

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.05.2017

CORAM

THE HON'BLE DR. JUSTICE T.MATHIVANAN

Crl.O.P.No.2245 of 2017

1.S.Murali Mohan (A1)
2.S.Srikala (A2) ... Petitioners

Vs.

State by
The Inspector of Police
CBI/ACB/Chennai ... Respondent

Criminal original petition filed under Section 482
Cr.P.C to call for the records of the F.I.R.No.RC MA1 2016
A 0045 on the file of the SP/Inspector of Police, CBI, ACB,
Chennai and quash the same.

For Appellants : Mr.K.Suresh Babu

For Respondents: Mr.K.Srinivasan

ORDER

सत्यमेव जयते

Invoking the provisions of Section 482 of the Code of
Criminal Procedure, this petition is filed by the
petitioners to quash the criminal proceedings of the case
concerned in F.I.R.No.RC MA1 2016 A 0045, which is
registered against them on the file of the SP/Inspector of
Police, CBI, ACB, Chennai.

2. The petitioners 1 and 2 are none other than the husband and wife and ranked as A1 and A2 in the above said case. The first petitioner Mr.S.Murali Mohan is an IRS Officer belonging to 1999 batch in the Income Tax Department and at the time of registration of the First Information Report he was working as Additional Commissioner of Income Tax, Range CR-3. Chennai and as such he is a public servant. It is alleged that during the check period i.e., from 01.01.2002 to 30.08.2014 he had amassed assets and pecuniary resources to the tune of Rs.3,28,00,029/- in his name as well as in the name of his wife Smt.S.Srikala who is the second petitioner herein and also in the name of other family members, which according to the prosecution, is disproportionate to his known and lawful source of income, for which he has not satisfactorily accounted.

3. It is also alleged that the second petitioner Smt.S.Srikala. W/o.S.Murali Mohan is a housewife and hails from an ordinary family. She is a B.A Graduate. The petitioners are having two children. During the relevant period, the first petitioner S.Murali Mohan had acquired both movable and immovable properties in the names of his wife Smt.S.Srikala (A2) and his mother Smt.S.Sarojini,

which are disproportionate to their known sources of income for which they have not accounted satisfactorily.

4. According to the prosecution, based on a reliable information, a case in RC MA1 2016 A 0045 was registered and entrusted to one Mr.P.Velayutham, Inspector of Police, CBI, ACB, Chennai for investigation. The First Information Report discloses that the acts of the petitioners viz., 1) S.Murali Mohan and 2) Smt.S.Srikala to acquire the assets in their names prima facie discloses the commission of offences punishable under Sections 120-B IPC r/w. Section 13(2) r/w. 13(1)(e) of the Prevention of Corruption Act, 1988.

5. It may be relevant to note here that the name of the Station House Officer who had received the information and registered the case has not been stated in the FIR as required under Section 154 of the Code of Criminal Procedure. However, it is stated that Mr.P.Velayutham, Inspector of Police was authorized under Section 17 and 18 of the Prevention of Corruption Act, 1988 to conduct investigation of the case.

6. The competency of the above said Inspector of Police to take up the investigation is strongly disputed by Mr.Suresh Babu, learned counsel appearing for the petitioners.

7. As aforesaid, the first petitioner Mr.S.Murali Mohan, is an IRS Officer belonged to 1999 batch in the Income Tax Department. At the initial stage, he was posted to Hyderabad and worked as Assistant Commissioner of Income Tax from 19.04.2001 to 14.07.2006. He was then promoted as Deputy Commissioner of Income Tax (DCIT) on 14.06.2006 and posted at Hyderabad and worked as Deputy Commissioner of Income Tax, Circle 2(1) from 14.06.2006 to 31.07.2007 and subsequently worked as DCIT, Central Circle-I at Hyderabad from 01.08.2007 to 17.06.2009. Thereafter, he was promoted as Additional Commissioner of Income Tax on 17.06.2009 and posted at Thiruvananthapuram as Additional and Joint Commissioner of Income Tax, Range 1 from 17.06.2009 to 16.11.2011 and subsequently he was transferred to Chennai and worked as Addi/JDIT (Inv) U-1 from 16.11.2011.

8. The prosecution says that the first petitioner Murali Mohan hails from an ordinary family from Khammam District of Andhra Pradesh. His father one Mr.Radha

Krishnamurthy, was functioning as a Government Teacher and retired in the year 1999. Now he is no more as he had passed away in the year 2000. His mother Smt.Sarojini is a house wife. The specific overt act attributed against the first petitioner Mr.S.Murali Mohan is that during the period from 01.01.2002 to 30.08.2014 he had acquired both movable and immovable properties in his name as well as in the name of his wife Smt.S.Srikala (A2) and his mother Smt.Sarojini, which are disproportionate to their known sources of income for which he has not satisfactorily accounted.

9. On perusal of the First Information Report, it is manifested that the prosecuting agency has come forward with four kinds of allegations against the petitioners:

i) the first petitioner had initially acquired plots in the name of his wife Smt.S.Srikala at Hayat Nagar, Hyderabad and V.M.Banjar, Khammam District and had later constructed palatial buildings on these plots. The plot at Hayat Nagar was purchased in the name of Smt.S.Srikala during 2007-08 and a three storied building measuring about 7000 sq.ft including a pent house was constructed during the period from 2008-10. A loan of Rs.1.5 lakhs was availed from LIC Housing Finance for the said construction.

The lands in V.M.Banjar Village, Khammam District was purchased during 2009 and a lodge and a marriage hall have been constructed in the lands during 2012-13.

ii) Similarly in Manikonda, he had acquired lands in the name of his mother during 2005 and constructed another palatial building of five floors measuring about 15,000/- sq.ft. The first petitioner Mr.Murali Mohan had also purchased lands in the year 2005 in the name of his mother and had subsequently constructed a five floor palatial house through his illgotton money.

iii) The second petitioner Smt.S.Srikala had started an educational institution under the name and style of "The Hyderabad Academy" in Hyderabad in the year 2005. This institution is purported to have imparted coaching for entrance exams for GPAT and NIPER. Further, the said institution has been declared to have been closed in the year 2012-13 and that the assets of the institution have been sold off. Based on the Income Tax returns of Smt.S.Srikala, the value of the fixed assets at the starting of "The Hyderabad Academy" was arrived at Rs.25.42 lakhs.

iv). The first petitioner Shri.Murali Mohan had purchased four plots viz., 62,63,72 and 73 at Sri Lakshmi Narasimha Swamy Nagar, Puppalaguda, Rajendra Nagar, Ranga

Reddy District during 2002-03 at a cost of Rs.5.07 lakhs. During the year 2013-14 he had entered into an agreement with M/s.Arca Constructions, Hyderabad for development of flats in the said plots and out of the flats developed in the said place, he was allotted 8 flats as his share. Though the flats are valued at Rs.159.20 lakhs, during the year 2014, when it was handed over to him, Mr.Murali Mohan had not incurred any expenditure on this account and hence only the value of the land as on the date of purchase is taken into consideration. The description of the assets which are said to have been disproportionate to the known sources of income of the petitioners are shown as under:

SI.No	Description	Value
1	Assets at the beginning of the check period-Statement A	18,44,000/-
2	Assets at the end of the check period-Statement B	3,94,03,610/-
3	Total income during the check period - Statement C	1,11,18,512/-
4	Total Expenditure during the check period-Statement D	63,58,931/-
5	Assets acquired during the check period-Statement (B-A)	3,75,59,610/-
6	Likely Savings during the check period-Statement (C-D)	47,59,581/-
7	Disproportionate Assets = (B-A) - (C-D)	3,28,00,029/-
8	% of Disproportionate Assets = (DA/C)*100	295%

10. Insofar as this case is concerned, the date of information is 20.12.2016. The First Information Report was registered on the very same date at 11.00 hours. With regard to type of information as it is seen from Column No.4 of the FIR, it is left blank. It does not contain any details as to whether the source of information was in writing or oral. At Page No.9 in Column No.15, it is stated that the First Information Report was despatched to the learned Principal Special Judge for CBI Cases on 20.12.2016 at 11.30 hours. It shows that within half an hour of the registration of FIR it was despatched to the learned Principal Special Judge for CBI Cases, Chennai. But Column No.15 is left blank with reference to the mode of sending the FIR to the Special Court. It does not say as to whether it was sent through special messenger or through post.

11. **Chapter 8 of CBI Manual deals with complaints and source of information.** With reference to collection of source of information clauses 8.26, 8.27 and 8.32 assume much importance.

12.Clause No.8.26 reads as under:

"As a part of their duty and in terms of annual programme of work, all investigating and Supervisory

Officers are required to collect quality information regarding graft, misuse of official position, possession of disproportionate assets, fraud, embezzlement, serious economic offences, illegal trading in narcotics and psychotropic substances, counterfeiting of currency, smuggling of antiques endangering wildlife and environment, cyber crimes, serious frauds of banking/financial institutions, smuggling of arms & ammunition, forgery of passports etc and other matters falling within the purview of CBI and verify the same to ascertain whether any prima facie material is available to undertake an open probe. While all CBI Officers are free to develop such information through discreet means, the Officer developing any information must keep his superior officer informed regarding information being developed by him. The immediate superior officer may also keep the Competent Authority, i.e. DIG/JD/ADCBI/SDCBI/DCBI informed in case the officer against whom information is being developed is of a rank against whom only such officer can order registration of a case".

13. Clause No.8.27 is extracted as under:

"The source information once developed must be submitted in writing giving all available details with

specific acts of omissions and commissions and copies of documents collected discreetly. The internal vigilance enquiries or departmental enquiry reports should normally not be used as basis for submitting the Source Information. The SP concerned after satisfying himself that there is a prima facie material meriting action by CBI and further verification is likely to result in registration of a regular case, would order verification if it falls within his competence. In the cases which are within the competence of higher officers, he will forward his detailed comments to the DIG and obtain orders from superior officer competent to order registration. The verification of SIRs must begin only after the Competent Authority has approved its registration. At this stage a regular SIR number will be assigned to the SIR which will also be entered in the Source Information sub-module of CRIMES Module with all other details".

14. Clause No.8.29 is also extracted here under:

After registration, verification may be entrusted to an officer other than who has submitted the SIR. As far as possible, the requisition of records/documents should be avoided during verification of SIRs. In case, it is

absolutely necessary to do so, the requisition must go to the concerned Vigilance Officer under the signatures of the SP after obtaining permission from the DIG concerned. It must be ensured that no record/documents are requisitioned before the Competent Authority has passed orders for registration of an SIR.

15. **Clause No.8.32 is extracted as under:**

The verification of an SIR must be completed within a period of three months. In case of delay, the approval of the Competent Authority should be obtained to carry out further verification beyond the prescribed time-limit.

16. **Chapter 9 deals with preliminary enquiries:** As per Clause 9.1, when a complaint is received or information is available which may, after verification as enjoyed in CBI Manual indicate serious misconduct on the part a public servant but is not adequate to justify registration of a regular case under the provisions of Section 154 of Cr.P.C a preliminary enquiry may be registered after obtaining approval of the Competent Authority.

17. **Clause 9.7** contemplates preliminary enquiry

registration report. As soon as it is decided to register a PE, the SP will take action to get the PE Registration Report prepared, which will invariably be vetted by him and in case of important enquiries even drafted by him. Registration Report of PE should be written in the PE Registration Report Form and not on the form prescribed for recording First Information Report under Section 154 Cr.P.C. Beside the allegations in brief, the complete details of the suspects involved should be recorded in the PE Registration Report. In respect of the public servants found involved in the matter, their Group, the Service (IAS, IRS, IPS etc.), present designation, scale of pay, present pay and date of superannuation (if available) should also be mentioned in the P.E. registration report. The copies of the PE Registration Reports should be sent to the authorities mentioned in the Annexure 9-A to this chapter.

18. **Clause 9.10** says that the Preliminary Enquiries relating to allegations of bribery and corruption should be limited to the scrutiny of records and interrogation of bare minimum persons which may be necessary to judge whether there is any substance in the allegations which are being enquired into and whether the case is worth pursuing

further or not.

19. As rightly pointed out by Mr. K. Suresh Babu, learned counsel appearing for the petitioner no preliminary enquiries registration report filed in this case. Further, there is reason to presume that no preliminary enquiry was conducted in this case. As it is manifested from the FIR, this Court is able to understand that the source of information was received on 20.12.2016 at 11.00 AM. The case was registered on the very same date and within half an hour of its registration i.e. at 11.30 AM, the FIR was dispatched to the learned Principal Special Judge for CBI Cases, Chennai. It is thus made clear that the procedure enunciated in the CBI Manual has not been followed.

20. Clause 9.1 of the CBI Manual says that the SP must carefully analyze the material available at the time of verifying and verification report submitted by the superior officer registration of preliminary enquiries is not resorted to where a rank against can be registered. Where material or information available indicates that it would be a case of misconduct and not criminal misconduct it would be appropriate that the matters referred to the department at this stage by sending a self contained note.

In such cases, no preliminary enquiry should be registered.

21. Mr.K.Suresh Babu while advancing his arguments has submitted that the procedure enunciated under CBI Manual are mandatory which ought to have been scrupulously followed by the officers concerned prior to the registration of the case. In support of his contention, he has placed reliance upon the decision of this Court made in **MCR. Vyas v. Inspector of Police 2014 SCC online Mad 4930**. Paragraph Nos.44, 50 and 54 of this decision are very much relevant.

22. In paragraph No.44, a learned Single Judge of this Court, has made reference to the decision of the Apex Court rendered in **Manu sharma v. State (NCT of Delhi) (2010) 6 SCC 1**. In this case, Hon'ble Mr.Justice P.Sathasivam Judge of the Apex Court, as he then was has elaborately dealt with the requirement of fair investigation. Relevant portion is extracted as under:

"The First Information Report was registered based on the reliable source information received by the Respondent/CBI Office. The Delhi Special Police Establishment Act 1946 (herein after referred to as the DSPE

Act) is a special statute. By reason of the said enactment, the CBI was constituted. My attention has been drawn to the provisions of the CBI Manual, from a perusal whereof, it appears that guidelines and procedures have been enumerated. If source information is received against an officer of high rank, even for verification of source information the Respondent /CBI has to get approval from the Competent Authority (in this case Director of CBI) and after such approval by Competent Authority, the verification officer shall submit his detailed report to the Competent Authority for obtaining orders. Then, after due application of mind, the Competent Authority shall pass orders for preliminary enquiry. The preliminary enquiry may either result in registration of regular case or in departmental action or refer to the concerned Department through a self contain note for such action. For registration of regular case in cases of officer of high rank, orders should be obtained from the Competent Authority. Chapter 8 of CBI Manual clearly states about the above said procedures to be followed.

23. In paragraph Nos.50, it has been observed as under:

"Before going into the merits of the arguments advanced by the learned senior counsel, we have to see whether the provisions of the CBI Manual is mandatory or directory. In determining the said question, the subject matter, the importance of the provision, the relation of that provision to the general object intended to be served by the Act will decide whether the provision is mandatory or directory. The provisions referred to above would use the words 'shall' and 'must' and as such it can hardly be directory, since the use of such language is per se indicative of the intent that the provision is mandatory. The effect of non compliance with the rule if could deprive the right of the person, then serious prejudice would be caused to the said person".

24. In Manu Sharma's case cited supra, the Apex Court has held that if any source of information is received against the officer of a high rank even for verification of source information the respondent / CBI has to get approval from the Competent Authority. The Competent Authority is

the director of CBI and after such approval by Competent Authority verification officer shall submit his detailed report to the Competent Authority for obtaining orders. This procedure has not been followed in this case, because the provisions of the CBI Manual are mandatory to be followed. In **Nirmal Singh Kahlon v. State of Punjab (2009) 1 SCC 441**, it has been observed by the Apex Court that lodging of FIR by CBI is governed by the manual. It may held a preliminary enquiry; it has been given a said power in Chapter 6 CBI Manual. A prima facie case may be held to have established only on completion of preliminary enquiry. "Following **Vineet Narain's case, the Apex Court in Shashikant v. CBI (2007) 1 SCC 630** "has held that CBI Manual has to be mandatorily followed by the Respondent /CBI Police. In a recent Judgment in **State v. N. S. Ganeswaran (2013) 3 SCC 594**, the Apex Court has reiterated this ratio.

25. In **Shashikant Versus Central Bureau of Investigation and Others** while speaking on behalf of a Division Bench of the Apex Court, Hon'ble Mr. Justice S.B.Sinha, as he then was has observed that

"When an anonymous complaint is received, no investigating officer

would initiate investigative process immediately thereupon-It may for good reasons to carry out a preliminary enquiry to find out the truth or otherwise of the allegations contained therein".

26. In Paragraph No.77, with reference to the necessity of conducting of suitable preliminary enquiry prior to the registration of a regular case **Hon'ble Mr. Justice S.B.Sinha** has observed after citing the decision rendered by **Mitter, J in P.Sirajjudin vs. State of Madras (1970) 1 SCC 595** in the following words:

"Before a public servant, whatever be his status, is publicly charged with acts of dishonesty which amount to serious misdemeanour or misconduct of the type alleged in this case and a first information is lodged against him, there must be some suitable preliminary enquiry into the allegations by a responsible officer. The lodging of such a report against a person specially one who like the appellant occupied the top position in a department, even if baseless, would do incalculable harm not only to the officer in particular but to the department he belonged to, in general

..... The means adopted no less than the end to be achieved must be impeccable".

27. This Court in **R.Subramaniam (Cr1.O.P.No.8348 of 2011) & Green Signal Bio Pharma Pvt., Ltd., rep. By its Managing Director, Sundaraparipooranan (Cr1.O.P.No.9611 of 2011) Vs. Union Government of India by Additional Superintendent of Police, CBI/ACB/Chennai** has held that strict compliance and adherence to the above guidelines are sin qua non for the officials, whenever they happens to register and take up a case for investigation. The clauses, enumerated in the above CBI (Crime) Manual, are the complete shape of track to be followed by the investigating officers, who are responsible to take up the investigation in respect of a cognizable offence. This Court in Paragraph No.14 of the said judgment has made reference to the decision of the Apex Court in **Noor Aga vs. State of Punjab and another**, reported in **2008 (56) BLJR 2254** wherein Hon'ble Mr.Justice S.B.Sinha while penning down the judgment on behalf of a Division Bench has in Paragraph Nos.122, 123 and 124 observed as under:

"122. Guidelines issued should not only be substantially complied, but also in a case

involving penal proceedings, vis-a-vis a departmental proceeding, rigours of such guidelines may be insisted upon. Another important factor which must be borne in mind is as to whether such directions have been issued in terms of the provisions of the statute or not. When directions are issued by an authority having the legal sanction granted therefor, it becomes obligatory on the part of the subordinate authorities to comply therewith.

123. Recently, this Court in *State of Kerala and Ors. v. Kurian Abraham (P) Ltd., and Anr.* MANU/SC/0801/2008 : (2008) 3031 ITR 284 (SC), following the earlier decision of this Court in *Union of India v. Azadi Bachao Andolan* MANU/SC/0784/2003 : (2003) 263 ITR 707 (SC) held that statutory instructions are mandatory in nature.

124. Logical corollary of these discussions is that the guidelines such as those present in the Standing Order cannot be blatantly flouted and substantial compliance therewith must be insisted upon for so that sanctity of physical evidence in such cases remains intact. Clearly, there has been no substantial compliance of these guidelines by the investigating authority which leads to drawing of an adverse inference against them to the effect that had such evidence been produced, the same would have gone against the prosecution."

28. In the light of the observations made by the Apex Court as well as by various High Courts as aforesaid, the mandate of the CBI Manual (including the requirement to follow the provisions of Chapters 8 and 9 regarding verification of source information and registration of preliminary enquiries) is not affected by Section 154 of Cr.P.C [See **Shashikant V. CBI reported in (2007) 1 SCC 630 and State Vs. N.S.Ganeswaran, reported in (2013) 3 SCC 594**]. While illustrating some types of cases with regard to the requirements of preliminary enquiries Hon'ble Supreme Court in **P.Sirajuddin etc., Vs. State of Madras reported in (1970) 1 SCC 595** has held that in the context of offences relating to corruption, a preliminary enquiry before proceeding against the public servants is must.

29. Mr. K. Srinivasan, the learned Special Public Prosecutor for CBI Cases, in this connection, has contended that the disproportion as specified in the FIR had been arrived at by taking into consideration of all the data available from the documents seized from the occurrence of investigation in RC MA1 2016 A0019 from which this case was arisen. He would further submit that the FIR was registered only after following due procedure and that even within two months from the date of registration of FIR, drawing of

such a conclusion is premature. With reference to Serial Nos.1 to 16, as shown in Statement B in the FIR, he would contend that the investment in such immovable properties could not be analysed at this preliminary stage of investigation. Conclusion could be drawn only after conducting full-fledged investigation by way of collecting documents from various Departments, private persons etc., and examining the witnesses and that at this initial stage, the defence raised by the petitioners could not be accepted without proper and full-fledged investigation.

30. With regard to Serial Nos.17 to 20 in Statement B, he would submit that the Account Opening Form and Statement of Account for the existing bank accounts are yet to be collected and after that only the scrutiny of bank transactions can be made. Collection of documents from various Banks is under process of investigation. Apart from the existing bank accounts, the other bank accounts in the name of the petitioners/accused may also be cropped up during the investigation. Hence, at this stage, the defence set up by the petitioners could not be accepted.

31. He would further submit that Serial Nos.21 to 23 in Statement B and Serial Nos.1 to 4 in Statement C of FIR

and the averments made in Paragraph Nos.33 to 55 of grounds of revision are subject to investigation and the conclusion could be drawn only after collecting and scrutinizing the documents from the concerned authorities. He has further added that the investigation had to be conducted to ascertain whether the amount declared under various heads of income are genuine or otherwise. At this preliminary stage, drawing a logical conclusion would not be fair and that the petitioners ought to have cooperated for the investigation in a fair and transparent manner.

32.The learned Special Public Prosecutor has also added that the FIR is only to set the ball in motion and as such, a final conclusion could not be drawn at this stage. He has further continued that the offences relate to the period from 01.01.2002 to 30.08.2014 and all the relevant documents are yet to be collected from various Banks, Government Department in Tamil Nadu and other States and other private persons which are essential to the investigation. Hence, the petition to quash the entire proceedings of the FIR is absolutely illogical and baseless and therefore he has urged to dismiss the petition.

33. While advancing his arguments, in order to substantiate his contention, he has placed reliance upon the following decisions:

- a) *R.P.Kapur Vs. State of Punjab* reported in AIR 1960 SC 866;
- b) *Kunhammed Vs. Abdul Khader* reported in 1977 KLT 840;
- c) *Mathew Vs. State of Kerala* reported in 2000 (1) KLT 294;
- d) *State of Punjab Vs. Kasturi Lal and Others* reported in AIR 2005 SC 4135; and
- e) *Monica Kumar Vs. State of Uttar Pradesh* reported in (2008) 8 SCC 781.

34. In the above cited decisions, the following general ratio has been applied:

“Even though the inherent jurisdiction of the High Court under Section 482 is very wide, it has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section, it is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone courts exist.”

35. With reference to exercising of inherent jurisdiction conferred on this Court under the provisions of Section 482 of the Code of Criminal Procedure, citing the decisions of the Apex Court made in **R.K.Lakshmanan Vs. A.K.Srinivasan and another [AIR 1975 Sc 1971]**, **Kurukshetra University Vs. State of Haryana reported in [AIR 1977 SC 2229]**, **Union of India and Others Vs. B.R.Bajaj and Others [AIR 1994 SC 1256]**, **Chand Dhawan Vs. Jawaharlal and Others [AIR 1992 SC 1379]** and **State of Haryana Vs. Bhajan Lal [1992 Supp. (1) SCC 335]**, he has submitted that the inherent power has to be exercised sparingly with circumspection and in the rarest of rare cases. It ought to be realised that inherent powers do not confer any arbitrary jurisdiction on the High Court to act according to whim or caprice.

36. The Apex Court in **State of Haryana Vs. Bhajan Lal [1992 Supp. (1) SCC 335]** has held as follows:

“6. The investigation of an offence is the field exclusively reserved for the police officers whose powers in that field are unfettered so long as the power to investigate into the cognizable offences is legitimately exercised in strict compliance with the provisions falling under Chapter XII of the Code and the Courts are not justified in

obliterating the track of investigation when the investigating agencies are well within their legal bounds. A noticeable feature of the scheme under Chapter XIV of the Code is that a Magistrate is kept in the picture at all stages of the police investigation but he is not authorised to interfere with the actual investigation or to direct the police how that investigation is to be conducted. But if a police officer transgresses the circumscribed limits and improperly and illegally exercises his investigatory powers in breach of any statutory provision causing serious prejudice to the personal liberty and also property of a citizen, then the Court, on being approached by the person aggrieved for the redress of any grievance has to consider the nature and extent of the breach and pass appropriate orders

37. From the above context, the Apex Court wanted to highlight the concept that when the investigation is in progress, the Courts are not supposed to interfere or to exercise its jurisdiction to put a stumbling block on the track of investigation. The Supreme Court has also wanted to point out that the investigation on the part of the investigating agency must be untrammelled and free from directions of the Courts. In the very same decisions viz., **State of Haryana Vs. Bhajan Lal and others**, cited supra, the Apex Court has laid down the principles in regard to

quashing the FIR. In this connection, the Apex Court has also held that the Court can quash FIR if situation warrant even before investigation takes place in certain circumstances in exercising the extraordinary power conferred on this Court under Article 226 of the Constitution of India or in pursuant to the inherent powers under Section 482 Cr.P.C. The following categories of cases are given by way of illustration wherein such power could be exercised either to prevent abuse of process of Court or otherwise to secure the ends of justice:

“a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not

constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge. [305D-H; 306A-E]"

38. From the circumstances listed above, the Circumstances (a) (c) (e) and (g) assume much importance. In this connection, this Court is taking the risk of repetition and reiteration. Circumstance (a) says that where the allegations made in the First Information Report

or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused. Circumstance (c) says that where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused. Circumstance (e) says that where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused. Circumstance (g) says that where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, the FIR can be quashed. सत्यमेव जयते

39. On coming to the instant case on hand, the counsel for the petitioner Mr.K.Suresh Babu has mainly placed reliance upon the Chapters 8 and 9 of the CBI Manual while advancing his argument. Admittedly no preliminary enquiry was conducted in this case to ascertain the genuineness of

the source information. Mr.Suresh Babu has submitted that it is not only mandatory for the CBI to conduct preliminary enquiry, but even prior to such preliminary enquiry where CBI has received information based on "source", such "source" need to be verified independently as pointed out in Clauses 8.26 to 8.35 of Chapter 8, of Source Information Report. He would further submit that in the present case, the failure to conduct a preliminary enquiry had led to a gross abuse of process of law inasmuch as incorrect valuation and several mistakes appear to have crept in the impugned FIR. In support of his contention, he has also made reference to the decision of this Court in CrI.O.P.Nos.8348 and 9611 of 2011 decided on 27.03.2012. Keeping in view of the observation made by this Court in the decision cited above as well as by the Apex Court in the decisions cited supra, this Court is of view that the argument advanced by Mr.K.Srinivasan saying that the Income Tax returns said to have been filed by the petitioners could not be relied upon by the petitioner unless the contents were proved is absolutely absurd and not able to be countenanced.

- i. As it is revealed from the avements of FIR, the check period is from 01.01.2002 to 30.08.2014. Between the above said period, it is alleged by

the prosecution that Mr.Murali Mohan had initially acquired plots at Hayat Nagar, Hyderabad in the name of his wife Srikala during the year 2007-08 and a three storied building measuring about 7000 sq.ft including a pent house was constructed during the period from 2008 to 2010. According to the prosecution, a loan of Rs.1.5 lakhs was availed from LIC Housing Finance for the said construction.

ii. The lands in V.M.Banjar Village, Khammam District was purchased during the year 2009 and a lodge and a marriage hall were constructed in the said lands during the year 2012-13.

iii. In Manikonda, an upcoming residential area adjacent to Hyderabad was acquired by him in the name of his mother during 2005 and constructed another palatial building of 5 floors measuring about 15,000/- sq.ft.

iv. In this connection, Mr.K.Srinivasan, the learned Special Public Prosecutor for CBI Cases has contended that Mr.Radha Krishnamurthy, who is the father of the first petitioner had retired in the year 1999 and expired in the year 2000. His mother Tmt.Sarojini, being a house wife, was only

receiving the family pension. Under this circumstance, the first petitioner had not satisfactorily explained his capability to purchase the above said property.

v. He has also argued that in the income tax returns filed in the year 2015-16 and 2016-17, the second petitioner Srikala had stated that she had obtained income from the house property at Manikonda, which belongs to the mother of Mr.Murali Mohan, the first petitioner.

vi. Mr.K.Srinivasan, has also submitted that since the second petitioner Srikala had stated in her Income Tax returns as if she had derived income from the house property at Manikonda when the property was specifically stated to be purchased by the first petitioner Murali Mohan in the name of his mother Sarojini it could not be heard to say that the second petitioner Srikala had obtained income from the house property at Manikonda, which according to the petitioners is belonged to the mother of the first petitioner.

vii. Further it is alleged in the FIR that the second petitioner Srikala had started an educational institution in the name and style of "The

Hyderabad Academy" in Hyderabad in the year 2005. This institution was purported to have imparted coaching for entrance exams for GPAT and NIPER. It is also alleged that the second petitioner Srikala had obtained Service Tax Number for the institute as Proprietor.

viii. It is admitted by Mr. Srinivasan, the learned Special Public Prosecutor that Smt. S. Srikala had filed Income Tax returns regularly and had shown income from business head. The said institution "The Hyderabad Academy" was declared to have been closed in the year 2012-2013 and that the assets of the institute had been sold off.

ix. He has also submitted that based on the Income Tax returns of Smt. S. Srikala, the value of the fixed assets at the starting of Hyderabad Academy was arrived at Rs. 25.42 lakhs.

x. It is also alleged in the FIR that the first petitioner had purchased four plots viz., 62, 63, 72 and 73 at Sri Lakshmi Narasimha Swamy Nagar, Puppalaguda, Rajendra Nagar, Ranga Reddy District during 2002-03 at a cost of Rs. 5.07 lakhs. It is also alleged that during the year 2013-14 he had

entered into an agreement with M/s.Arca Constructions, Hyderabad for development of flats in the said plots and out of the flats developed in the said place, he was allotted 8 flats as his share. Though the flats are valued at Rs.159.20 lakhs, during the year 2014, when it was handed over to him, Mr.Murali Mohan had not incurred any expenditure on this account and hence only the value of the land as on the date of purchase is taken into consideration.

xi.It is further alleged that Murali Mohan and his family owned one car worth Rs.4.5 lakhs. The first petitioner Murali Mohan had Bank balance of Rs.49.12 lakhs in various banks in his name and his wife's name at the end of the said period. It is also alleged that he had purchased immovable properties to the extent of Rs.319.56 lakhs in Telungana District during the said period.

xii.It is specifically alleged that during the check period from 01.01.2002 to 30.08.2014, the first petitioner Murali Mohan had acquired huge assets which led him to lead an extravagant life style which is well beyond the means of his salary.

40. By way of refuting the above allegations, Mr.K.Suresh Babu has taken this Court through the grounds of the quash petition. As it is revealed from the First Information Report, Statement A is relating to the assets of the petitioners at the beginning of the check period i.e., as on 01.01.2002. As per the case of the prosecution the value of the assets of the petitioners as on 01.01.2002 has been assessed at Rs.18,44,000/-. Statement B is relating to assets at the end of the check period i.e., as on 30.08.2014, which is calculated to Rs.3,94,03,610/-. Statement C is relating to the total income during check period i.e., from 01.01.2002 to 30.08.2014, which is estimated to Rs.1,11,18,512/-. The Statement D is relating to the total expenditure during the check period, which is assessed at Rs.63,58,931/-. According to the prosecution, the assets acquired during the check period by the petitioners is Rs.3,75,59,610/- (to arrive at this amount, the Investigating Officer had deducted the assets at the beginning of the check period from the assets at the end of the check period (B-A). To arrive at the likely savings of the petitioners during the check period, the investigating officer had deducted the total expenditure during the check period from the total income during the check period (C-D)=Rs.47,59,581/-. To calculate the disproportionate

assets, the Investigating Officer had deducted the likely savings during the check period from the assets acquired during the check period. Ultimately, they have calculated the disproportionate asset at Rs.3,28,00,029/-. Therefore, the percentage of disproportionate asset has been ascertained at 295% (DA/C)*100. As addressed by Mr.Suresh Babu, the learned counsel for the petitioners, the allegations in the FIR disclose that majority of assets narrated in Statement B, C and D are pertaining to the assets of second petitioner. In this connection, he would submit that the second petitioner Srikala had independently declared her income and acquisitions of various assets to the Income Tax Department for the relevant years and the Income Tax Department had also passed assessment orders after accepting her returns for all these years.

41. Mr.Suresh Babu has also canvassed that the petitioners had clearly explained their legal sources of income to the respondent police and their assets were also duly disclosed to Income Tax Authorities in accordance with law. Insofar as the Statement C is concerned, the income of the first petitioner Mr.Murali Mohan has been shown as Rs.42,27,904/-, whereas the actual income earned by Mr.Murali Mohan was Rs.77,62,231/- i.e., from the salary

income for the period 01.01.2002 to 30.08.2014, Gross comes to Rs.75,57,029/- which was confirmed by the Pay Drawn Certificates, TDS Certificates. The Savings Bank Account, interest of the first petitioner comes to Rs.2,05,202/- (Rs.75,57,029/- + Rs.2,05,202/-=Rs.77,62,231/-). Mr.Suresh Babu, the learned counsel for the petitioners has submitted that the above said income was duly reflected in the Income Tax returns of the first petitioner for the years 2002-03 to 2015-16. However, the respondent had deliberately concealed and suppressed the actual income of the first petitioner Mr.Murali Mohan, being a public servant, for the reasons best known to them.

42. With reference to the income of the first petitioner Mr.Murali Mohan, as it is shown in Statement No.C by the prosecution, this Court has verified the documents in support of the income of the first petitioner, which are available in the II Additional typed-set of papers (Annexure 4). Annexure 4 is available in between pages 118 to 140 of the II Additional typed-set of paper. Without having proper scrutinization or verification of the relevant documents, the prosecuting agency has simply stated in Statement C that the income of Mr.Murali Mohan from 01.01.2002 to 30.08.2014 was Rs.42,27,904/-. The

details of the actual income derived by the first petitioner are given as under:

SI.No.	For the Period		Actual Correct Income	Details of Document in support of the Income in the Typed-set
1	Jan-02	Mar-02	41,903	Proportionate Basis Taken - Income Tax Returns for the Asst. year 2002-03 and Asst. Order certified by the Income Tax Officer (Page No.256 to 262 of Typed-set/Page No.126 & 127 of II Additional Typed-set)
2	Apr-02	Mar-03	1,79,573	Income Tax Returns for the Asst. Year 2003-04, Form 16 (Salary TDS Certificate) & Asst. Order certified by the Income Tax Officer (Page No.263-274 of Typed-set, Page 128 of II Additional Typed-set)
3	Apr-03	Mar-04	2,32,343	Pay Drawn Certificate in Page No.119 of II Additional Typed Set
4	Apr-04	Mar-05	2,42,804	Income Tax Returns for the Asst. Year 2005-06, Form 16 (Salary TDS Certificate) & Asst. Order certified by the Income Tax Officer (Page No.275-285 of Typed-set, Page Nos.129 & 130 of II Additional Typed-set)
5	Apr-05	Mar-06	2,72,523	Income Tax Returns for the Asst. Year 2006-07, Form 16 (Salary TDS Certificate) & Asst. Order certified by the Income Tax Officer (Page No.286-292 of Typed-set, Page No.131 of II Additional Typed-set)
6	Apr-06	Mar-07	2,95,862	Income Tax Returns for the Asst. Year 2007-08, Form 16 (Salary TDS Certificate) & Asst. Order certified by the Income Tax Officer (Page No.293-302 of Typed-set,

				Page No.132 & 133 of II Additional Typed-set)
7	Apr-07	Mar-08	3,37,730	Income Tax Returns for the Asst. Year 2008-09, Form 16 (Salary TDS Certificate) & Asst. Order certified by the Income Tax Officer (Page No.303 to 308 of Typed-set, Page Nos.134 & 135 of II Additional Typed-set)
8	Apr-08	Mar-09	5,47,287	Income Tax Returns for the Asst. Year 2009-10, Form 16 (Salary TDS Certificate) & Asst. Order certified by the Income Tax Officer (Page No.309 to 310 of Typed-set)
9	Apr-09	Mar-10	7,20,572	Income Tax Returns for the Asst. Year 2010-11, Form 16 (Salary TDS Certificate) & Asst. Order certified by the Income Tax Officer (Page No.314 to 325 of Typed-set, Page No.136 to 137 of II Additional Typed-set)
10	Apr-10	Mar-11	6,57,662	Income Tax Returns for the Asst. Year 2011-12, Form 16 (Salary TDS Certificate) & Asst. Order certified by the Income Tax Officer (Page No.326 to 327 of Typed-set)
11	Apr-11	Mar-12	7,52,601	Income Tax Returns for the Asst. Year 2012-13, Form 16 (Salary TDS Certificate) & Asst. Order certified by the Income Tax Officer (Page No.328 to 336 of Typed-set & Page No.138 of II Additional Typed-set)
12	Apr-12	Mar-13	12,64,650	Income Tax Returns for the Asst. Year 2013-14, Form 16 (Salary TDS Certificate) & Asst. Order certified by the Income Tax Officer (Page No.337 to 341 of Typed-set & Page No.139 of II Additional Typed-set)
13	Apr-13	Mar-14	13,63,698	Income Tax Returns for the Asst. year 2014-15 (Page No.342 to 344

				of typed-set)
14	Apr-14	Aug-14	6,47,822	Income Tax Returns for the Asst. Year 2015-16, Form 16 (Salary TDS Certificate) & Asst. Order certified by the Income Tax Officer (Page No.349 to 357 of Typed-set & Page No.140 of II Additional Typed-set)
Bank Interest Income				
	2002	31.03.2014	1,75,396	As per the Bank Pass Book seized by the CBI
	Upto 20.08.14		29,805	Proportionate Basis - As per the Bank Pass Book
Total			7762231	

43. From the above tabular column in accordance with the documents available in Annexure 4 of II Additional Typed-set of papers the actual income of Mr.Murali Mohan comes to Rs.77,62,231/-. The difference is Rs.35,34,327/-. This amount (Rs.35,34,327/-) has been deliberately suppressed by the prosecuting agency. As argued by Mr.Suresh Babu, had the Investigating authority conducted a preliminary enquiry prior to the registration of the FIR, this error would not have occurred.

44. On coming to Statement B, in Serial No.1, it is stated that the commercial land at SY.No.225, V.M.Banjar, Pennuballi (M), Khammam District measuring 12.5 cents in the name of the second petitioner Srikala was acquired on 03.03.2009 for the value of Rs.1,25,000/-. On verification of the documents, these details are reflected in the Income

Tax return of the second petitioner for the year 2009-10. In Serial No.2 of Statement B, it is stated that a commercial land at SY.No.225, V.M.Banjar, Pennuballi (M), Khammam District measuring 11 cents in the name of Srikala was purchased on 26.07.2009 for a total value of Rs.1,00,000/-. This is also reflected in the Income Tax return of the second petitioner for the assessment year 2010-11. Similarly, the transaction relating to the construction of lodge and functional hall comprised in SY.No.225, V.M.Banjar, Pennuballi (M), Khammam District during the year 2011-13 in the name of the 2nd petitioner Srikala as it is shown in Serial No.3 of Statement No.4 is reflected in the income tax return filed by the 2nd petitioner for the year 2013 -14 and 2014-15, respectively. The value of the lodge and function hall has been stated in Serial No.3 as Rs.90,00,000/-. Relevant details are available at Pages 161-202 and 203 to 228 of typed-set of papers. On perusal of these details in the above said pages, it is revealed that the cost of construction incurred by the second petitioner was Rs.37,25,000/- which is reflected in her Income tax returns.

45. In this connection, Mr.Suresh Babu has argued that the incomplete building was leased out to one Mr.A.Ramakrishna and Mrs.A.Aswini for a period of 15 years

through a lease agreement dated 22.08.2013 with a condition that the lessee had to complete the balance construction with their own investment and pay the lease rent as agreed in the agreement. When the actual cost of construction incurred by the second petitioner is only Rs.37,25,000/, which is declared in the Income Tax returns of the second petitioner, this amount should have been stated in Statement B. But, the prosecuting agency had concealed the 15 years lease agreement entered into with above Mr.A.Ramakrishna and Mrs.A.Aswini. As argued by Mr.Suresh Babu, instead of stating the actual cost of construction as Rs.37,25,000/-, the respondent has wrongly inflated this amount as Rs.90,00,000/-. It is not clear in Statement B from where these particulars, as seen in Statement B have been gathered by the respondent.

46. In Annexure 10, i.e., between the pages 197 to 207 of II Additional typed-set of papers, the following three documents are available with reference to Serial No. 3 of Statement B:-

1. Copy of Agreement for building Lease dated 22.08.2013 executed by Smt.A.Ashwini for a period of 15 years with a condition that semi-finised construction to be

done by the Lessee only.

2. Copy of Agreement for building Lease dated 22.08.2013 executed by Sri.A.Ramakrishna for a period of 15 years with a condition that semi-finished construction to be done by the Lessee only.

3. Copy of the Trial balance of Smt.S.Srikala as on 31.03.2013 and 31.03.2014 for the semi finished building cost of Rs.37,25,000/-.

47. With reference to serial No.4 of Statement B, Mr.Suresh Babu has contended that the transaction relating to 6 plots of housing land at Sy No.108/12, 13 and 121/1 (Plot Nos. 66,67,68,81,8283 (200 each)) totally measuring 1200 sq. yards in the name of the second petitioner has been valued at Rs.8,00,000/-. This is an erroneous entry made by the prosecuting agency. In this regard, he would submit that the six housing plots were purchased on 30.07.2007 through six independent registered sale deed at the rate of Rs.60,000/- per plot and that the total amount comes to Rs.3,60,000/-. The cost of the 6 housing plots at Rs.3,60,000/- was accounted in the balance sheet of the second petitioner and declared in the Income Tax return for the year 2008-09. He would further submit that the respondent had arrived at an imaginary valuation of

Rs.8,00,000/- in this entry at Serial No.4 of Statement B, which is absolutely erroneous without any supporting document. The transaction relating to 6 housing plots is available between Pages 8 to 104 in Annexure 2 of the II Additional Typed-set of papers. The second petitioner has declared the fact of purchasing of six plots for Rs.3,60,000/- (each plot 60,000/-) in the Income Tax Return for the year 2008-09 as it is seen at Page No.60 of typed-set of papers. The Income Tax returns for the year 2008-09 filed by the second petitioner in this connection is available at Pages 41 to 63.

48. In Serial No.5 of Statement B it is stated that Plot No.139 at Green Fields, Gopanpally (V), Serilingampally (M), RR District measuring 540 sq. yards was purchased on 29.08.2003 in the name of Srikala (second petitioner) for Rs.1,22,000/-. These particulars are reflected in the Income Tax return of the second petitioner for the assessment year 2005-06. Mr.Suresh Babu with reference to this has submitted that this Plot No.139 was purchased on 29.08.2003 for the total consideration of Rs.1,31,080/-, which was duly declared by the second petitioner to the Income Tax Department, which is available at Page 15 of the typed-set of papers. The Income Tax

returns pertaining to the year 2005-06 is available at Pages 11 to 17 of typed-set of papers.

49. Similarly, in Serial No.6 of Statement B it is stated that in Plot No.3 (Survey No.285) at Dwarakamal Nagar Colony, Hayat Nagar (M), RR District measuring 277.26 square yards was purchased in the name of Srikala on 16.02.2008 for a sum of Rs.11,09,000/-. As submitted by Mr.Suresh Babu, this was declared by the second petitioner in her Income Tax returns for the Assessment Year 2008-09.(Page No.60 of Typed-set of papers). In Serial No.7 of Statement B, it is alleged that a construction was made in Plot No.3 comprised in S.No.285 located at Dwarakamal Nagar Colony, Hayat Nagar (M), RR District during the year 2008-10 in the name of the second petitioner Srikala at the cost of Rs.56,00,000/-. In this connection, Mr.Suresh Babu has submitted that the cost of construction incurred by the second petitioner was declared in her Income Tax returns for the Assessment years 2009-10 and 2010-11.

50.He has also added that the construction was made in the financial year 2008-09 for a sum of Rs.10,83,500/- and in the financial year 2009-10 for a sum of Rs.30,18,977/-. He has further maintained that the second petitioner had

availed a housing loan of Rs.15,00,000/- from LIC Housing Finance for the above said property. The total construction expenses incurred by the second petitioner during the financial year 2008-09 was Rs.10,83,500/- and during the financial year 2009-10 was Rs.30,18,977/-. The total amount is Rs.41,024,77/- (Rs.10,83,500/- + Rs.30,18,977/-). For the purpose of construction, the second petitioner had availed a housing loan of Rs.15,00,000/- from the LIC Housing finance. In the Statement C of FIR, with reference to income in Column No.3 it is wrongly stated that she had availed a loan of Rs.1,50,000/- from LIC Housing Finance, instead of Rs.15,00,000/-. Without considering these things or without taking into consideration all the above said details, the respondent has given a wrong figure saying that the second petitioner had spent a sum of Rs.56,00,000/- for the above said construction, which is absolutely wrong. But on verification of records viz., the Income Tax returns of the second petitioner for the Assessment years 2009-10 and 2010-11, this Court finds that these facts are very well reflected in her Income Tax returns.

51. Serial No.8 of Statement B is relating to the land

purchased by the second petitioner on 15.11.2002 for a total cost of Rs.78,585/-. It was duly declared in her Income Tax returns for the Assessment year 2005-06. Serial Nos.8 and 9 with reference to Plot Nos.73 & 72, which were said to have been purchased by the second petitioner at the cost of Rs.78,585/- and Rs.95,240/- respectively are duly reflected in her Income Tax returns for the Assessment year 2005-06. The cost of both the plots viz., 72 and 73 have been jointly shown Rs.1,73,825/-.

52. With regard to Serial Nos.10, it is stated that the transaction relating to Plot Nos.62 and 63 (Sy.No.461) located in Sri Lakshmi Narasimha Swamy Nagar, Puppalaguda measuring 416 sq.yards is a gift settlement in favour of the second petitioner Srikala by her mother-in-law, which was purchased by her mother-in-law out of her own sources of pension income. It is revealed that a gift deed was executed by Mrs.Sarojini (mother-in-law of 2nd petitioner) in favour of Srikala on 27.06.2003 and registered as Document No.4302 of 2003. Therefore, the question of cost does not arise for the purchase of this plot. It is pertinent to note here that the respondent has specifically stated that it is a gift settlement by her mother-in-law in the name of Srikala. When such being the case, the value

assessed by the respondent at Rs.1,66,500/- is totally incorrect.

53. Serial Nos.11 to 14 are relating to agricultural lands situated at Adavimallela (V) Pennuballi (M), Khammam District measuring 6 acres. This was purchased in the name of Srikala (second petitioner) on 03.11.2013 for a total sale price of Rs.12,00,000/-. Another land, as it is shown in Serial No.12, comprised in Sy.No.99, Adavimallela (V) Pennuballi (M), Khammam District measuring 1 acre 32 guntas, was said to have been purchased in the name of the second petitioner Srikala for Rs.3,60,000/-. Another agricultural land comprised in Sy.No.97 and 100 measuring 1 acre and 32 guntas was purchased in the name of Srikala on 23.07.2014 for a total sale price of Rs.12,00,000/-. As it is seen from Serial No.14, an Agricultural land comprised in Sy.No.229, Penuballi village, Khamma District measuring 4 acres was said to have been purchased in the name of first petitioner Mr.Murali Mohan for a sale price of Rs.8,00,000/-.

54. With reference to Serial Nos.11 to 14 Mr.Suresh Babu, learned counsel has submitted that 6 acres of agricultural land at Adavimallela was purchased for Rs.12,72,150/- under a registered sale deed dated

13.11.2013. This was declared by the second petitioner in her Income Tax returns for the Assessment year 2013-14 and this land was subsequently sold on 18.05.2015 to the very same seller in view of a major land dispute pending in the High Court of Andhra Pradesh.

55. Insofar as Serial No.12 is concerned, it is stated that an agricultural land measuring 1 acre 32 guntas was purchased in the name of the second petitioner on 23.07.2014 for a total sale price of Rs.3,60,000/- under a registered sale deed. The details in this connection was disclosed to Income Tax Department and reflected in the Assessment year 2015-16. This land was actually sold to the very same seller as stated in serial No.11 on 18.05.2015 in view of major land dispute, which was pending before the High Court of Andhra Pradesh. Similarly, another agricultural land comprised in Sy.Nos.97 & 100 as shown in Serial No.13 of Statement B measuring 1 acre 32 guntas was purchased in the name of second petitioner for a total sale price of Rs.3,60,000/- on 23.07.2014. But it is wrongly stated by the respondent that the second petitioner had purchased this land for a total value of Rs.12,00,000/- which is absolutely wrong and no supporting documents are available. The total cost as per the income tax returns of

the second petitioner for the Assessment year 2015-16 is Rs.3,70,875/-. But this land was also sold to the seller of the land as sold in Serial Nos.11 and 12 of 18.05.2015 in view of the major dispute pending before Andhra Pradesh High Court.

56. Mr.Suresh Babu has submitted that the actual value of the land was Rs.3,60,000/-, which is duly reflected in the Income Tax return of the second petitioner for the year 2015-16, but an inflated value of Rs.12 lakhs has wrongly been given by the respondent. Insofar as the agricultural land mentioned in Serial No.14 is concerned Mr.Suresh Babu has submitted that this land comprised in Sy No.229 located at Penuballi Village, Kamam District measuring 4 acres stands in the name of the first petitioner, is his ancestral property relating to the period prior to the check period.

57(a) Serial No.16 relating to the house at No.5-45/30 in Plot Nos.30 and 31 in Sy.No.6,7,8 of Manikhonda Khalsa, Rajendra Nagar, R R District measuring 14630 sq.ft in the name of the mother of the first petitioner. The respondent in the FIR has stated that the first petitioner had acquired lands in the name of his mother Smt.S.Sarojini during the year 2005 and constructed a building during 2006

to 2009. It is also stated that the second petitioner Smt.S.Srikala has shown in her IT returns for the years 2015-16 and 2016-17, that she had obtained income from the house property at Manikhonda.

57(b) Mr.Suresh Babu has submitted that the said land was purchased by Mrs.S.Sarojini, mother of the first petitioner on 11.04.2005 vide Registered sale deed bearing Doc.No.4773/2005 by issuing a cheque bearing No.056760 dated 11.04.2005 drawn on Andhra Bank, B.S.C Branch for Rs.1,60,000/- from her pension account. Mrs.Sarojini had later constructed a house in the said land over a period of 10 years in 3 phases between 2005 and 2015 after getting plan approvals from the Grama Panchayat authority for the respective phases. He has further argued that Mrs.Sarojini was getting income from the savings of her husband's salary, the retirement benefits of her husband, pension received by herself, rental income and regular contributions received from her two elder sons since 1983. Mrs.Sarojink had obtained a Plan Approval from Grama Panchayat on 16.06.2005 for the construction of ground floor and first floor. The first phase of construction was completed in June 2006. Mrs.Sarojini had rented out the premises and was also making rental income. He has stated that she had further obtained a Plan Approval from Grama

Panchayat on 18.10.2008 for the construction of the II Floor and part of the third floor and completed the construction in 2011. He has further stated that the remaining part of the II floor and a pent house were constructed during the year 2014-15. Subsequently, she had applied for the regularisation of the 3rd floor and pent house under the BRS (Building Regularisation Scheme) announced by the Government of Telungana. He has informed this Court that copies of all the above mentioned documents pertaining to the house of Smt.Sarojini were seized by the respondents while searching her house on 22.06.2016 as seen from the search list of the respondent in Smt.Sarojini's house which is available in Page Nos.73 and 74 of additional typed-set. He has also argued that all the transactions pertaining to her house construction were routed through her bank accounts. Mr.Suresh Babu submitted that the allegation of the respondent that the second petitioner Smt.S.Srikala has shown in her IT returns the rental income of the house of Smt.Sarojini in Manikonda, is false and baseless. Mrs.Sarojini had been filing her Income Tax Returns declaring the rental income from her house at No.5-45/30 in Plot Nos.30 and 31 in Sy NO.6,7 and 8 of Manikonda Khalsa, Rajendra Nagar, R R District. Smt.S.Srikala has a different house property in Manikonda

which she got from the joint development done by Mrs.Arca Constructions. The rental income declared by Smt.S.Srikala in her Income Tax Returns is from the flats at Manikonda developed by Mrs.Arca Constructions. He further argued that in spite of the fact that the respondent had conducted a search at the residence of Smt.Sarojini and seized all the necessary documents, the respondent had chosen to suppress the fact that Smt.Sarojini had been filing her IT returns showing the rental income from her house in Manikonda. Mr.Suresh Babu further argued that Smt.Sarojini had communicated all the above facts to the respondent and the concerned SP and JD of CBI through her letter dated 10.03.2017. A copy of the letter is filed before this Court in Page No.101 to 107 of the Additional Typed-set.

57. The property specified in Serial No.15 (Housing Plot at SY.No.882, Khammam District, measuring 600 sq.ft) is also the ancestral property of the first petitioner and this property is also relating to the period prior to the check period. With reference to the House at No.5-45/30 in Plot Nos.30 and 31 in Sy.No.6,7 and 8 Manikhonda Khalsa, Rajendra Nagar, RR District measuring 14630 sq.ft, is

concerned, already it was discussed in the forgoing paragraphs stating that this land was purchased in the name of Smt.Sarojini, mother of the first petitioner and a construction was made during the year 2006-2009 and hence, it need not be reiterated or repeated once again.

58. Serial No.16 relating to the house at No.5-45/30 in Plot Nos.30 and 31 in Sy.No.6,7,8 of Manikhonda Khalsa, Rajendra Nagar, R R District measuring 14630 sq.ft in the name of the mother of the first petitioner. The respondent in the FIR has stated that the first petitioner had acquired lands in the name of his mother Smt.S.Sarojini during the year 2005 and constructed a building during 2006 to 2009. It is also stated that the second petitioner Smt.S.Srikala has shown in her IT returns for the years 2015-16 and 2016-17, that she had obtained income from the house property at Manikhonda.

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59. Mr.Suresh Babu has submitted that the said land was purchased by Mrs.S.Sarojini, mother of the first petitioner on 11.04.2005 vide Registered sale deed bearing Doc.No.4773/2005 by issuing a cheque bearing No.056760 dated 11.04.2005 drawn on Andhra Bank, B.S.C Branch for Rs.1,60,000/- from her pension account. Mrs.Sarojini had

later constructed a house in the said land over a period of 10 years in 3 phases between 2005 and 2015 after getting plan approvals from the Grama Panchayat authority for the respective phases. He has further argued that Mrs.Sarojini was getting income from the savings of her husband's salary, the retirement benefits of her husband, pension received by herself, rental income and regular contributions received from her two elder sons since 1983. Mrs.Sarojini had obtained a Plan Approval from Grama Panchayat on 16.06.2005 for the construction of ground floor and first floor. The first phase of construction was completed in June 2006. Mrs.Sarojini had rented out the premises and was also making rental income. He has stated that she had further obtained a Plan Approval from Grama Panchayat on 18.10.2008 for the construction of the II Floor and part of the third floor and completed the construction in 2011. He has further stated that the remaining part of the II floor and a pent house were constructed during the year 2014-15. Subsequently, she had applied for the regularisation of the 3rd floor and pent house under the BRS (Building Regularisation Scheme) announced by the Government of Telungana. He has informed this Court that copies of all the above mentioned documents pertaining to the house of Smt.Sarojini were seized by the

respondents while searching her house on 22.06.2016 as seen from the search list of the respondent in Smt.Sarojini's house which is available in Page Nos.73 and 74 of additional typed-set. He has also argued that all the transactions pertaining to her house construction were routed through her bank accounts. Mr.Suresh Babu submitted that the allegation of the respondent that the second petitioner Smt.S.Srikala has shown in her IT returns the rental income of the house of Smt.Sarojini in Manikonda, is false and baseless. Mrs.Sarojini had been filing her Income Tax Returns declaring the rental income from her house at No.5-45/30 in Plot Nos.30 and 31 in Sy NO.6,7 and 8 of Manikonda Khalsa, Rajendra Nagar, R R District. Smt.S.Srikala has a different house property in Manikonda which she got from the joint development done by Mrs.Arca Constructions. The rental income declared by Smt.S.Srikala in her Income Tax Returns is from the flats at Manikonda developed by Mrs.Arca Constructions. He further argued that in spite of the fact that the respondent had conducted a search at the residence of Smt.Sarojini and seized all the necessary documents, the respondent had chosen to suppress the fact that Smt.Sarojini had been filing her IT returns showing the rental income from her house in Manikonda. Mr.Suresh Babu further argued that Smt.Sarojini

had communicated all the above facts to the respondent and the concerned SP and JD of CBI through her letter dated 10.03.2017. A copy of the letter is filed before this Court in Page No.101 to 107 of the Additional Typed-set.

60. Serial Nos.17,18,19 and 20 are relating to balance sheet of the Bank account maintained by the first petitioner Murali Mohan as well as the second petitioner Srikala. It is stated in Statement B that the first petitioner Murali Mohan has got Rs.2,75,160/- in his Account No.10149832639. It is also stated in Serial No.18 that in Nungambakkam branch, the first petitioner is having Rs.14,00,000/- in his bank account bearing No.32196836667. In her account bearing No.0121307000000233, maintained by the second petitioner Srikala at Lakshmi Vilas Bank, Hyderabad, she has got the balance of Rs.24,90,000/- and in Karur Vysya Bank as it is seen from SI.No.20, she has got the balance of Rs.7,47,794/-.

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61. In this connection, Mr.Suresh Babu has submitted with reference to Serial No.17, in State Bank of India, Hyderabad branch, the first petitioner has got only Rs.2,56,067/- as on 30.08.2016, which is his salary savings. But it is incorrect to state that he was having Rs.2,75,116/-. Insofar as Serial No.18 is concerned, it is

incorrect to say that the first petitioner was having Rs.14,00,000/- in his Savings Bank account bearing No.32196836667. Mr.Suresh Babu, in this connection, would submit that as on 30.08.2014, the first petitioner Murali Mohan was having only Rs.17,07,480/- in his account which was saved by him from his salary.

62. Insofar as serial No.19 is concerned, he would submit that the second petitioner has got Rs.24,90,000/- in her account bearing No.0121307000000233 in Lakshmi Vilas Bank from the income and the loans received. These details were disclosed to Income Tax Department by her which are reflected in her Income Tax returns for the Assessment year 2015-16. Similarly, the bank balance of Rs.7,47,794/- as shown in Serial No.20 of Statement B, it is her savings from the income and loans received and the same has also been disclosed by her in her Income Tax return for the Assessment year 2015-16.

63. Insofar as Serial No.21 is concerned, the petitioners have admitted that they had purchased a Maruti Esteem Car in the year 2007 bearing Registration No.AP 1314 for a sum of Rs.4,50,000/-. Insofar as serial No.21 of Statement B is concerned, Mr.Suresh Babu has submitted that a Maruti 800 Car bearing Registration No.AP2427 was

purchased by the first petitioner in the year 2001 for a sum of Rs.2,10,000/- by availing car loan which was duly disclosed to Income Tax Department. Insofar Serial No.23 of Statement B is concerned, it is related to the value of the movable assets to the extent of Rs.2,74,200/-. Mr.Suresh Babu, with reference to this has submitted that the same was purchased out of the salary savings of the first petitioner.

64. On coming to Statement C, with reference to the income of the first petitioner amounting to Rs.42,27,904/-, it has already been discussed with the strength of the supporting documents. With regard to the income of the second petitioner, it is stated by the prosecution that the check period was extended to 2002-14, but, however, the income as declared in the Income Tax returns by both the petitioners have been taken for the period between 2005 and 2014. It is also stated that the income prior to 2005 has been taken considering the gross income of the petitioner in 2005-06.

65. Mrs.Srikala had started an institute by name "The Hyderabad Academy" in the year 2005. It is admitted by the prosecution that she had filed Income Tax returns wherein

the income had been shown under the heads of business and rentals, but the institution was closed in the year 2012-13. As it is shown in Serial No.2 of Statement C, the income for the period 2005-14 has been taken as Rs.60,25,608/-. In this connection, Mr.Suresh Babu has drawn the attention of this Court to Annexure 5, which is found place at Page Nos.141-172 of II Additional Typed-set of papers. On perusal of the documents enumerated in Annexure V, this Court finds that the actual income derived by the second petitioner Smt.S.Srikala is Rs.1,16,18,257/- . However, the prosecution has wrongly stated as Rs.60,25,608/-. The prosecution has not come forward with any explanation as to what made them to suppress the amount of Rs.55,92,649/-. Mr.Suresh Babu has also contended that the year wise income particulars of the second petitioner were duly declared in her Income Tax returns and that the balance sheet stating the assets and liabilities was seized by the respondent vide search list dated 22.06.2016. With reference to the income derived by the second petitioner to the extent of Rs.1,16,18,257/-, as indicated by Mr.Suresh Babu, the second petitioner Smt.S.Srikala had disclosed the receipt of income to the Income Tax Department, which is duly reflected in her income tax returns of the second petitioner for the Assessment years

2005-06, 2006-07, 2007-08, 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14 and 2015-16. It is also revealed from the records that the family maintenance to the extent of Rs.17,00,733/- as shown in Serial No.1 of Statement D was made out from the salary income of the first petitioner.

66. With reference to Serial No.2 of Statement D regarding education expenditure to the extent of Rs.600000/-, Mr.Suresh Babu, learned counsel would submit that the actual expenditure was approximately Rs.4,00,000/-, but the respondent had wrongly shown it as Rs.6,00,000/-. With regard to Serial No.3 of Statement D relating to establishment, in respect of "The Hyderabad Academy" is shown by the respondent as Rs.25,42,430/-. Mr.Suresh Babu, in this connection, would submit that it is absolutely wrong and that the capital expenses incurred by the second petitioner during various years was Rs.7,36,513/- which was duly reflected in the Balance Sheet pertaining to M/s.The Hyderabad Academy in the respective financial years and this was also duly declared in the Income Tax returns of the second petitioner for the Assessment years 2006-07 to 2011-12. The inflated amount, as it is shown by the respondent to the extent of Rs.25,42,430/-, is unknown to the second petitioner and according to Mr.Suresh Babu, this

is an imaginary figure invented by the respondent. The HDFC policy of Rs.5,10,000/- as stated in Serial No.4 of Statement D was actually paid by the second petitioner for both the insurance policy of HDFC and Bajaj Alliance, which was also duly declared in the Income Tax returns. The payment towards LIC policy at Rs.1,25,000/- as shown in Serial No.5 of Statement D and repayment of Housing Loan and interest as shown in Serial No.6 of Statement D are admitted by the petitioners.

67. Mr.Suresh Babu has argued that the second petitioner Smt.S.Srikala had set up a coaching centre in the year 2005 in Hyderabad in the name and style of 'The Hyderabad Academy' for coaching students for Competitive exams like GATE - Pharmacy, GPAT, ECET, Drug Inspectors exam etc., besides offering coaching for other state level competitive examinations like TET, DSC, VRO, VRA etc., He has further stated that she had opened branches at different locations not only in Hyderabad but also at different cities, namely Warrangal, Guntur, Tirupati and Vishakhapatnam. The Academy grew up well and became one of the largest coaching centres in the country for pharmacy examinations attracting students from different states like Karnataka, Maharashtra, Tamil Nadu, Goa, Chattisgarh and Orissa besides Andhra Pradesh. He has further informed the

court that some of the students of the institution secured top ranks including 4th, 5th, 8th and 10th in national level examinations like GATE and GPAT and first rank in PG ECET of the state in various years and many of its students have settled well in life and are placed across the globe.

68.He has argued that her Educational Institution had complied with all the statutory regulations. The Academy was registered with the service tax authorities and had filed service tax returns as per law until the Academy was closed in 2013. The second petitioner paid the service tax of Rs.17,97,399/- on the Gross Receipts of Rs.1,77,20,600/- for the years 2006-07 to 2012-13. he has also informed that she had been filing her Income Tax returns regularly since the year 2004-05 to till date by paying the due Income Tax. He further informed that the second petitioner has submitted to the respondent all the details including the names and photographs of the students undergone coaching, her service tax details etc., in her representation to the respondent on 14.10.2016. The copies of the same are filed before this Court in Page Nos.85 to 100 of additional typed-set.

69. This Court has gone through the records and is of

the considered opinion that the second petitioner had recognisable independent income and she had been regularly complying with all the statutory requirements.

70. Mr.Suresh Babu has submitted that the second petitioner has borrowed loans and advances from various banks and others through banking channels which are reflected in her IT returns and Balance Sheets filed from time to time. He further argued that the copies of the bank accounts in which the said loan were duly reflected are available with the respondent which are seized/frozen by the respondent. The documents pertaining to the above mentioned borrowings are submitted before the Court Page Nos.6 to 7 and Page Nos.173 to 193 of the II Additional Typed-set. The total of such loans and advances comes to Rs.1,06,13,000/-. On perusal of the records it is found that the respondent has represented the loan amount as Rs.1,50,000/- only. सत्यमेव जयते

71. Learned counsel has also drawn the attention of this Court to Page Nos.11 to 13 of typed-set of papers, which contains search list. Mr.Suresh Babu has submitted that the prosecuting agency, without conducting pre-enquiry and without scrutinizing the genuineness of the source

information and without application of mind, have simply come forward to register a case as against the petitioners for the reasons best known to them.

72. This Court, on perusal of records, finds that the prosecuting agency has committed 12 gross errors in foisting the case bearing FIR.No.RC/MA12016 A 0045. As indicated by Mr.Suresh Babu, the following are the 12 gross errors committed by the respondent:-

S.No	Details of Gross Error in FIR	Amt. as per FIR	Actual Amount	Difference in Amount	Remarks	Details of Evidences Available with the respondent
1	Housing Loan Taken by Smt.S.Srikala from LTC Housing Finance Ltd., Statement C - S.No.3 in FIR	1,50,000	15,00,000	13,50,000	Income Suppressed	The 2 nd petitioner in her representation to respondent dated 14.10.2016 had submitted this document as Annexure-IV
2	6 Plots of Housing Land at Sy.No.108/12, 13 & 121/1 (Plot Nos.66, 67,68,81,82 and 83 Statement B S.No.4 in the FIR	8,00,000	3,60,000	4,40,000	Asset Value inflated	Original Sale Deeds 6 Nos. seized by the Respondent vide search list dated 22.06.2016 in the residential premiss of Sri.G.Ramakrishna, father of the 2 nd petitioner

S.No	Details of Gross Error in FIR	Amt. as per FIR	Actual Amount	Difference in Amount	Remarks	Details of Evidences Available with the respondent
3	Agricultural land at Adavimallela (V) Peenuballi (M) measuring 1.32 acres Statement B S.No.13 in the FIR	12,00,000	3,70,875	8,29,125	Asset Value inflated	The Balance Sheet stating the Assets and Liabilities to be submitted to Lokpal was seized by the respondent vide search list dated 22.06.2016
4	Income of Mr.S.Murali Mohan-1 st Petitioner Statement C-S.No.1 in the FIR	42,27,904	77,62,231	35,34,327	Income Suppressed	The 1 st petitioner being an IRS Officer has a known source of income received from the Government of India. The Salary Slips of the 1 st petitioner was seized from his residence as reflected in the search list.
5	Income of Mrs.S.Srikala -2 nd petitioner Statement C-S.No.2 in the FIR	60,25,608	1,16,18,257	55,92,649	Income Suppressed	The year wise income particulars of the 2 nd petitioner duly declared in her IT returns and the Balance Sheet stating the Assets and Liabilities was seized by the respondent vide search list dated

S.No	Details of Gross Error in FIR	Amt. as per FIR	Actual Amount	Difference in Amount	Remarks	Details of Evidences Available with the respondent
						22.06.2016.
6	Loans received by Mrs.S.Srikala through Bank Channels Suppressed in FIR	NIL	64,50,000	64,50,000	Income Suppressed	The Loan amount was received by the 2 nd petitioner through cheques is reflected in the Bank Pass Books and duly declared in the Balance Sheets of the 2 nd petitioner filed in her IT returns. The balance sheet stating the Assets and Liabilities was seized by the respondent vide search list dated 22.06.2016.
7	Non-Refundable advance received by 2 nd petitiioer from ARCA Projects Priviate Ltd., Through Bank Channels Suppressed in FIR	NIL	20,00,000	20,00,000	Income Suppressed	The Non-refundable Deposit from the developer of the Property M/s.Arca Projects Pvt. Ltd., is by cheque only and duly reflected in the Bank account and duly declared in the balance sheets of the 2 nd petitioner filed in her IT returns were seized by the respondent

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S.No	Details of Gross Error in FIR	Amt. as per FIR	Actual Amount	Difference in Amount	Remarks	Details of Evidences Available with the respondent
						vide the search list dated 22.06.2016
8	Rental Advance received by the petitioner Suppressed in FIR	NIL	6,63,000	6,63,000	Income Suppressed	The Rental Advance received by the petitioner from the tenants is reflected in the duly declared Balance Sheets of the petitioner which were seized by the respondent vide search list dated 22.06.2016.
9	Error in Computing the cost of construction of house at Hayat Nagar Statement B S.No.7 in the FIR	56,00,000	41,02,477	14,97,523	Asset Value Inflated	The actual expenditure towards the construction of house incurred by the petitioner was duly declared in the Balance sheets of the petitioner filed in her IT returns which were seized by the respondent vide search list dated 22.06.2016
10	Error in computing the cost of construction of Building at VM Banjara Village, Khammam	90,00,000	37,25,000	52,75,000	Asset Value inflated	The actual expenditure towards the construction of house incurred by the petitioner

S.No	Details of Gross Error in FIR	Amt. as per FIR	Actual Amount	Difference in Amount	Remarks	Details of Evidences Available with the respondent
	District Statement B in S.No.3 in the FIR					was duly declared in the Balance sheets of the 2 nd petitioner filed in her IT returns which were seized by the respondent vide search list dated 22.06.2016
11	Cost of the land and Housing Building at No.5-45/30 Manikonda in the name of Mrs.S.Sarojini Statement B S.No.16 in the FIR	1,20,00,000	NIL	1,20,00,000	Unrelated asset added	The respondents have searched the residence of Smt.S. Sarojini, mother of the 1 st petitioner on 22.06.2016 and seized the copy of the sale deed in the name of Smt.S.Sarojini, the copies of the house building approved plans in three phases in the name of Smt.Sarojini. It is evident from search list dated 22.06.2016.
12	Establishment of the Hyderabad Academy by Smt.S.Srikala Statement D-S.No.3 in the FIR	25,42,430	7,48,513	17,93,917	Expenditure Inflated	The investment of the 2 nd petitioner in her own proprietorship institution "The

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S.No	Details of Gross Error in FIR	Amt. as per FIR	Actual Amount	Difference in Amount	Remarks	Details of Evidences Available with the respondent
						Hyderabad Academy was duly reflected in the Balance sheet of the Hyderabad Academy in the respective years and submitted along with her Income Tax returns which were seized by the respondent vide the search list dated 22.06.2016.
Total				4,14,25,541		

73. As per FIR, Page No.5, the respondent has worked out the disproportionate asset at Rs.3,28,00,029/-. As per the available records, the actual income during the check period is calculated at Rs.3,83,00,353/-. As demonstrated by Mr.Suresh Babu, the amount inflated by the prosecution is Rs.2,18,27,065/-. The amount suppressed by the respondent is Rs.1,95,89,976/-. The actual income of the petitioners during the check period as aforesated is Rs.3,83,00,000/-. As per the prosecution, the value of the disproportionate asset is Rs.3,28,00,029/-. Therefore, the difference is Rs.55,00,324/- (Rs.3,83,00,000/- (-)

Rs.3,28,00,029/-). Hence, there is no question of disproportionate assets amassed by the petitioners.

74. Mr.Suresh Babu, the learned counsel for the petitioners has also brought to the attention of this Court about various meritorious certificates received by the first petitioner, in appreciation of his service. He has pointed out that the first petitioner had conducted a survey in Nokia India Pvt. Ltd., and collected thousands of Crores of Tax. Mr.Suresh Babu has invited the attention of this Court in Pages 69 to 72 of Additional Typed-set of Papers wherein the Certificates of Appreciation of the Service of the first petitioner are found place. On perusal, it reveals that the then Chairman of CBDT had issued Certificates of appreciation to the first petitioner. He has also submitted that the Director General of Income Tax had showered encomium on the first petitioner describing him as an asset to the Department because of his good qualities. It is his further submission that he was awarded with certificate by the National Academy of Direct Taxes for having taken classes to the entire officers of the Income Tax Department about computerized investigation.

75. In this regard, this Court would like to place it

on record that this is a vexation litigation which amounts to abuse of process of Court. Even if this case is allowed to go for trial, the chance of conviction would be bleak. Therefore, as observed by the Apex Court in **State of Haryana and Ors. Vs. Bhajan Lal and Ors. [1992 Supp. (1) SCC 335]**, the allegations made in the FIR, even their taken on their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the petitioners.

76. This Court, on perusal of the entire allegations made against the petitioners in the FIR is of considered opinion that all the allegations are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the petitioners. Finally, the criminal proceedings initiated by the respondent is manifestly attended with malafide with an ulterior motive for wreaking vengeance on the petitioners with a view to spite them due to private and personal grudge.

77. Keeping in view of the above fact, this Court is of considered view that the criminal proceedings in FIR

bearing No. RC MA1 2016 A 0045, on the file of the SP/Inspector of Police, CBI, ACB, Chennai, is deserved to be quashed by exercising inherent jurisdiction of this Court conferred under Section 482 Cr.P.C.

In the result, the criminal original petition is allowed and the FIR bearing No. RC MA1 2016 A 0045 on the file of the SP/Inspector of Police, CBI, ACB, Chennai is quashed. The assets seized including the freezed Bank accounts of the petitioners shall be released forthwith by the respondent.

15.05.2017

Index: yes/no
Internet: yes
pam/gpa

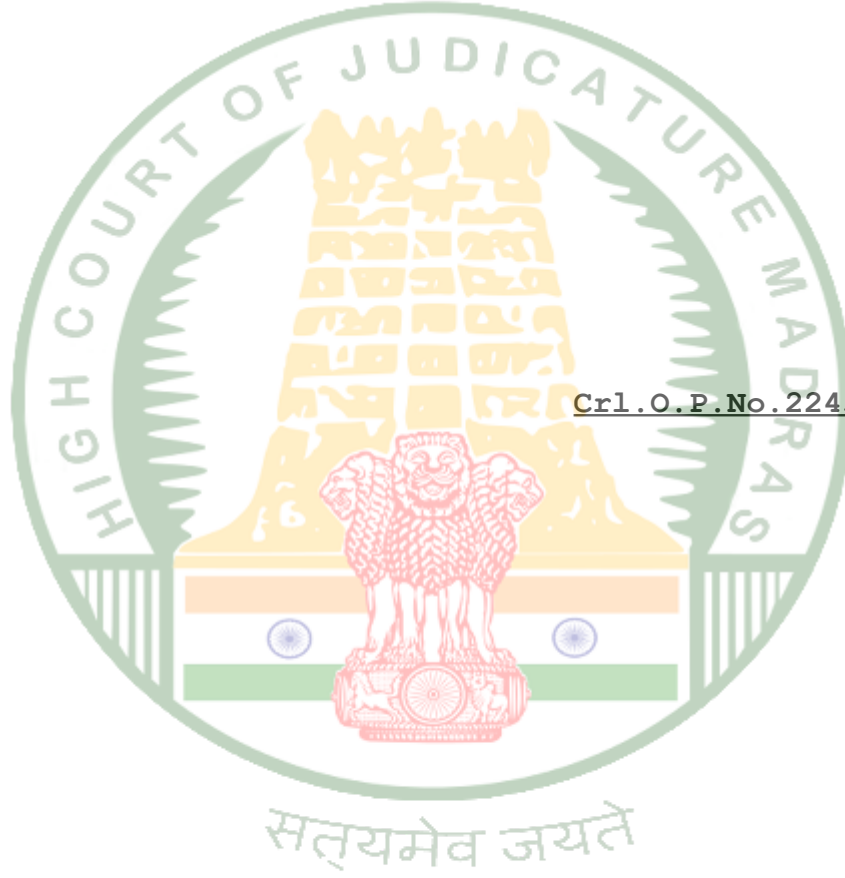
To

1. SP/Inspector of Police,
CBI, ACB, Chennai
2. The Special Public Prosecutor
CBI Cases, Madras High Court,
Chennai

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T.MATHIVANAN.J.,

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