent under Section 196-A. Criminal P.C. On the question of the applicability of Section 197. [CrPC](#), the principle laid down in two cases, namely. [Shreekantiah Ramayya Munipalli v. State of Bombay](#). and [Amrik Singh v. State of Pepsu](#). was as follows:*

“It is not every offence committed by a public servant that requires sanction for prosecution under [Section 197\(1\)](#) Criminal Procedure Code; nor even every act done by him while he is actually engaged in the performance of his official duties: but if the act complained of is directly concerned with his official duties so that, if questioned, it could be



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claimed to have been done by virtue of the office, then sanction would be necessary.

The real question therefore is whether the acts complained of in the present case were directly concerned with the official duties of the three public servants. As far as the offences of criminal conspiracy punishable under Section 120B read with Section 409. [I.P.C.](#) and also [Section 5\(2\)](#) of the Prevention of Corruption Act are concerned they cannot be said to be of the nature mentioned in [Section 197](#) of the CrPC. To put it shortly, it is no part of the duty of a public servant, while discharging his official duties, to enter into a criminal conspiracy or to indulge in criminal misconduct. Want of sanction under [Section 197](#) of the CrPC is. therefore, no bar.”

Therefore, according to the respondent, no prior sanction under Section 197 of the Cr.P.C. is required for prosecuting the accused for the offence under Section 409 of the IPC, since the alleged offence of criminal breach of trust is not connected with or committed in the course of discharge of their official duties.

8.2. He further submitted that the Tamil Nadu Transparency in Tenders Act, the Rules framed thereunder and the Government Orders issued by the Public Works Department prescribe the permissible limits

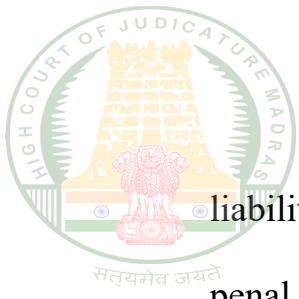


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for awarding works in excess of the estimated value. Where the value of the work is Rs.30,00,000/-, works may be awarded up to 10% in excess of the estimated value, whereas, where the value of the work exceeds Rs.1,00,00,000/-, works may be awarded up to 5% in excess of the estimated value. The award of such works is required to be decided by the Tender Awarding Committee constituted by the Government of Tamil Nadu. It was further submitted that Article 20(1) of the Constitution of India embodies the constitutional protection against ex post facto criminal laws. It mandates that no person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence. In other words, a person can be convicted only for an act which constituted an offence under the law in force on the date on which the alleged act was committed, and cannot be subjected retrospectively to a penal provision subsequently enacted or amended. The subsequent amendment to the Prevention of Corruption Act cannot retrospectively alter the legal consequences of acts allegedly committed during the relevant period of occurrence.

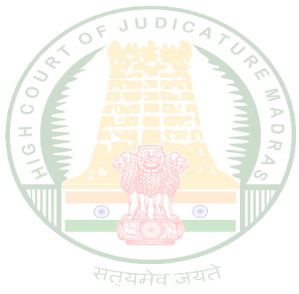
8.3. Therefore, it was submitted that a penal law cannot be given retrospective operation. The law that was in force on the date of commission of the alleged offence alone would govern the criminal

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liability of the accused. Since the Prevention of Corruption Act, 1988 is a penal statute, the amendment to Section 19 cannot be applied retrospectively so as to impose an additional requirement or alter the legal consequences applicable to acts allegedly committed prior to the amendment. Accordingly, the amended provision of Section 19 of the Prevention of Corruption Act cannot be invoked in respect of the alleged offences committed prior to 26.07.2018. The requirement of sanction has to be determined with reference to the law applicable on the date of commission of the alleged offence, and not on the basis of a subsequent amendment. In support of this contention, he relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***State of Telangana Vs. Managipet Alias Mangipet Sarveshwar Reddy*** reported in (2019) 19 SCC 87, wherein it was held as follows:

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 \(Government of National Capital Territory of](#)



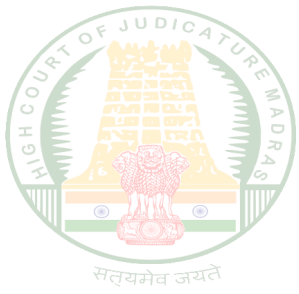
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Delhi)19, this Court has held that if an investigation was not conducted by a police officer of the requisite rank and status required under [Section 17](#) of the Act, such lapse would be an irregularity, however unless such irregularity results in 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](#) through the Deputy Superintendant of Police, Vigilance and Anti Corruption, Ramanathapuram²⁰ to contend that amended provisions of the Act as amended by Act XVI 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 26th July, 2018 and acquitted both the accused from charge under [Section 13\(1\)\(d\)](#) read with 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 9th November, 2011 much before the Act was amended in the year 2018. Whether any offence has



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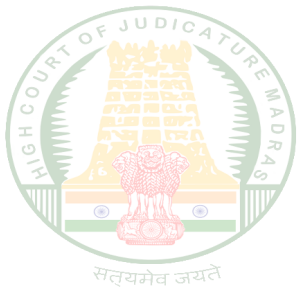
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been committed or not has to be examined in the light of the provisions of the statute as it existed prior to the amendment carried out on 26th July, 2018.

Therefore, he vehemently contended that the requirement of sanction under Section 19 of the amended Prevention of Corruption Act is not applicable to the accused. The law in force on the date of commission of the alleged offence alone would govern the prosecution, and the subsequent amendment to Section 19 cannot be applied retrospectively.

8.4 In respect of the contention raised by the learned counsel appearing for the accused that the alleged acts would amount only to dereliction of duty, the learned counsel appearing for the respondent placed reliance upon the judgment of the Hon'ble Supreme Court of India in the case of ***Punjab State Warehousing Corp. Vs. Bhushan Chander & Anr.*** rendered in ***Crl.A.No.159 of 2016***, wherein it was held as follows:

22. A survey of the precedents makes it absolutely clear that there has to be reasonable connection between the omission or commission and the discharge of official duty or the act committed was under the colour of the office held by the official. If the acts omission or commission is totally alien to the discharge of the official duty, question of invoking [Section 197](#) CrPC does not

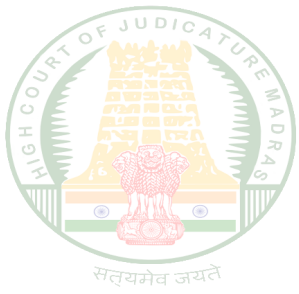


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arise. We have already reproduced few passages from the impugned order from which it is discernible that to arrive at the said conclusion the learned Single Judge has placed reliance on the authority in *B. Saha's (supra)*. The conclusion is based on the assumption that the allegation is that while being a public servant, the alleged criminal breach of trust was committed while he was in public service. Perhaps the learned Judge has kept in his mind some kind of concept relating to dereliction of duty. The issue was basically entrustment and missing of the entrusted items. There is no dispute that the prosecution had to prove the case. But the public servant cannot put forth a plea that he was doing the whole act as a public servant. Therefore, it is extremely difficult to appreciate the reasoning of the High Court. As is noticeable he has observed that under normal circumstances the offences under [Sections 467, 468 and 471 IPC](#) may be of such nature that obtaining of sanction under [Section 197 CrPC](#) is not necessary but when the said offences are interlinked with an offence under [Section 409 IPC](#) sanction under [Section 197](#) for launching the prosecution for the offence under [Section 409](#) is a condition precedent. The approach and the analysis are absolutely fallacious. We are afraid, though the High Court has referred to all the relevant decisions in the field, yet, it has erroneously applied the principle in an absolute fallacious manner. No official can put forth a claim that breach of trust is connected with his official duty. Be it noted the three-Judge Bench in [B.](#)



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Saha (supra) has distinguished in Shreekantiah Ramayya Munipalli (supra) keeping in view the facts of the case. It had also treated the ratio in Amrik Singh (supra) to be confined to its own peculiar facts. The test to be applied, as has been stated by Chandrasekhara Aiyar, J. in the Constitution Bench in Matajog Dube (supra) which we have reproduced hereinbefore. The three-Judge Bench in B. Saha (supra) applied the test laid down in Gill's case wherein Lord Simonds has reiterated that the test may well be whether the public servant, if challenged, can reasonably claim, that what he does, he does in virtue of his office.

Therefore, the learned counsel appearing for the respondent submitted that the Trial Court had rightly dismissed the discharge petitions after duly considering the materials available on record. Hence, it does not warrant any interference by this Court, and the present Criminal Revision Cases are liable to be dismissed.

9. Heard the learned counsel appearing on either side and perused all the materials placed before this Court.

10. There are two accused in all the cases. The first accused was served as the Vice-Chancellor and the second accused as the Registrar of



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the University during the relevant period of occurrence. The crux of the prosecution case is that the accused failed to comply with the provisions of the Tamil Nadu Transparency in Tenders Act, 1998, while awarding civil construction works and, in particular, violated the Government Orders issued in G.O.Ms.No.140, Public Works Department, dated 23.03.2000. According to the prosecution, such alleged violations resulted in wrongful loss to the University exchequer. On the basis of the aforesaid allegations, both the accused have been charged for the offences punishable under Section 409 of the IPC and Section 13(2) read with Section 13(1)(c) of the Prevention of Corruption Act, 1988.

11. Admittedly, the prosecution did not obtain any sanction for prosecuting the accused either under Section 197 of the Cr.P.C. in respect of the offence punishable under Section 409 of the IPC or under Section 19 of the Prevention of Corruption Act, 1988. The FIR in Crime No.3 of 2013 was registered by the respondent on 22.04.2013 against three accused for the offences punishable under Section 120-B read with Section 420 of the IPC and Sections 13(1)(b) and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act. After completion of the investigation, the respondent filed the final report on 03.12.2018, i.e., after the amendment to the Prevention of Corruption Act, which came

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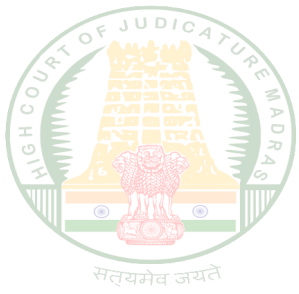


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into force with effect from 26.07.2018. Thereafter, the learned Trial Court took cognizance of the aforesaid offences. Thus, it is clear that, though the FIR was registered prior to the amendment to the Prevention of Corruption Act, the investigation was completed and the final report was filed only after the amendment had come into force.

12. Further, the Trial Court took cognizance of the offences only after the amendment to the Prevention of Corruption Act had come into force. The learned counsel appearing for the respondent relied upon the judgment of the Hon'ble Supreme Court of India in ***State of Telangana v. Managipet Alias Mangipet Sarveshwar Reddy***, reported in (2019) 19 SCC 87, wherein the question as to the applicability of the amended provisions of the Prevention of Corruption Act and the requirement of sanction in respect of a retired public servant was considered. The Hon'ble Supreme Court upheld the view taken by the High Court that the amended provisions of the Act would not be applicable to offences committed prior to the amendment of the Act.

13. In similar circumstances, a Division Bench of the High Court of Delhi, in ***Court on its Own Motion v. State***, in Crl.Ref.No.1 of 2019, framed the following questions of law for consideration:



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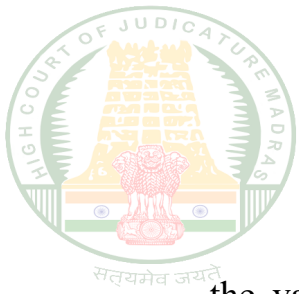
"1. Whether under the Prevention of Corruption (Amendment) Act, 2018 (which is a Special Statute and overrides the General Law) the cognizance of the offence is taken or cognizance of the offence against the offender is taken [Ref.: [Dilawar Singh Vs. Parvinder Singh \(Supra\)](#) and [Abhay Singh Chautala Vs. C.B.I \(Supra\)](#)]?"

2. (a) What is the relevant date for application of Prevention of Corruption (Amendment) Act, 2018 in cases pending trial?

(b) Whether the amendment to [Section 19](#) of Prevention of Corruption Act, 1988 dated 26.07.2018 is to be read retrospectively being beneficial to the accused? [Ref.: [Basheer @N.P. Basheer Vs. State of Kerala \(Supra\)](#)]

3. Whether sanction as contemplated under Section 19 of the Prevention of the Corruption Act (Amendment) Act, 2018 is necessary for prosecuting a Former/ Ex Public Servant where the cognizance of the offence has already been taken by the competent court prior to 26.07.2018 i.e. the date on which the amendment came into effect?

4. Any other issue of law which arises relating to vires of the Prevention of Corruption (Amendment) Act, 2018 (16 of 2018) which came into effect on 26.07.2018 particularly in relation to [Section 19](#) of the Prevention of Corruption Act."



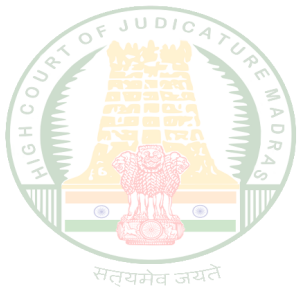
14. In the light of the aforesaid questions, and after considering

the various judgments of the Hon'ble Supreme Court of India on the issue, the Division Bench of the High Court of Delhi answered the questions of law as follows:

57. In [Zile Singh](#) (supra), the Supreme Court took note of another well-recognized practice employed in legislative drafting, that is, of „substitution“, and held that substitution would have the effect of amending the operation of law during the period in which it was enforced. We quote from [the said judgment](#) as under:

"24. The substitution of one text for the other pre-existing text is one of the known and well- recognised practices employed in legislative drafting. "Substitution" has to be distinguished from "supersession" or a mere repeal of an existing provision.

25. Substitution of a provision results in repeal of the earlier provision and its replacement by the new provision (see *Principles of Statutory Interpretation*, *ibid.*, p. 565). If any authority is needed in support of the proposition, it is to be found in [West U.P. Sugar Mills Assn. v. State of U.P.](#), [State of Rajasthan v. Mangilal Pindwal](#), [Koteswar Vittal Kamath v. K. Rangappa Baliga and Co.](#) and [A.L.V.R.S.T. Veerappa Chettiar v. S. Michael](#). In [West U.P. Sugar Mills Assn.](#) case a three-Judge Bench of this Court held that the State Government by substituting the new rule in place of the



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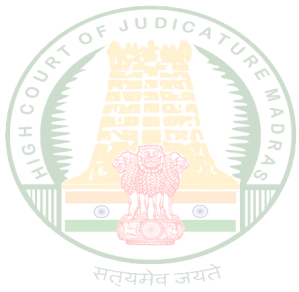


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old one never intended to keep alive the old rule. Having regard to the totality of the circumstances centring around the issue the Court held that the substitution had the effect of just deleting the old rule and making the new rule operative. In [Mangilal Pindwal](#) case this Court upheld the legislative practice of an amendment by substitution being incorporated in the text of a statute which had ceased to exist and held that the substitution would have the effect of amending the operation of law during the period in which it was in force. In [Koteswar](#) case a three-Judge Bench of this Court emphasised the distinction between "supersession" of a rule and "substitution" of a rule and held that the process of substitution consists of two steps: first, the old rule is made to cease to exist and, next, the new rule is brought into existence in its place."

58. In [Gottumukkala Venkata Krishnamraju v. Union of India & Ors.](#), (2019) 17 SCC 590, the Supreme Court held that the use of the words „substitute" or „substitution" is not conclusive. The Court, having regard to the purpose and object sought to be achieved by the Legislature, may construe the words „substitution" as an „amendment", having a prospective effect. We quote from [the said judgment](#) as under:

"16. In the first instance, we have to bear in mind the language/terminology which the legislature used while inserting new [Section 6](#) with effect from 1-9-2016.



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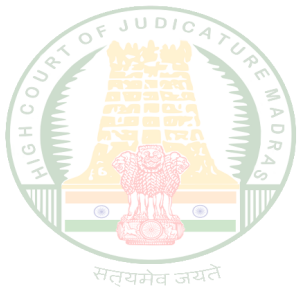


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This section stands "substituted" with the old section. The word "substituted" has its own significance. In [Union of India v. Indian Tobacco Assn.](#), this Court noted dictionary meaning of the word "substitute" as can be seen from para 15 of [the said judgment](#): (SCC p. 400) "15. The word "substitute" ordinarily would mean 'to put (one) in place of another'; or 'to replace'. In Black's Law Dictionary, 5th Edn., at p. 1281, the word "substitute" has been defined to mean 'to put in the place of another person or thing', or 'to exchange'. In Collins English Dictionary, the word "substitute" has been defined to mean 'to serve or cause to serve in place of another person or thing'; 'to replace (an atom or group in a molecule) with (another atom or group)'; or 'a person or thing that serves in place of another, such as a player in a game who takes the place of an injured colleague'."

17. This expression has also come up for interpretation by the courts in [Zile Singh v. State of Haryana](#), the import and impact of substituted provision were discussed in the following manner: (SCC p. 12, paras 23-24)

"23. The text of Section 2 of the Second Amendment Act provides for the word "up to" being substituted for the word "after". What is the meaning and effect of the expression employed therein-"shall be substituted"?



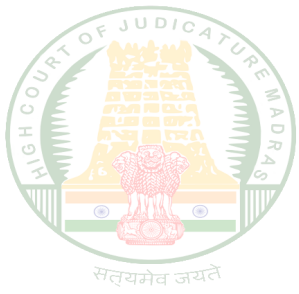
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24. *The substitution of one text for the other pre-existing text is one of the known and well-recognised practices employed in legislative drafting. "Substitution" has to be distinguished from "supersession" or a mere repeal of an existing provision."*

18. *Ordinarily wherever the word "substitute" or "substitution" is used by the legislature, it has the effect of deleting the old provision and make the new provision operative. The process of substitution consists of two steps: first, the old rule is made to cease to exist and, next, the new rule is brought into existence in its place. The rule is that when a subsequent Act amends an earlier one in such a way as to incorporate itself, or a part of itself, into the earlier, then the earlier Act must thereafter be read and construed as if the altered words had been written into the earlier Act with pen and ink and the old words scored out so that thereafter there is no need to refer to the amending Act at all. No doubt, in certain situations, the Court having regard to the purport and object sought to be achieved by the legislature may construe the word "substitution" as an "amendment" having a prospective effect. Therefore, we do not think that it is a universal rule that the word "substitution" necessarily or always connotes two severable steps, that is to say, one of repeal and another of a fresh enactment even if it implies two steps. However, the aforesaid general meaning is to be given effect to, unless it is found*



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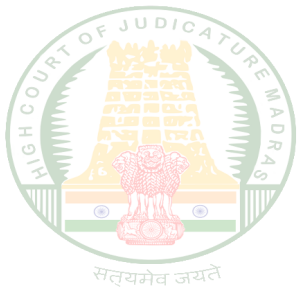
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that the legislature intended otherwise. Insofar as present case is concerned, as discussed hereinafter, the legislative intent was also to give effect to the amended provision even in respect of those incumbents who were in service as on 1-9- 2016.

19. The effect, thus, would be to replace [Section 6](#) as amended with the intention as if this is the only provision which exist from the date of introduction and the earlier provision was not there at all. The effect of this would be that all those incumbents who are holding the post of Presiding Officer on 1-9-2016 would be governed by this provision.

20. When we examine the matter in the aforesaid perspective, the question as to whether [Section 6](#), as amended, is to be given retrospective effect or not, does not arise for consideration. The petitioners are right in submitting that persons who demitted the office prior to the amendment are not sought to be covered by the amendment. Had the provision been retrospective then it would have benefitted those persons as well. No such case is set up by any of the petitioners or any other person, it is only the incumbents who are serving as on the date of the amendment are sought to be covered."

59. In the present case as well, though the Amendment Act uses the word „substitution“, it, in effect, inserts a new obligation of taking prior sanction even with respect to the former public servants or



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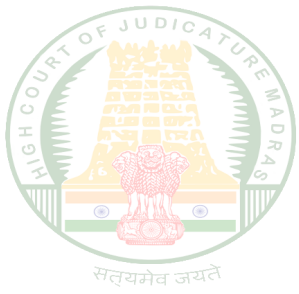


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public servants who hold a different office when the cognizance of the offence is taken by the Court. It thus inserts a new obligation on the prosecution and does not give any indication of having a retrospective effect, except to the fact that even though the offence may relate to a period prior to the amendment, the protection would enure to the benefit of such former public servants when the Court is to take cognizance of the offence after the Amendment Act has come into force.

60. In view of the above, we answer question nos. 2 and 3 posed to us as under: Q2. (a) What is the relevant date for application of Prevention of Corruption (Amendment) Act, 2018 in cases pending trial? (b) Whether the amendment to [Section 19](#) of Prevention of Corruption Act, 1988 dated 26.07.2018 is to be read retrospectively being beneficial to the accused? [Ref.: Basheer @N.P. Basheer Vs. State of Kerala (Supra)] Q3. Whether sanction as contemplated under Section 19 of the Prevention of the Corruption Act (Amendment) Act, 2018 is necessary for prosecuting a Former/ Ex Public Servant where the cognizance of the offence has already been taken by the competent court prior to 26.07.2018 i.e. the date on which the amendment came into effect?

Ans. The relevant date for the application of the amended [Section 19\(1\)](#) of the 1988 Act is with effect from 26.07.2018. The Amendment Act, as far as amendment to [Section 19\(1\)](#) of the 1988 Act, is retrospective to the



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extent that the benefit thereunder would enure even where the offence is alleged to have been committed prior to its coming into force, however, it is prospective to the effect that, where cognizance of such offence already stands taken before 26.07.2018, the same shall not be reopened and there would be no fresh requirement of prior sanction in such cases. The requirement of taking sanction would be applicable only where the Court is yet to take cognizance of the offence mentioned in [Section 19\(1\)](#) of the Act as on 26.07.2018 and thereafter.

15. Therefore, insofar as Section 19 of the Prevention of Corruption Act is concerned, the amended provision is retrospective to the extent that the benefit of the amended provision would enure to the accused even where the alleged offence was committed prior to the amendment coming into force. However, the amended provision operates prospectively in respect of cases where cognizance of the offence had already been taken prior to 26.07.2018. In such cases, the proceedings already instituted would not be reopened and no fresh sanction would be required merely by reason of the subsequent amendment.

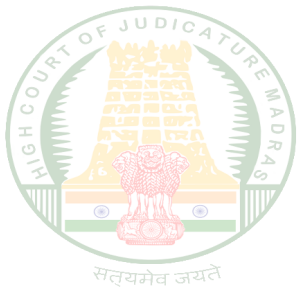
16. In the present case, as stated supra, though the alleged offences were committed prior to the amendment, the respondent filed the final report only after the amended Act came into force, and the Trial



Court also took cognizance of the offences only thereafter. Therefore, the amended Section 19 of the Prevention of Corruption Act is applicable to the present case, and the requisite sanction for prosecution was mandatory. Since admittedly no sanction under Section 19 of the Prevention of Corruption Act was obtained before the Trial Court took cognizance, the cognizance taken by the learned Trial Court is vitiated for want of the requisite sanction. Consequently, the judgment relied upon by the learned counsel appearing for the respondent is not applicable to the facts and circumstances of the present case.

17. Further the Division Bench of High Court of Delhi also held as follows:

“50. As far as amendment to [Section 19\(1\)](#) of the 1988 Act is concerned, it creates a new prohibition on the Court from taking cognizance of certain offences committed by an accused who has ceased to be a public servant or is a public servant in a capacity other than the one which he held when the alleged offence had been committed. The said prohibition and consequential protection to an accused, prior to its amendment in 2018, was not applicable to a person who had ceased to be a public servant or who was not a public servant in the same capacity. This remained the consistent



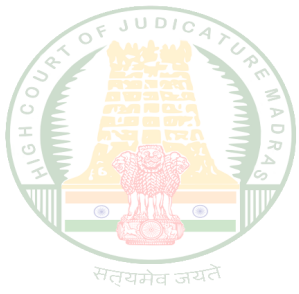
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position under Section 6 of the 1947 Act and the pre-amended Section 19(1) of the 1988 Act. The continuation of this restricted protection in Section 19(1) of the 1988 Act, as it stood before its amendment with effect from 26.07.2018, therefore, cannot be said to be a case of omission, but was a conscious decision of the Legislature, till the amendment, not to extend such benefit to the persons who had ceased to be public servants or who held a different office on the date of the Court taking cognizance of the offence against them.

51. It may be true that the Legislature, while amending the 1988 Act by the Amendment Act, wished to extend the protection even to persons who had ceased to be public servants or who held a different office as public servant on the date the Court is asked to take cognizance of the particular offence against them, but it did not make it retrospective, either expressly or by any necessary implication. In fact, as noted hereinabove, the Amendment Act was specifically brought into force with effect from 26.07.2018 and, therefore, was not intended to affect the cases where cognizance already stood taken against accused for whom prior sanction was not required by the then existing law. It is a settled principle of interpretation of statutes that a statute must be given a literal meaning and the Court must not add or subtract words therefrom. A literal



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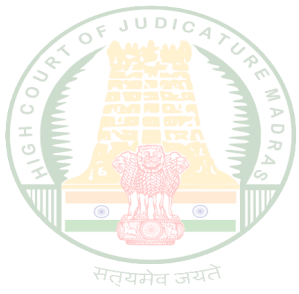


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interpretation of the amended [Section 19\(1\)](#) of the 1988 Act does not make it retrospective so as to reopen the cases where cognizance already stands taken by the Court.

52. The general principle of prospective application is, therefore, fully applicable to the amended [Section 19\(1\)](#) of the 1988 Act, meaning thereby that, where cognizance already stands taken by the Court, the amended provision will not be applicable, but where the Court is called upon to take cognizance after the amendment, the amended [Section 19\(1\)](#) of the 1988 Act would be applicable, and if the person against whom cognizance is to be taken falls within the ambit of the said Section, cognizance cannot be taken by the Court without prior sanction of the competent authority.

53. The invocation of principle of a declaratory statute having a retrospective effect, would have no application to the application of amended [Section 19\(1\)](#) of the 1988 Act. Though, by the Amendment Act, an Explanation has been added to [Section 19\(1\)](#) of the 1988 Act, there is no indication therein that the definition of "public servant" now inserted is to apply retrospectively. It does not state that such definition shall be deemed to apply with a retrospective effect. The Legislature



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would always have been aware of the then existing law and in case it wished to change the law with a retrospective effect so as to do away with the judgments which had taken a consistent interpretation of [Section 19\(1\)](#) of the 1988 Act as it stood prior to its amendment, it would have specifically said so. Neither from the Statement of Objects and Reasons of the Amendment Act nor otherwise from a reading of the provision, do we find any such intention of the legislature.”

18. Therefore, where cognizance of the offence had already been taken by the Court prior to the coming into force of the amendment, the amended provision would not apply, and the proceedings already instituted would not be affected. However, where the Court is called upon to take cognizance after the amendment came into force, the amended Section 19(1) of the Prevention of Corruption Act, 1988 would apply. Consequently, if the person against whom cognizance is sought to be taken falls within the ambit of Section 19, the Court cannot validly take cognizance of the offence in the absence of prior sanction from the competent authority.

19. Insofar as the requirement of sanction under Section 197 of



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the Cr.P.C. for prosecuting a public servant for an offence under the

Indian Penal Code is concerned, the learned counsel appearing for the respondent specifically contended that no sanction is required where a public servant is prosecuted for an offence involving criminal misconduct, as entering into a criminal conspiracy or indulging in criminal misconduct cannot be said to form part of the official duties of a public servant. However, in the present case, the accused have been charged under Section 409 of the IPC, which specifically deals with criminal breach of trust by a public servant. Therefore, the question as to whether the alleged acts constituting the offence under Section 409 of the IPC were committed while acting or purporting to act in the discharge of official duties assumes significance for determining the applicability of Section 197 of the Cr.P.C.

20. In order to sustain a conviction under Section 409 of the IPC, the prosecution is required to establish two essential ingredients: (i) that the accused, being a public servant, banker, merchant or agent, was entrusted with property or had dominion over the property in question and was bound to account for the same; and (ii) that the accused committed criminal breach of trust in respect of such property. The burden lies upon the prosecution to establish, by cogent and legally

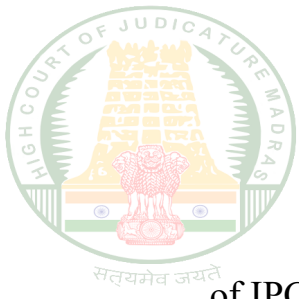
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admissible evidence, that the accused, being a public servant, was entrusted with the property or had dominion over it and was under an obligation to account for the same, and that he thereafter committed criminal breach of trust in respect of such property. Thus, entrustment of the property or dominion over the property, coupled with dishonest misappropriation or conversion, or dishonest use or disposal thereof in violation of any direction of law or any legal contract, as contemplated under Section 405 of the IPC, is a *sine qua non* for constituting an offence punishable under Section 409 of the IPC. In the absence of proof of entrustment or dominion over the property, the essential foundation for an offence under Section 409 of the IPC is absent. It is relevant to extract provision under Section 405 of IPC hereunder:

405. Criminal breach of trust.— Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits “criminal breach of trust”.



21. Therefore, in order to attract the offence under Section 405

of IPC, the following ingredients must be satisfied:

(i) Entrusting any person with property or with any
dominion over property;

(ii) That person has dishonestly misappropriated or
converted that property to his own use;

(iii) Or that person dishonestly using or disposing of that property
or wilfully suffering any other person so to do in violation of any
direction of law or a legal contract.

22. It is pertinent to note that the crucial expression employed in
Section 405 of the IPC is “dishonestly”, which necessarily postulates the
existence of *mens rea*. Mere retention of property entrusted to a person,
without any dishonest misappropriation or conversion to his own use,
would not, by itself, constitute the offence of criminal breach of trust.
Unless the prosecution establishes that the accused has actually used,
misappropriated or disposed of the entrusted property in violation of any
direction of law or any legal contract, coupled with a dishonest intention,
the essential ingredients of criminal breach of trust are not made out. The
other significant expression used in Section 405 IPC is

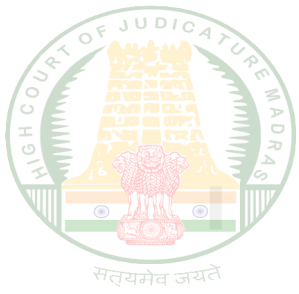


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“misappropriates”, which connotes improperly setting apart or appropriating the property for one’s own use, to the exclusion of the person legally entitled to such property. Therefore, dishonest intention, coupled with misappropriation, conversion, use or disposal of the entrusted property in the manner contemplated under Section 405 IPC, is essential to constitute an offence of criminal breach of trust.

23. Once the two fundamental ingredients constituting “criminal breach of trust” within the meaning of Section 405 of the IPC are established, and such criminal breach of trust is committed by a public servant, banker, merchant or agent, the offence would fall within the ambit of Section 409 of the IPC. Accordingly, to establish an offence punishable under Section 409 of the IPC, the prosecution must prove the following essential ingredients:

- (i) The accused must be a public servant or a banker, merchant or agent;
- (ii) The accused must have been entrusted, in such capacity, with property; and
- (iii) The accused must have committed breach of trust in respect of such property.



24. Accordingly, unless it is established that the accused, being a public servant, banker, merchant or agent, was entrusted with the property or had dominion over the property in such capacity and was bound to account for the same, and that he had committed criminal breach of trust in respect thereof, Section 409 of the IPC would not be attracted. It is also pertinent to note that “entrustment of property” is a wide and generic expression. While the initial burden lies upon the prosecution to establish that the property in question was entrusted to the accused or that he had dominion over such property, it is not necessary for the prosecution to establish the precise mode or manner in which the entrustment was made. Similarly, once entrustment is admitted by the accused or is otherwise established by the prosecution, the evidentiary burden may shift upon the accused to explain the manner in which the obligation attached to the entrusted property was discharged in accordance with law or the terms governing such entrustment. In the present case, however, the prosecution has not even alleged, much less established, that any property was misappropriated, converted to the personal use of the accused, or dishonestly used or disposed of by them. In the absence of any such allegation or material demonstrating misappropriation or dishonest conversion of the entrusted property, the

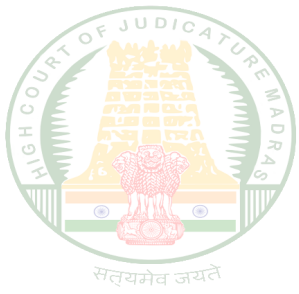


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essential ingredients of criminal breach of trust punishable under Section 409 of the IPC are not made out.

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25. In the present case, even according to the prosecution, the accused, along with the respective Syndicate and Building Committee, awarded the contracts to the contractor and made payments in excess of the estimated cost of the works. There is, however, no allegation that the accused were entrusted with any property or that they dishonestly misappropriated, converted or disposed of any such property for their own use. Therefore, the essential ingredients of the offence under Section 409 of the IPC are not made out against the accused. Further, insofar as the requirement of sanction under Section 197 of the Cr.P.C. is concerned, the alleged acts were committed by the accused while they were holding the offices of Vice-Chancellor and Registrar of the University. Though they had retired from service by the time the final report was filed and cognizance was taken by the learned Trial Court, the alleged offences were committed during the period of their service and in connection with their official functions. The FIR was registered in the year 2013, whereas the respondent filed the final report only in the year 2018, after the retirement of the accused. The relevant provision under Section 197 of the Cr.P.C. reads as follows:



197. Prosecution of Judges and public servants.

(1) When any person who is or was a Judge or

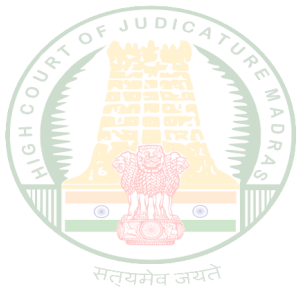
Magistrate or a public servant not removable from his officer save by or with the sanction of the Government, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction-

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State of the State Government

(2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members (of the Forces charged with the maintenance of public order as may be



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specified therein, wherever they may be serving, and thereupon the provisions of that sub-section will apply as if for the expression "Central Government" occurring therein the expression "State Government" were substituted.

(4) The Central Government or the State Government, as the case may be, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held.

26. Thus, it is clear that the requirement of obtaining sanction under Section 197 of the Code of Criminal Procedure is not confined only to serving public servants and may also extend to retired public servants. Mere retirement of a public servant does not, by itself, dispense with the requirement of sanction where the statutory conditions under Section 197 of the Cr.P.C. are otherwise satisfied. Where the alleged offence was committed by a public servant while acting or purporting to act in the discharge of his official duties, and the offence has a reasonable nexus with such official functions, the previous sanction contemplated under Section 197 of the Cr.P.C. is required before the Court can take



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cognizance of such offence. This protection may continue to operate even after the retirement of the public servant, particularly where the alleged acts were committed during the period of service.

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27. As stated earlier, the respondent registered the FIR in Crime No.3 of 2013 against three accused persons. However, after completion of the investigation, the final report was filed only against A1 and A2, while the third accused was deleted from the final report. On perusal of the FIR, it is seen that specific allegations were made against the third accused in respect of the alleged financial loss caused to the University, which was receiving financial grants from the Government of Tamil Nadu, and the corresponding alleged illegal pecuniary gain said to have been derived by the third accused, namely, M/s. Chettinad Builders Private Limited. Despite such allegations, the respondent, after investigation, did not array the third accused in the final report. It is further seen that the decision to award the contracts was taken by the Building Committee and the Syndicate of the University. The proposal, after being considered and approved by the Building Committee, was placed before the first accused, who accorded his approval by signing the same. The second accused, who was the Registrar of the University, had no independent authority to take a decision regarding the award of the



contracts. The contracts were considered and approved by the Building Committee, which comprised engineers and other officials, and thereafter the decision was placed before and approved by the Syndicate. Therefore, the materials on record prima facie indicate that the decision-making process involved the Building Committee and the Syndicate, and the second accused, in his capacity as Registrar, did not independently decide to award the contracts to the contractor.

28. The Government of Tamil Nadu had taken the view that M/s. Chettinad Builders Private Limited is neither a conspirer nor a beneficiary and consequently, the said contractor was not proceeded against in the final report. Therefore, the prosecution cannot, on the one hand, allege that the award of the contracts resulted in an illegal pecuniary benefit to the contractor and, on the other hand, contend, after investigation, that there was no sufficient material to implicate the contractor either as a conspirator or as a beneficiary. If the alleged excess payment pursuant to the award of the contracts had resulted in a wrongful pecuniary benefit, the prosecution was required to establish the person who had actually derived such benefit and the nexus between such benefit and the alleged acts of the accused. In the absence of any such material, the mere allegation that the University suffered financial loss, particularly



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when the contracts were considered and approved by the Building Committee and the Syndicate and the relevant Government authorities were also involved in the process, cannot, by itself, constitute the offences punishable under Section 409 of the IPC and Section 13(2) read with Section 13(1)(c) of the Prevention of Corruption Act.

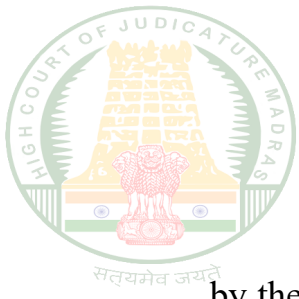
29. Further, mere non-compliance with the procedure prescribed under the Tamil Nadu Transparency in Tenders Act, 1998, the Rules framed thereunder, or the Government Orders governing the award of contracts, would not, in the absence of the necessary ingredients of the offences alleged, automatically give rise to criminal liability. Unless the prosecution establishes entrustment, dishonest misappropriation or conversion in respect of Section 409 of the IPC, and the requisite ingredients of criminal misconduct under the Prevention of Corruption Act, a procedural irregularity or violation of administrative guidelines cannot, by itself, sustain a criminal prosecution. It is also relevant to note that the provisions of the Tamil Nadu Transparency in Tenders Act, the Rules and the Government Orders relied upon by the prosecution do not, by themselves, create a penal offence merely for failure to follow the prescribed procedure. Therefore, the alleged procedural violations, in the absence of independent evidence establishing the requisite criminal intent



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and the other essential ingredients of the offences charged, cannot by themselves attract Sections 409 of the IPC or 13(2) read with 13(1)(c) of the Prevention of Corruption Act.

30. Further, there are absolutely no materials to invoke provisions under Sections 13(2) r/w. 13(1)(c) of Prevention of Corruption Act, against the accused. The ingredients of the provisions are totally absent. There is no entrustment of any property to the accused. There is no material to prove that the accused dishonestly misappropriated or otherwise converted for their own use a property entrusted to them or under their control. There are no oral or material evidence to prove that the accused allowed any other person to commit misappropriation or conversion. When the third accused in the FIR was deleted in the final report, there is neither any allegation nor the materials are available to prove that the accused had dishonestly misappropriated or otherwise converted for their own use, any property entrusted to them or under their control as a public servant, or allowed any other person so as to attract any of the charges as alleged by the prosecution. Therefore, no charges are made out as against the accused and they are liable to be discharged from all the charges.



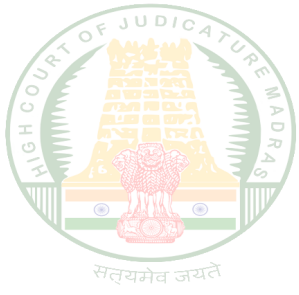
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31. In view of the above discussion, the impugned orders passed by the Trial Court are set aside, and both the accused are discharged from all the charges in Special C.C.Nos.3, 4, 5 and 6 of 2019 pending on the file of the Chief Judicial Magistrate, Cuddalore. Accordingly, all the Criminal Revision Cases are allowed. Consequently, the connected miscellaneous petitions are closed.

28.08.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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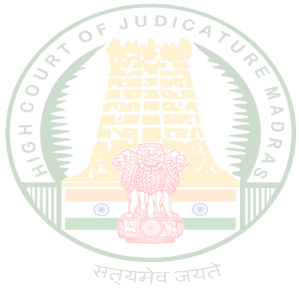


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To

1. Chief Judicial Magistrate, Cuddalore
2. The Deputy Superintendent of Police,
Special Investigation Cell-I,
Vigilance and Anti-Corruption,
Chennai.
3. The Public Prosecutor,
High Court of Madras



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G.K.ILANTHIRAIYAN, J.

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28.08.2026